

the office of United States Senator was previously barred if it were to be held during any portion of a term for which he were elected, whether or not he served.

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*Attorney General.*

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**LICENSES – HOROLOGISTS:** Act 201, PA 1965, the horologist's certification act, does not require those engaged in the trade of watchmaking to be licensed. The act is not applicable to a watchmaker who does not advertise in any manner that he is a certified horologist.

No. 4568

March 1, 1967.

Hon. Lester J. Allen  
State Representative  
Lansing, Michigan

You have requested my opinion with regard to certain provisions of Act 201, P.A. 1965 (M.S.A. 1965 Cum. Supp. § 18.275(1), et. seq.) which may be cited as the horologist's certification act. Specifically you ask two questions:

1. If a watchmaker does not advertise, or make any public claim in any manner whatsoever, directly or indirectly, that he is a 'certified horologist,' would he be subject to this act?
2. Exactly which section of the act definitely sets forth the prohibition which prevents a person from practicing his trade if he does not wish to be known or cited as a 'certified horologist'?

The pertinent sections of the horologist's certification act for the purposes of your questions are sections 12, 13 and 14. These sections provide as follows:

"Sec. 12. No person may use the title 'certified horologist' unless he has a certificate certifying him to be such under the provisions of this act.

"Sec. 13. No person, other than a certified horologist, may advertise or represent himself to the public in any way which will lead the public to believe that he is a certified horologist.

"Sec. 14. Any person violating this act is guilty of a misdemeanor."

A horologist under section 2 of the act is one skilled in the science of time measurement and the construction, repairing, replacing, rebuilding or adjusting of the mechanical parts of watches.

By contrast to the Michigan statute, the statutes of Wisconsin and Minnesota which regulate the watchmaking trade provide specifically that individuals may not engage in the trade without prior licensing.

Section 2 of the Wisconsin statute (being Wis. Stat. Ann. 125.02, provides in its entirety as follows:

"No person shall engage in watchmaking for profit or compensation of any kind, without first obtaining a certificate of registration, as

hereinafter provided, which certificate shall at all times be conspicuously displayed in his place of business.”

Likewise, the Minnesota legislature, in enacting its watchmaker's regulatory act, provides in section 1 thereof (Minn. Stat. Ann. 326.54) as follows:

“No person shall engage in watchmaking for profit or compensation of any kind, without first obtaining a certificate of registration and license, as hereinafter provided, which license shall at all times be conspicuously displayed in his place of business. As amended Laws 1961, c. 753, § 2.”

There is no comparable language in the Michigan horologist's certification act. The Michigan State Board of Horology is empowered to certify properly qualified horologists. There is no requirement that any watchmaker who wishes to continue in his trade be licensed or certified. Since the horologist's certification act carries criminal penalties, the statute may not be enlarged by construction.<sup>1</sup> Therefore, in answer to your first question, a watchmaker who does not advertise or make any public claim, directly or indirectly, to the effect that he is a “certified horologist” is not subject to regulation under the act or the criminal provisions of section 14 of the act.

In response to your second question, there is no section of the act which definitely sets forth a prohibition which prevents a person from practicing the trade of watchmaking or watch repairing if he does not wish to be known or cited as a “certified horologist,” or if he does not advertise or represent himself to the public in any way which will lead the public to believe that he is a certified horologist.

FRANK J. KELLEY,  
*Attorney General.*

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<sup>1</sup> *Crosby v. Pere Marquette Railroad Co.*, 131 Mich. 288 (1902).