

**OPINION
45-206**

July 12, 1945 (OPINION)

MARRIAGE

RE: Certificate - Who May Solemnize

This office is in receipt of your letter dated July 9, 1945, wherein you say: "A question has arisen relative to the wording to be used on marriage licenses and certificate forms. 'Section 14-0230 of the Revised Code of 1943 uses the words - 'and of this license and your certificate you will make due return to my office within sixty-five days.' The forms to be used by this office have been printed in exactly that way, a sample of which is enclosed. However, the legality of our form has been questioned since some contend that it should read 'within five days'."

Section 14-0310 of the Revised Code provides:

No person shall solemnize any marriage until the parties thereto shall produce a license issued not more than sixty days prior to the date of such marriage by the county judge of the county in which either of the contracting parties resides, or if such county is unorganized or disorganized, of the county to which it is attached for judicial purposes."

Section 14-0321 of the Revised Code provides:

When a person authorized by law shall solemnize a marriage, he shall fill out and sign the certificate following the license, giving his official title, or if a minister of the gospel or priest, the ecclesiastical body with which he is connected. The certificate and license shall be returned to the county judge who issued the license within five days after the date of the solemnization of the marriage. Any person who willfully neglects to make such return within the time required shall be punished as provided in section 14-0328."

The form of marriage license set forth under section 14-0320 of the Revised Code contains the following language: "and of this license and your certificate you will make due return to my office within sixty-five days." The "sixty-five days" provision in the form of marriage license set forth in said section 14-0320 is in conflict with section 14-0321.

Chapter 179 of the 1931 Session Laws, amending section 4361 of the 1913 Compiled Laws, as amended by chapter 160 of the 1929 Session Laws, require the official or clergyman solemnizing the marriage to return the license and his certificate within thirty days after the marriage ceremony. Section 7 of chapter 162 of the 1939 Session Laws required the return of license and certificate within five days thereafter.

The code commission failed to recognize that section 7 of said chapter 162, in effect and by implication, required the certificate

prescribed by chapter 149 of the 1933 Session Laws to be changed accordingly.

It is the opinion of this office that the phrase "and of this license and your certificate you will make due return to my office within sixty-five days," should be changed to read substantially as follows:

And of this license and your certificate you will make due return to my office within five days after the date of the marriage herein authorized."

NELS G. JOHNSON

Attorney General