

HOUSE BILL No. 4311

February 15, 2005, Introduced by Reps. Meisner, Donigan, Sak, Steil, Vagnozzi, Wojno, Farrah, Alma Smith, Gonzales, Gillard, Condino, Stewart, Hunter, Plakas, Hopgood, Miller, Gaffney, Huizenga, Accavitti, Jones and Lipsey 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 1995 PA 183 and section 601 as amended by 1998 PA 250, 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	Athletic board of control	April 1
6	Barbers	October 1

1	Collection agencies	July 1
2	Community planners	July 1
3	Cosmetology	January 1
4	Employment agencies	October 1
5	Foresters	April 1
6	Hearing aid dealers	October 1
7	INTERIOR DESIGN	JANUARY 1
8	Land surveyors	April 1
9	Landscape architects	July 1
10	Marriage counselors	October 1
11	Mortuary science	July 1
12	Nursing home administrators	January 1
13	Professional engineers	April 1
14	Real estate appraisers	July 1
15	Real estate brokers and salespersons	July 1
16	Residential builders	April 1
17	Social workers	October 1

18 Sec. 601. (1) A person shall not engage in or attempt to
19 engage in the practice of an occupation regulated under this act
20 or use a title designated in this act unless the person possesses
21 a license or registration issued by the department for the
22 occupation.

23 (2) A school, institution, or person shall not operate or
24 attempt to operate a barber college, school of cosmetology, or
25 real estate school unless the school, institution, or person is
26 licensed or approved by the department.

27 (3) A person, school, or institution ~~which~~ **THAT** violates
28 subsection (1) or (2) is guilty of a misdemeanor, punishable by a
29 fine of not more than \$500.00, or imprisonment for not more than

1 90 days, or both.

2 (4) A person, school, or institution ~~which~~ **THAT** violates
 3 subsection (1) or (2) a second or any subsequent time is guilty
 4 of a misdemeanor, punishable, except as provided in section 735,
 5 by a fine of not more than \$1,000.00, or imprisonment for not
 6 more than 1 year, or both.

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

12 (6) ~~Nothing in this~~ **THIS** act ~~shall~~ **DOES NOT** apply to a
 13 person engaging in or practicing the following:

14 ~~————(a) Interior design.~~

15 (A) ~~—(b)—~~ Building design.

16 (B) ~~—(c)—~~ Any activity for which the person is licensed
 17 under ~~1929 PA 266, MCL 338.901 to 338.917~~ **THE STATE PLUMBING**
 18 **ACT, 2002 PA 733, MCL 338.3511 TO 338.3569.**

19 (C) ~~—(d)—~~ Any activity for which the person is licensed
 20 under the Forbes mechanical contractors act, 1984 PA 192, MCL
 21 338.971 to 338.988.

22 (D) ~~—(e)—~~ Any activity for which the person is licensed
 23 under the electrical administrative act, 1956 PA 217, MCL 338.881
 24 to 338.892.

25 (7) As used in subsection (5), "affected person" means a
 26 person directly affected by the actions of a person suspected of
 27 violating subsection (1) or (2) and includes, but is not limited

1 to, a board established ~~pursuant to~~ **UNDER** this act, a person who
 2 has utilized the services of the person engaging in or attempting
 3 to engage in an occupation regulated under this act or using a
 4 title designated by this act without being licensed or registered
 5 by the department, or a private association composed primarily of
 6 members of the occupation in which the person is engaging in or
 7 attempting to engage in or in which the person is using a title
 8 designated under this act without being registered or licensed by
 9 the department.

10 (8) An investigation may be conducted under article ~~6~~ **5** to
 11 enforce this section. A person who violates this section shall be
 12 subject to the strictures prescribed in this section and section
 13 506.

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

18 ~~(10) An interior designer may perform services in~~
 19 ~~connection with the design of interior spaces including~~
 20 ~~preparation of documents relative to finishes, systems furniture,~~
 21 ~~furnishings, fixtures, equipment, and interior partitions that do~~
 22 ~~not affect the building mechanical, structural, electrical, or~~
 23 ~~fire safety systems.~~

24 **ARTICLE 28**

25 **SEC. 2801. AS USED IN THIS ARTICLE:**

26 **(A) "INTERIOR DESIGN SERVICES" MEANS SERVICES IN CONNECTION**
 27 **WITH THE DESIGN OF INTERIOR SPACES, INCLUDING THE PREPARATION OF**

1 DESIGN DOCUMENTS, RELATIVE TO FINISHES, SYSTEMS FURNITURE,
2 FURNISHINGS, FIXTURES, EQUIPMENT, LIGHTING OUTLETS AND SWITCHING,
3 AND NON-LOAD-BEARING INTERIOR PARTITIONS THAT DO NOT MATERIALLY
4 AFFECT THE BUILDING MECHANICAL, STRUCTURAL, ELECTRICAL, OR FIRE
5 SAFETY SYSTEMS.

6 (B) "INTERIOR DESIGNER" MEANS A PERSON PERFORMING INTERIOR
7 DESIGN SERVICES.

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

10 (i) HAS A SUBSTANTIAL AND NEGATIVE IMPACT ON THE HEALTH,
11 SAFETY, AND WELFARE OF THE OCCUPANTS OF THE INTERIOR SPACE AFTER
12 INSTALLATION OF THE FINISHES, SYSTEMS FURNITURE, FURNISHINGS,
13 FIXTURES, EQUIPMENT, LIGHTING, AND INTERIOR BUILDING PARTITIONS
14 BASED UPON PLACEMENT OR MATERIAL COMPOSITION.

15 (ii) IS INCOMPATIBLE WITH THE APPLICABLE BUILDING CODE OR
16 FIRE SAFETY CODE TO SUCH A DEGREE THAT MORE THAN A MINOR
17 MODIFICATION OF THE INTERIOR DESIGN DOCUMENTS IS NEEDED TO
18 CORRECT THAT INCOMPATIBILITY WITH THE BUILDING OR FIRE SAFETY
19 CODE.

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

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

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

27 (2) THIS ARTICLE DOES NOT PROHIBIT AN INDIVIDUAL CERTIFIED

1 OR OTHERWISE QUALIFIED OR APPROVED BY A PRIVATE ORGANIZATION FROM
2 USING A TERM OR TITLE COPYRIGHTED OR OTHERWISE PROTECTED UNDER
3 LAW BY THE CERTIFYING ORGANIZATION SO LONG AS THE USE DOES NOT
4 CONNOTE LICENSURE UNDER THIS ARTICLE.

5 SEC. 2807. (1) AN INDIVIDUAL SHALL NOT PROVIDE OR OFFER TO
6 PROVIDE INTERIOR DESIGN SERVICES UNLESS LICENSED UNDER THIS
7 ARTICLE OR EXEMPT FROM LICENSURE UNDER SUBSECTION (2).

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

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

15 (B) AN EMPLOYEE OF A RETAIL ESTABLISHMENT PROVIDING INTERIOR
16 DESIGN SERVICES ON THE PREMISES OF A RETAIL ESTABLISHMENT OR IN
17 THE FURTHERANCE OF A RETAIL SALE, SO LONG AS HE OR SHE DOES NOT
18 ADVERTISE, OR REPRESENT HIMSELF OR HERSELF, AS AN INTERIOR
19 DESIGNER.

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

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

26 (E) A PERSON PROVIDING INTERIOR DESIGN SERVICES IN A
27 DETACHED 1- OR 2-FAMILY RESIDENCE, WHICH RESIDENCE DOES NOT

1 EXCEED 3,500 SQUARE FEET OF CALCULATED FLOOR AREA, SO LONG AS HE
2 OR SHE DOES NOT HOLD HIMSELF OR HERSELF OUT AS AN INTERIOR
3 DESIGNER. AS USED IN THIS SUBDIVISION, "CALCULATED FLOOR AREA"
4 MEANS THAT TERM AS DEFINED IN SECTION 2012.

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

9 SEC. 2809. (1) AN APPLICANT FOR LICENSURE UNDER THIS ARTICLE
10 SHALL SUBMIT A COMPLETED APPLICATION TO THE DEPARTMENT ON A FORM
11 SUPPLIED BY THE DEPARTMENT AND PAY THE APPROPRIATE APPLICATION
12 AND PER-YEAR LICENSE FEE. EXCEPT AS OTHERWISE PROVIDED IN THIS
13 SECTION, THE APPLICANT SHALL MEET THE EXAMINATION REQUIREMENTS OF
14 SUBSECTION (3).

15 (2) UPON APPROVAL OF AN APPLICATION PROPERLY SUBMITTED, THE
16 DEPARTMENT SHALL ISSUE A LICENSE ONLY TO AN INDIVIDUAL FOR A TERM
17 OF 3 YEARS.

18 (3) BEGINNING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
19 ADDED THIS ARTICLE AND UNTIL THE EXPIRATION OF 1 YEAR AFTER THAT
20 EFFECTIVE DATE, THE DEPARTMENT SHALL ISSUE A LICENSE TO AN
21 INDIVIDUAL THAT SUBMITS, BY AFFIDAVIT, PROOF OF 6 YEARS OF
22 COMBINED EDUCATION AND EXPERIENCE IN PROVIDING INTERIOR DESIGN
23 SERVICES, WITH AT LEAST 2 OF THOSE 6 YEARS BEING PRACTICAL
24 EXPERIENCE. A PERSON ON THE LIST COMPILED UNDER FORMER SECTION
25 601A IS ELIGIBLE FOR A LICENSE UNDER THIS ACT IF HE OR SHE
26 APPLIES FOR LICENSURE WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF
27 THE AMENDATORY ACT THAT ADDED THIS ARTICLE AND PAYS THE

1 APPROPRIATE LICENSE FEE.

2 (4) FOR APPLICANTS NOT APPLYING FOR LICENSURE UNDER
3 SUBSECTION (3), THE COMPLETE 2003 EXAMINATION OFFERED BY THE
4 NATIONAL COUNCIL FOR INTERIOR DESIGN QUALIFICATION AND THE
5 EDUCATION, EXPERIENCE, AND OTHER QUALIFICATIONS TO SIT FOR THAT
6 EXAMINATION ARE ADOPTED BY REFERENCE. THE BOARD, BY PROMULGATION
7 OF A RULE, MAY ADOPT ANOTHER VERSION OF THE NATIONAL COUNCIL FOR
8 INTERIOR DESIGN QUALIFICATION EXAMINATION AND THE EDUCATION,
9 EXPERIENCE, AND OTHER QUALIFICATIONS TO SIT FOR THAT EXAMINATION
10 OR ANOTHER EXAMINATION CONSIDERED BY THE BOARD TO BE THE
11 EQUIVALENT OF THE MOST RECENT NATIONAL COUNCIL FOR INTERIOR
12 DESIGN QUALIFICATION EXAMINATION AND THE EDUCATION, EXPERIENCE,
13 AND OTHER QUALIFICATIONS TO SIT FOR THAT EXAMINATION.

14 SEC. 2811. THE DEPARTMENT SHALL ISSUE A LICENSE TO AN
15 INDIVIDUAL FROM ANOTHER JURISDICTION, STATE, OR COUNTRY UPON A
16 DETERMINATION OF THE BOARD THAT THE OTHER JURISDICTION, STATE, OR
17 COUNTRY HAS SUBSTANTIALLY SIMILAR REQUIREMENTS FOR LICENSURE AND
18 ALLOWS RECIPROCITY TO MICHIGAN LICENSEES.

19 SEC. 2813. THE DEPARTMENT, IN CONSULTATION WITH THE BOARD
20 AND BY ADOPTION OF A RULE, SHALL ESTABLISH STANDARDS OF CONDUCT
21 FOR LICENSED INTERIOR DESIGNERS.

22 SEC. 2815. (1) BEGINNING THE LICENSE RENEWAL CYCLE AFTER THE
23 EFFECTIVE DATE OF THE RULES PROMULGATED UNDER THIS SECTION, AN
24 INDIVIDUAL LICENSED UNDER THIS ARTICLE SHALL MEET THE CONTINUING
25 EDUCATION REQUIREMENTS OF THIS SECTION WHEN RENEWING HIS OR HER
26 LICENSE.

27 (2) THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, SHALL

1 PROMULGATE RULES TO REQUIRE A LICENSEE SEEKING RENEWAL TO FURNISH
2 EVIDENCE THAT DURING THE 3 YEARS IMMEDIATELY PRECEDING
3 APPLICATION FOR RENEWAL, THE LICENSEE ATTENDED CONTINUING
4 EDUCATION COURSES OR PROGRAMS RELATED TO THE PRACTICE OF INTERIOR
5 DESIGN AND DESIGNED TO FURTHER EDUCATE LICENSEES.

6 (3) THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, SHALL
7 ESTABLISH BY RULE THE TOTAL NUMBER OF COURSE OR PROGRAM CLOCK
8 HOURS AT A MINIMUM OF 45 CLOCK HOURS IN ANY 3-YEAR LICENSE
9 RENEWAL CYCLE. A PORTION OF THOSE CLOCK HOURS MUST BE IN ETHICS.

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

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

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

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

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

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

26 (C) SUBMITS TO A PUBLIC OFFICIAL IN THIS STATE OR A
27 POLITICAL SUBDIVISION OF THIS STATE FOR APPROVAL A PERMIT OR A

1 **PLAN, REPORT, OR SPECIFICATION FOR FILING AS A PUBLIC RECORD THAT**
2 **DOES NOT BEAR A SEAL OF A LICENSEE AS REQUIRED BY THIS ARTICLE.**

3 Enacting section 1. Section 601a of the occupational code,
4 1980 PA 229, MCL 339.601a, is repealed.

5 Enacting section 2. This amendatory act does not take
6 effect unless all of the following bills of the 93rd Legislature
7 are enacted into law:

8 (a) Senate Bill No.____ or House Bill No. 4312(request no.
9 00815'05 a).

10 (b) Senate Bill No.____ or House Bill No. 4262(request no.
11 00815'05 b).