

HOUSE BILL No. 4772

May 16, 2007, Introduced by Reps. Meisner, Huizenga, Vagnozzi, Coulouris, Johnson, Gonzales, Polidori, Cushingberry, Robert Jones, Valentine, Meadows, Gillard, Leland, Spade, Meekhof, Nitz, Emmons, Stahl, Steil, Pearce, Stakoe and Rick Jones and referred to the Committee on Commerce.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending sections 303a and 601 (MCL 339.303a and 339.601),
section 303a as amended by 2006 PA 489 and section 601 as amended
by 2005 PA 278, and by adding article 28; and to repeal acts and
parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303a. The terms provided for in this act shall commence
2 on the following dates:

3	Accountancy	July 1
4	Architects	April 1
5	Auctioneers	October 1
6	Barbers	October 1
7	Collection agencies	July 1
8	Community planners	July 1
9	Cosmetology	January 1

1	Employment agencies	October 1
2	Foresters	April 1
3	Hearing aid dealers	October 1
4	INTERIOR DESIGN	JANUARY 1
5	Land surveyors	April 1
6	Landscape architects	July 1
7	Mortuary science	July 1
8	Professional engineers	April 1
9	Real estate appraisers	July 1
10	Real estate brokers and salespersons	July 1
11	Residential builders	April 1

12 Sec. 601. (1) A person shall not engage in or attempt to
13 engage in the practice of an occupation regulated under this act
14 or use a title designated in this act unless the person possesses
15 a license or registration issued by the department for the
16 occupation.

17 (2) A school, institution, or person shall not operate or
18 attempt to operate a barber college, school of cosmetology, or
19 real estate school unless the school, institution, or person is
20 licensed or approved by the department.

21 (3) A person, school, or institution that violates
22 subsection (1) or (2) is guilty of a misdemeanor, punishable by a
23 fine of not more than \$500.00, or imprisonment for not more than
24 90 days, or both.

25 (4) A person, school, or institution that violates
26 subsection (1) or (2) a second or any subsequent time is guilty
27 of a misdemeanor, punishable, except as provided in section 735,
28 by a fine of not more than \$1,000.00, or imprisonment for not

1 more than 1 year, or both.

2 (5) Notwithstanding the existence and pursuit of any other
3 remedy, an affected person may maintain injunctive action to
4 restrain or prevent a person from violating subsection (1) or
5 (2). If successful in obtaining injunctive relief, the affected
6 person shall be entitled to actual costs and attorney fees.

7 (6) This act does not apply to a person engaging in or
8 practicing the following:

9 ~~—— (a) Interior design.~~

10 (A) ~~(b)~~ Building design.

11 (B) ~~(c)~~ Any activity for which the person is licensed under
12 the state plumbing act, 2002 PA 733, MCL 338.3511 to 338.3569.

13 (C) ~~(d)~~ Any activity for which the person is licensed under
14 the Forbes mechanical contractors act, 1984 PA 192, MCL 338.971
15 to 338.988.

16 (D) ~~(e)~~ Any activity for which the person is licensed under
17 the electrical administrative act, 1956 PA 217, MCL 338.881 to
18 338.892.

19 (7) As used in subsection (5), "affected person" means a
20 person directly affected by the actions of a person suspected of
21 violating subsection (1) or (2) and includes, but is not limited
22 to, a licensee or registrant, a board established ~~pursuant to~~
23 **UNDER** this act, a person who has utilized the services of the
24 person engaging in or attempting to engage in an occupation
25 regulated under this act or using a title designated by this act
26 without being licensed or registered by the department, or a
27 private association composed primarily of members of the

1 occupation in which the person is engaging in or attempting to
 2 engage in or in which the person is using a title designated
 3 under this act without being registered or licensed by the
 4 department.

5 (8) An investigation may be conducted under article 5 to
 6 enforce this section. A person who violates this section shall be
 7 subject to this section and section 506.

8 (9) The remedies under this section are independent and
 9 cumulative. The use of 1 remedy by a person shall not bar the use
 10 of other lawful remedies by that person or the use of a lawful
 11 remedy by another person.

12 ~~—— (10) An interior designer may perform services in connection~~
 13 ~~with the design of interior spaces including preparation of~~
 14 ~~documents relative to finishes, systems furniture, furnishings,~~
 15 ~~fixtures, equipment, and interior partitions that do not affect~~
 16 ~~the building mechanical, structural, electrical, or fire safety~~
 17 ~~systems.~~

18 ARTICLE 28

19 SEC. 2801. AS USED IN THIS ARTICLE:

20 (A) "INTERIOR DESIGN SERVICES" MEANS SERVICES IN CONNECTION
 21 WITH THE DESIGN OF INTERIOR SPACES, INCLUDING THE PREPARATION OF
 22 DESIGN DOCUMENTS, RELATIVE TO FINISHES, SYSTEMS FURNITURE,
 23 FURNISHINGS, FIXTURES, EQUIPMENT, LIGHTING OUTLETS AND SWITCHING,
 24 AND NON-LOAD-BEARING INTERIOR PARTITIONS THAT DO NOT MATERIALLY
 25 AFFECT THE BUILDING MECHANICAL, STRUCTURAL, ELECTRICAL, OR FIRE
 26 SAFETY SYSTEMS.

27 (B) "INTERIOR DESIGNER" MEANS A PERSON PERFORMING INTERIOR

1 DESIGN SERVICES.

2 (C) "MATERIALLY AFFECT" MEANS ACTIVITY THAT IS EITHER OR
3 BOTH OF THE FOLLOWING:

4 (i) HAS A SUBSTANTIAL AND NEGATIVE IMPACT ON THE HEALTH,
5 SAFETY, AND WELFARE OF THE OCCUPANTS OF THE INTERIOR SPACE AFTER
6 INSTALLATION OF THE FINISHES, SYSTEMS FURNITURE, FURNISHINGS,
7 FIXTURES, EQUIPMENT, LIGHTING, AND INTERIOR BUILDING PARTITIONS
8 BASED UPON PLACEMENT OR MATERIAL COMPOSITION.

9 (ii) IS INCOMPATIBLE WITH THE APPLICABLE BUILDING CODE OR
10 FIRE SAFETY CODE TO SUCH A DEGREE THAT MORE THAN A MINOR
11 MODIFICATION OF THE INTERIOR DESIGN DOCUMENTS IS NEEDED TO
12 CORRECT THAT INCOMPATIBILITY WITH THE BUILDING OR FIRE SAFETY
13 CODE.

14 SEC. 2803. (1) THERE IS CREATED A BOARD OF INTERIOR DESIGN.

15 (2) THE TERMS OF THE BOARD MEMBERS AND THEIR QUALIFICATIONS
16 ARE AS PRESCRIBED BY SECTION 303.

17 SEC. 2805. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
18 (2), A PERSON SHALL NOT USE A TERM OR TITLE "LICENSED INTERIOR
19 DESIGNER", "INTERIOR DESIGNER", OR OTHER TERM OR TITLE CONNOTING
20 LICENSURE UNDER THIS ARTICLE UNLESS LICENSED UNDER THIS ARTICLE.

21 (2) THIS ARTICLE DOES NOT PROHIBIT AN INDIVIDUAL CERTIFIED
22 OR OTHERWISE QUALIFIED OR APPROVED BY A PRIVATE ORGANIZATION FROM
23 USING A TERM OR TITLE COPYRIGHTED OR OTHERWISE PROTECTED UNDER
24 LAW BY THE CERTIFYING ORGANIZATION SO LONG AS THE USE DOES NOT
25 CONNOTE LICENSURE UNDER THIS ARTICLE.

26 SEC. 2807. (1) AN INDIVIDUAL SHALL NOT PROVIDE OR OFFER TO
27 PROVIDE INTERIOR DESIGN SERVICES UNLESS LICENSED UNDER THIS

1 ARTICLE OR EXEMPT FROM LICENSURE UNDER SUBSECTION (2) .

2 (2) THE FOLLOWING ARE EXEMPT FROM LICENSURE UNDER THIS
3 ARTICLE:

4 (A) A PERSON LICENSED UNDER ANOTHER REGULATED OR LICENSED
5 OCCUPATION OR PROFESSION WHO IS ENGAGING IN INTERIOR DESIGN
6 SERVICES THAT ARE WITHIN THE SCOPE OF PRACTICE OF THAT PERSON'S
7 OCCUPATION OR PROFESSION SO LONG AS HE OR SHE DOES NOT HOLD
8 HIMSELF OR HERSELF OUT AS AN INTERIOR DESIGNER.

9 (B) AN EMPLOYEE OF A RETAIL ESTABLISHMENT PROVIDING INTERIOR
10 DESIGN SERVICES ON THE PREMISES OF A RETAIL ESTABLISHMENT OR IN
11 THE FURTHERANCE OF A RETAIL SALE, SO LONG AS HE OR SHE DOES NOT
12 ADVERTISE, OR REPRESENT HIMSELF OR HERSELF, AS AN INTERIOR
13 DESIGNER.

14 (C) A PERSON ENGAGING IN INTERIOR DESIGN SERVICES ON
15 PROPERTY OWNED OR LEASED BY THAT PERSON SO LONG AS HE OR SHE DOES
16 NOT HOLD HIMSELF OR HERSELF OUT AS AN INTERIOR DESIGNER.

17 (D) A PERSON ENGAGING IN INTERIOR DESIGN SERVICES WITHOUT
18 COMPENSATION ON PROPERTY OF ANOTHER PERSON SO LONG AS HE OR SHE
19 DOES NOT HOLD HIMSELF OR HERSELF OUT AS AN INTERIOR DESIGNER.

20 (E) A PERSON PROVIDING INTERIOR DESIGN SERVICES FOR
21 RESIDENTIAL PURPOSES, SO LONG AS HE OR SHE DOES NOT HOLD HIMSELF
22 OR HERSELF OUT AS AN INTERIOR DESIGNER.

23 (F) AN INDIVIDUAL ENGAGING IN INTERIOR DESIGN SERVICES
24 WITHOUT A LICENSE BUT UNDER THE SUPERVISION OF 1 OR MORE
25 LICENSEES SOLELY FOR THE PURPOSE OF OBTAINING THE EXPERIENCE
26 REQUIRED UNDER SECTION 2809(3) OR (4) .

27 SEC. 2809. (1) AN APPLICANT FOR LICENSURE UNDER THIS ARTICLE

1 SHALL SUBMIT A COMPLETED APPLICATION TO THE DEPARTMENT ON A FORM
2 SUPPLIED BY THE DEPARTMENT AND PAY THE APPROPRIATE APPLICATION
3 AND PER-YEAR LICENSE FEE. EXCEPT AS OTHERWISE PROVIDED IN THIS
4 SECTION, THE APPLICANT SHALL MEET THE EXAMINATION REQUIREMENTS OF
5 SUBSECTION (3).

6 (2) UPON APPROVAL OF AN APPLICATION PROPERLY SUBMITTED, THE
7 DEPARTMENT SHALL ISSUE A LICENSE ONLY TO AN INDIVIDUAL. THE
8 LICENSE SHALL BE FOR A TERM OF 3 YEARS.

9 (3) BEGINNING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
10 ADDED THIS ARTICLE AND UNTIL THE EXPIRATION OF 1 YEAR AFTER THAT
11 EFFECTIVE DATE, THE DEPARTMENT SHALL ISSUE A LICENSE TO AN
12 INDIVIDUAL THAT SUBMITS, BY AFFIDAVIT, PROOF OF 6 YEARS OF
13 COMBINED EDUCATION AND EXPERIENCE IN PROVIDING INTERIOR DESIGN
14 SERVICES, WITH AT LEAST 2 OF THOSE 6 YEARS BEING PRACTICAL
15 EXPERIENCE. A PERSON ON THE LIST COMPILED UNDER FORMER SECTION
16 601A IS ELIGIBLE FOR A LICENSE UNDER THIS ACT IF HE OR SHE
17 APPLIES FOR LICENSURE WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF
18 THE AMENDATORY ACT THAT ADDED THIS ARTICLE AND PAYS THE
19 APPROPRIATE LICENSE FEE.

20 (4) FOR APPLICANTS NOT APPLYING FOR LICENSURE UNDER
21 SUBSECTION (3), THE COMPLETE 2003 EXAMINATION OFFERED BY THE
22 NATIONAL COUNCIL FOR INTERIOR DESIGN QUALIFICATION AND THE
23 EDUCATION, EXPERIENCE, AND OTHER QUALIFICATIONS TO SIT FOR THAT
24 EXAMINATION ARE ADOPTED BY REFERENCE. THE BOARD AND DIRECTOR, BY
25 PROMULGATION OF A RULE, MAY ADOPT ANOTHER VERSION OF THE NATIONAL
26 COUNCIL FOR INTERIOR DESIGN QUALIFICATION EXAMINATION AND THE
27 EDUCATION, EXPERIENCE, AND OTHER QUALIFICATIONS TO SIT FOR THAT

1 EXAMINATION OR ANOTHER EXAMINATION CONSIDERED BY THE BOARD TO BE
2 THE EQUIVALENT OF THE MOST RECENT NATIONAL COUNCIL FOR INTERIOR
3 DESIGN QUALIFICATION EXAMINATION AND THE EDUCATION, EXPERIENCE,
4 AND OTHER QUALIFICATIONS TO SIT FOR THAT EXAMINATION.

5 SEC. 2811. THE DEPARTMENT SHALL ISSUE A LICENSE TO AN
6 INDIVIDUAL FROM ANOTHER JURISDICTION, STATE, OR COUNTRY UPON A
7 DETERMINATION OF THE BOARD THAT THE OTHER JURISDICTION, STATE, OR
8 COUNTRY HAS SUBSTANTIALLY SIMILAR REQUIREMENTS FOR LICENSURE AND
9 ALLOWS RECIPROCITY TO MICHIGAN LICENSEES.

10 SEC. 2813. THE DIRECTOR, IN CONSULTATION WITH THE BOARD AND
11 BY ADOPTION OF A RULE, SHALL ESTABLISH STANDARDS OF CONDUCT FOR
12 LICENSED INTERIOR DESIGNERS.

13 SEC. 2815. (1) BEGINNING THE LICENSE RENEWAL CYCLE AFTER THE
14 EFFECTIVE DATE OF THE RULES PROMULGATED UNDER THIS SECTION, AN
15 INDIVIDUAL LICENSED UNDER THIS ARTICLE SHALL MEET THE CONTINUING
16 EDUCATION REQUIREMENTS OF THIS SECTION WHEN RENEWING HIS OR HER
17 LICENSE.

18 (2) THE DIRECTOR, IN CONSULTATION WITH THE BOARD, SHALL
19 PROMULGATE RULES TO REQUIRE A LICENSEE SEEKING RENEWAL TO FURNISH
20 EVIDENCE THAT DURING THE 3 YEARS IMMEDIATELY PRECEDING
21 APPLICATION FOR RENEWAL, THE LICENSEE ATTENDED CONTINUING
22 EDUCATION COURSES OR PROGRAMS RELATED TO THE PRACTICE OF INTERIOR
23 DESIGN AND DESIGNED TO FURTHER EDUCATE LICENSEES.

24 (3) THE DIRECTOR, IN CONSULTATION WITH THE BOARD, SHALL
25 ESTABLISH BY RULE THE TOTAL NUMBER OF COURSE OR PROGRAM CLOCK
26 HOURS AT A MINIMUM OF 45 CLOCK HOURS IN ANY 3-YEAR LICENSE
27 RENEWAL CYCLE. A PORTION OF THOSE CLOCK HOURS MUST BE IN ETHICS.

(4) THE DEPARTMENT SHALL ENSURE THAT ALL APPROVED CONTINUING EDUCATION COURSES INCLUDE DEFINED MEASUREMENTS OF PREKNOWLEDGE AND POSTKNOWLEDGE OR SKILL IMPROVEMENTS, OR BOTH, AS A RESULT OF THE CONTINUING EDUCATION PROGRAM.

SEC. 2817. (1) AN INDIVIDUAL, UPON BEING LICENSED, SHALL OBTAIN A SEAL AUTHORIZED BY THE BOARD BEARING THE LICENSEE'S NAME AND A LEGEND INDICATING "LICENSED INTERIOR DESIGNER".

(2) A PLAN, REPORT, OR SPECIFICATION ISSUED BY A LICENSEE SHALL BE SEALED WHEN FILED WITH A PUBLIC AUTHORITY.

SEC. 2819. A PERSON WHO VIOLATES THIS ARTICLE OR RULES PROMULGATED UNDER THIS ARTICLE OR WHO DOES 1 OR MORE OF THE FOLLOWING IS SUBJECT TO THE PENALTIES SET FORTH IN ARTICLE 6:

(A) PRESENTS OR ATTEMPTS TO USE, AS THE PERSON'S OWN, THE LICENSE OR SEAL OF ANOTHER.

(B) USES A TERM PROTECTED BY THIS ARTICLE WITHOUT BEING LICENSED UNDER THIS ARTICLE.

(C) SUBMITS TO A PUBLIC OFFICIAL IN THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE FOR APPROVAL A PERMIT OR A PLAN, REPORT, OR SPECIFICATION FOR FILING AS A PUBLIC RECORD THAT DOES NOT BEAR A SEAL OF A LICENSEE AS REQUIRED BY THIS ARTICLE.

Enacting section 1. Section 601a of the occupational code, 1980 PA 299, MCL 339.601a, is repealed.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. ____ or House Bill No. 4771(request no. 00416'07 a **).

1 (b) Senate Bill No. _____ or House Bill No. 4770 (request no.
2 00416'07 b **).