

SUBSTITUTE FOR
HOUSE BILL NO. 4772

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

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	Mortuary science	July 1
11	Professional engineers	April 1
12	Real estate appraisers	July 1
13	Real estate brokers and salespersons	July 1
14	Residential builders	April 1

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

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

24 (3) A person, school, or institution that violates
 25 subsection (1) or (2) is guilty of a misdemeanor, punishable by a
 26 fine of not more than \$500.00, or imprisonment for not more than
 27 90 days, or both.

28 (4) A person, school, or institution that violates

subsection (1) or (2) a second or any subsequent time is guilty of a misdemeanor, punishable, except as provided in section 735, by a fine of not more than \$1,000.00, or imprisonment for not more than 1 year, or both.

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

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

~~——(a) Interior design.~~

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

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

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

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

(7) As used in subsection (5), "affected person" means a person directly affected by the actions of a person suspected of violating subsection (1) or (2) and includes, but is not limited to, a licensee or registrant, a board established ~~pursuant to~~ **UNDER** this act, a person who has utilized the services of the person engaging in or attempting to engage in an occupation

1 regulated under this act or using a title designated by this act
2 without being licensed or registered by the department, or a
3 private association composed primarily of members of the
4 occupation in which the person is engaging in or attempting to
5 engage in or in which the person is using a title designated
6 under this act without being registered or licensed by the
7 department.

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

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

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

21 ARTICLE 28

22 SEC. 2801. AS USED IN THIS ARTICLE:

23 (A) "INTERIOR DESIGN SERVICES" MEANS SERVICES IN CONNECTION
24 WITH THE DESIGN OF INTERIOR SPACES, INCLUDING THE PREPARATION OF
25 DESIGN DOCUMENTS RELATIVE TO FINISHES, SYSTEMS FURNITURE,
26 FURNISHINGS, FIXTURES, EQUIPMENT, LIGHTING OUTLETS AND SWITCHING,
27 AND NON-LOAD-BEARING INTERIOR PARTITIONS THAT DO NOT MATERIALLY

1 AFFECT THE BUILDING MECHANICAL, STRUCTURAL, ELECTRICAL, OR FIRE
2 SAFETY SYSTEMS.

3 (B) "INTERIOR DESIGNER" MEANS A PERSON PERFORMING INTERIOR
4 DESIGN SERVICES.

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

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

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

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

19 (2) THE TERMS OF THE BOARD MEMBERS AND THEIR QUALIFICATIONS
20 ARE AS PRESCRIBED BY ARTICLE 3.

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

25 (2) THIS ARTICLE DOES NOT PROHIBIT AN INDIVIDUAL CERTIFIED
26 OR OTHERWISE QUALIFIED OR APPROVED BY A PRIVATE ORGANIZATION FROM
27 USING A TERM OR TITLE COPYRIGHTED OR OTHERWISE PROTECTED UNDER

1 LAW BY THE CERTIFYING ORGANIZATION SO LONG AS THE USE DOES NOT
2 CONNOTE LICENSURE UNDER THIS ARTICLE.

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

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

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

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

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

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

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

27 (F) AN INDIVIDUAL ENGAGING IN INTERIOR DESIGN SERVICES

1 WITHOUT A LICENSE BUT UNDER THE SUPERVISION OF 1 OR MORE
2 LICENSEES SOLELY FOR THE PURPOSE OF OBTAINING THE EXPERIENCE
3 REQUIRED UNDER SECTION 2809(3) OR (4).

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

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

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

24 (4) FOR APPLICANTS NOT APPLYING FOR LICENSURE UNDER
25 SUBSECTION (3), THE MOST CURRENT EXAMINATION OFFERED BY THE
26 NATIONAL COUNCIL FOR INTERIOR DESIGN QUALIFICATION AND THE
27 EDUCATION, EXPERIENCE, AND OTHER QUALIFICATIONS TO SIT FOR THAT

1 EXAMINATION ARE ADOPTED BY REFERENCE. THE BOARD AND DIRECTOR, BY
2 PROMULGATION OF A RULE, MAY ADOPT ANOTHER VERSION OF THE NATIONAL
3 COUNCIL FOR INTERIOR DESIGN QUALIFICATION EXAMINATION AND THE
4 EDUCATION, EXPERIENCE, AND OTHER QUALIFICATIONS TO SIT FOR THAT
5 EXAMINATION OR ANOTHER EXAMINATION CONSIDERED BY THE BOARD TO BE
6 THE EQUIVALENT OF THE MOST RECENT NATIONAL COUNCIL FOR INTERIOR
7 DESIGN QUALIFICATION EXAMINATION AND THE EDUCATION, EXPERIENCE,
8 AND OTHER QUALIFICATIONS TO SIT FOR THAT EXAMINATION.

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

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

17 SEC. 2815. BEGINNING THE LICENSE RENEWAL CYCLE AFTER THE
18 EFFECTIVE DATE OF THE RULES PROMULGATED UNDER THIS SECTION, THE
19 DIRECTOR SHALL REQUIRE A DEMONSTRATION OF CONTINUING PROFESSIONAL
20 COMPETENCE FOR RENEWAL OF A LICENSE UNDER THIS ARTICLE.

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

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

26 SEC. 2819. A PERSON WHO VIOLATES THIS ARTICLE OR RULES
27 PROMULGATED UNDER THIS ARTICLE OR WHO DOES 1 OR MORE OF THE

1 FOLLOWING IS SUBJECT TO THE PENALTIES SET FORTH IN ARTICLE 6:

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

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

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

10 Enacting section 1. Section 601a of the occupational code,
11 1980 PA 299, MCL 339.601a, is repealed.

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

15 (a) House Bill No. 4770.

16 (b) House Bill No. 4771.