

HOUSE BILL No. 6533

September 14, 2006, Introduced by Rep. Pastor and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 2401, 2403, and 2404 (MCL 339.2401, 339.2403, and 339.2404), section 2401 as amended by 1991 PA 166, section 2403 as amended by 1984 PA 191, and section 2404 as amended by 1988 PA 463, and by adding section 2408.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2401. As used in this article:

2 (A) "CARPENTRY" MEANS ACTIVITY REGARDING A RESIDENTIAL
3 STRUCTURE INVOLVING ALL FOOTING AND FOUNDATIONS; FRAMING AND
4 EXTERIOR DOORS AND WINDOWS; SIDING; ROOFS; AND DRYWALL. FOR
5 PURPOSES OF THIS SUBDIVISION, WOOD CONSTRUCTION AND WOODEN

1 STRUCTURE INCLUDE CONSTRUCTION METHODS UTILIZING SUBSTITUTE
2 MATERIALS INCLUDING, BUT NOT LIMITED TO, METAL STUD AND COMPOSITE
3 FRAMING AND FINISH MATERIALS THAT REPLACE OR ARE USED IN
4 CONJUNCTION WITH TRADITIONAL WOOD CONSTRUCTION AND THE PREPARATION
5 AND INSTALLATION OF FOUNDATIONS OF ANY MATERIAL. CARPENTRY DOES NOT
6 INCLUDE THE CONSTRUCTION, MAINTENANCE, OR REPAIR OF FARM BUILDINGS
7 AND THEIR APPURTENANCES, GREENHOUSES, FENCES, OR STRUCTURES USED
8 FOR THE PRODUCTION OR CARE OF FARM PLANTS AND ANIMALS IF THAT
9 CONSTRUCTION, MAINTENANCE, OR REPAIR IS PERFORMED BY THE OWNER ON
10 HIS OR HER OWN STRUCTURE.

11 (B) "JOURNEY CARPENTER" MEANS AN INDIVIDUAL WHO, AS HIS OR HER
12 PRINCIPAL OCCUPATION, IS ENGAGED IN CARPENTRY FOR A FIXED SUM,
13 PRICE, FEE, PERCENTAGE, OR OTHER VALUABLE CONSIDERATION AND MEETS
14 THE QUALIFICATIONS OF THIS ARTICLE.

15 (C) "REGISTERED CARPENTER" MEANS AN INDIVIDUAL REGISTERED
16 UNDER THIS ACT AS A CARPENTER, TRAINEE, OR JOURNEY CARPENTER.

17 (D) ~~(a)~~ "Residential builder" means a person engaged in the
18 construction of a residential structure or a combination
19 residential and commercial structure who, for a fixed sum, price,
20 fee, percentage, valuable consideration, or other compensation,
21 other than wages for personal labor only, undertakes with another
22 or offers to undertake or purports to have the capacity to
23 undertake with another for the erection, construction, replacement,
24 repair, alteration, or an addition to, subtraction from,
25 improvement, wrecking of, or demolition of, a residential structure
26 or combination residential and commercial structure; a person who
27 manufactures, assembles, constructs, deals in, or distributes a

1 residential or combination residential and commercial structure
2 which is prefabricated, preassembled, precut, packaged, or shell
3 housing; or a person who erects a residential structure or
4 combination residential and commercial structure except for the
5 person's own use and occupancy on the person's property.

6 (E) ~~-(b)-~~ "Residential maintenance and alteration contractor"
7 means a person who, for a fixed sum, price, fee, percentage,
8 valuable consideration, or other compensation, other than wages for
9 personal labor only, undertakes with another for the repair,
10 alteration, or an addition to, subtraction from, improvement of,
11 wrecking of, or demolition of a residential structure or
12 combination residential and commercial structure, or building of a
13 garage, or laying of concrete on residential property, or who
14 engages in the purchase, substantial rehabilitation or improvement,
15 and resale of a residential structure, engaging in that activity on
16 the same structure more than twice in 1 calendar year, except in
17 the following instances:

18 (i) If the work is for the person's own use and occupancy.

19 (ii) If the rehabilitation or improvement work of residential
20 type property or a structure is contracted for, with, or hired
21 entirely to be done and performed for the owner by a person
22 licensed under this article.

23 (iii) If work is performed by a person employed by the owner to
24 perform work for which the person is licensed by the state.

25 (F) ~~-(e)-~~ "Residential structure" means a premises used or
26 intended to be used for a residence purpose and related facilities
27 appurtenant to the premises, used or intended to be used, as an

1 adjunct of residential occupancy.

2 (G) ~~(d)~~ "Salesperson" means an employee or agent, other than
3 a qualifying officer, of a licensed residential builder or
4 residential maintenance and alteration contractor, who for a
5 salary, wage, fee, percentage, commission, or other consideration,
6 sells or attempts to sell, negotiates or attempts to negotiate,
7 solicits for or attempts to solicit for, obtains or attempts to
8 obtain a contract or commitment for, or furnishes or attempts or
9 agrees to furnish, the goods and services of a residential builder
10 or residential maintenance and alteration contractor, except a
11 person working for a licensed residential builder or residential
12 maintenance and alteration contractor who makes sales which are
13 occasional and incidental to the person's principal employment.

14 (H) ~~(e)~~ "Wages" means money paid or to be paid on an hourly
15 or daily basis by an owner, lessor, or occupant of a residential
16 structure or combination residential and commercial structure as
17 consideration for the performance of personal labor on the
18 structure by a person who does not perform or promise to perform
19 the labor for any other fixed sum, price, fee, percentage, valuable
20 consideration, or other compensation and who does not furnish or
21 agree to furnish the material or supplies required to be used in
22 the performance of the labor or an act defined in subdivision (a)
23 or (b).

24 Sec. 2403. (1) Notwithstanding article 6, a person may engage
25 in the business of or act in the capacity of a residential builder
26 or a residential maintenance and alteration contractor or
27 salesperson in this state without having a license **OR REGISTRATION**

1 **ISSUED UNDER THIS ARTICLE**, if the person is 1 of the following:

2 (a) An authorized representative of the United States
3 government, this state, or a county, township, city, village, or
4 other political subdivision of this state.

5 (b) An owner of property, with reference to a structure on the
6 property for the owner's own use and occupancy.

7 (c) An owner of rental property, with reference to the
8 maintenance and alteration of that rental property.

9 (d) An officer of a court acting within the terms of the
10 officer's office.

11 (e) A person other than the salesperson who engages solely in
12 the business of performing work and services under contract with a
13 residential builder or a residential maintenance and alteration
14 contractor licensed under this article. **A PERSON ENGAGED IN**
15 **CARPENTRY SHALL PERFORM WORK AND SERVICES ONLY IF REGISTERED UNDER**
16 **THIS ARTICLE TO ENGAGE IN CARPENTRY.**

17 (f) A person working on 1 undertaking or project by 1 or more
18 contracts, the aggregate contract price for which labor, material,
19 and any other item is less than \$600.00. This exemption does not
20 apply if the work of a construction is only a part of a larger or
21 major operation, whether undertaken by the same or a different
22 residential builder or residential maintenance and alteration
23 contractor, or in which a division of the operation is made in
24 contracts of amounts less than \$600.00, to evade this act.

25 (g) An electrical contractor who is licensed under ~~Act No.~~
26 ~~217 of the Public Acts of 1956, as amended, being sections 338.881~~
27 ~~to 338.892 of the Michigan Compiled Laws~~ **THE ELECTRICAL**

1 ADMINISTRATIVE ACT, 1956 PA 217, MCL 338.881 TO 338.892. This
2 exemption applies only to the electrical installation, electrical
3 maintenance, or electrical repair work performed by the electrical
4 contractor.

5 (h) A plumbing contractor licensed under ~~Act No. 266 of the~~
6 ~~Public Acts of 1929, as amended, being sections 338.901 to 338.917~~
7 ~~of the Michigan Compiled Laws~~ **THE STATE PLUMBING ACT, 2002 PA 733,**
8 **MCL 338.901 TO 338.917.** This exemption applies only to plumbing
9 installation, plumbing maintenance, or plumbing repair work
10 performed by the plumbing contractor.

11 (i) A mechanical contractor who is licensed under the **FORBES**
12 **mechanical contractors act, 1984 PA 192, MCL 338.971 TO 338.988.**
13 This exemption applies only to mechanical installation, mechanical
14 maintenance, or mechanical repair work performed by the mechanical
15 contractor.

16 (J) A PERSON AND A FRIEND OR RELATIVE OF THAT PERSON ENGAGING
17 IN CARPENTRY ON PROPERTY OWNED BY THAT PERSON, OR THAT UPON
18 COMPLETION BECOMES THE PERSON'S PLACE OF RESIDENCE, SO LONG AS HE
19 OR SHE DOES NOT HOLD HIMSELF OR HERSELF OUT AS A REGISTERED
20 CARPENTER. IN SUCH CASE, THE OWNER OR PROSPECTIVE OWNER MUST, UPON
21 THE APPLICATION FOR THE PERMIT, AFFIRM OWNERSHIP AND OCCUPANCY UPON
22 COMPLETION. ANY FRIEND OR RELATIVE HELPING THE OWNER MUST NOT BE
23 DOING SO FOR COMPENSATION. THE OWNERS SHALL APPLY FOR AND OBTAIN
24 THE APPROPRIATE PERMITS AND OBTAIN THE REQUIRED INSPECTIONS.

25 (K) AN INDIVIDUAL INVOLVED IN CARPENTRY ON AN AGRICULTURAL
26 STRUCTURE.

27 (2) THE DEPARTMENT SHALL NOT CONDITION THE ELIGIBILITY FOR

1 CARPENTER REGISTRATION UPON AFFILIATION WITH OR SPONSORSHIP BY ANY
2 GOVERNMENTAL, PRIVATE, CHARITABLE, OR FRATERNAL ORGANIZATION AND
3 SHALL NOT DENY REGISTRATION UPON SUCH AFFILIATION OR SPONSORSHIP.

4 (3) AN APPLICANT FOR REGISTRATION FOR ANY CLASS OF CARPENTER
5 SHALL DEMONSTRATE CITIZENSHIP OR LEGAL WORK STATUS.

6 (4) REGISTRATION AS A CARPENTER UNDER THIS ARTICLE DOES NOT
7 AUTHORIZE THE PULLING OF CONSTRUCTION PERMITS.

8 Sec. 2404. (1) The department may require ~~an~~ A CONTRACTOR
9 applicant ~~—~~ OR licensee, or each partner, trustee, director,
10 officer, member, or shareholder to submit evidence of good moral
11 character and financial stability. Before the issuance of a
12 CONTRACTOR license, an applicant shall submit any amount required
13 to be paid under the construction lien act, ~~Act No. 497 of the~~
14 ~~Public Acts of 1980, being sections 570.1101 to 570.1305 of the~~
15 ~~Michigan Compiled Laws— 1980 PA 497, MCL 570.1101 TO 570.1305.~~

16 (2) The department shall require an applicant for a license to
17 pass an examination establishing that the applicant has a fair
18 knowledge of the obligations of a residential builder or
19 residential maintenance and alteration contractor to the public and
20 the applicant's principal, and the statutes relating to the
21 applicant's licensure. **BEGINNING THE EFFECTIVE DATE OF THE**
22 **AMENDATORY ACT THAT ADDED THIS SENTENCE, THE DEPARTMENT SHALL**
23 **REQUIRE AN INITIAL APPLICANT FOR A JOURNEY CARPENTER REGISTRATION**
24 **TO BOTH PASS AN EXAMINATION APPROVED BY THE UNITED STATES BUREAU OF**
25 **APPRENTICESHIP TRAINING, OR OTHER EXAMINATION MEETING THOSE**
26 **STANDARDS AND APPROVED BY RULE OF THE DIRECTOR AND EITHER COMPLETE**
27 **TRAINING WHOSE CURRICULUM IS APPROVED BY THE UNITED STATES BUREAU**

1 OF APPRENTICESHIP TRAINING STANDARDS OR DEMONSTRATE APPROPRIATE
2 CARPENTRY EXPERIENCE FOR 3 OF THE PRECEDING 5 YEARS. SUBJECT TO ANY
3 RULE ADOPTED UNDER THIS SUBSECTION, THE UNITED STATES BUREAU OF
4 APPRENTICESHIP TRAINING EXAMINATIONS AND TRAINING CURRICULUM
5 STANDARDS, AS THEY EXIST ON THE DATE OF ENACTMENT OF THE AMENDATORY
6 ACT THAT ADDED THIS SENTENCE AND THAT INVOLVE JOURNEY CARPENTERS,
7 ARE INCORPORATED BY REFERENCE.

8 (3) The department, upon application, may issue a residential
9 maintenance and alteration contractor's license to an applicant
10 who, upon examination, qualifies for a license, which shall
11 authorize the licensee according to the applicant's qualifications,
12 crafts, and trades to engage in the activities of a residential
13 maintenance and alteration contractor. ~~—A—~~ **SUCH A CONTRACTOR**
14 license shall include the following crafts and trades: carpentry;
15 concrete; swimming pool installation; waterproofing a basement;
16 excavation; insulation work; masonry work; painting and decorating;
17 ~~roofing; siding and gutters; screen or storm sash installation;~~
18 tile and marble work; and house wrecking. The license shall specify
19 the particular craft or trade for which the licensee has qualified.
20 This subsection shall not prohibit a specialty contractor from
21 taking and executing a contract involving the use of 2 or more
22 crafts or trades if the performance of the work in the craft or
23 trade, other than in which the person is licensed, is incidental
24 and supplemental to the performance of work in the craft for which
25 the specialty contractor is licensed.

26 (4) A residential builder or residential maintenance and
27 alteration contractor shall maintain a place of business in this

1 state. If a residential builder or residential maintenance and
2 alteration contractor maintains more than 1 place of business
3 within this state, a branch office license shall be issued to the
4 builder or contractor for each place of business so maintained.

5 SEC. 2408. (1) BEGINNING THE EFFECTIVE DATE OF THE AMENDATORY
6 ACT THAT ADDED THIS SUBSECTION AND UPON APPROVAL OF AN APPLICATION
7 PROPERLY SUBMITTED, THE DEPARTMENT SHALL ISSUE A CARPENTER
8 REGISTRATION FOR A TERM OF 3 YEARS AND A TRAINEE REGISTRATION FOR A
9 PERIOD OF 1 YEAR.

10 (2) BEGINNING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
11 ADDED THIS SUBSECTION AND UNTIL THE EXPIRATION OF 1 YEAR AFTER THAT
12 EFFECTIVE DATE, THE DEPARTMENT SHALL ISSUE A REGISTRATION TO A
13 PERSON THAT SUBMITS, BY AFFIDAVIT, PROOF OF 3 OF THE PRECEDING 5
14 YEARS' EXPERIENCE AS A CARPENTER.

15 (3) THE DEPARTMENT SHALL PROVIDE THAT A TRAINEE CARPENTER BE
16 ELIGIBLE FOR REGISTRATION AS A CARPENTER BASED UPON 2 YEARS OF
17 EXPERIENCE AND DEMONSTRATION OF A LACK OF COMPLAINTS OR SANCTIONS.

18 (4) AN APPLICANT FOR A REGISTRATION AS A CARPENTER OR TRAINEE
19 CARPENTER SHALL SUBMIT AN APPLICATION FOR REGISTRATION, PAY THE
20 APPLICATION AND REGISTRATION FEES, AND DEMONSTRATE COMPLIANCE WITH
21 SECTION 2403(3).

22 (5) THE DEPARTMENT SHALL ISSUE PICTURE IDENTIFICATION CARDS TO
23 ANYONE REGISTERED AS A CARPENTER UNDER THIS ARTICLE.

24 (6) AN INDIVIDUAL REGISTERED UNDER THIS ARTICLE AS A CARPENTER
25 SHALL CARRY THE IDENTIFICATION CARD DESCRIBED IN SUBSECTION (5) AT
26 ALL TIMES WHILE ENGAGED IN ACTIVITY THAT IS SUBJECT TO REGISTRATION
27 UNDER THIS ARTICLE AND SHALL ALSO CARRY NOT LESS THAN 1 PIECE OF

1 IDENTIFICATION CONTAINING THE INDIVIDUAL'S PICTURE. THE INDIVIDUAL,
2 UPON REQUEST OF AN INSPECTOR, SHALL PRODUCE THE IDENTIFICATION CARD
3 DESCRIBED IN SUBSECTION (5) AS WELL AS THE PICTURE IDENTIFICATION.
4 AN INDIVIDUAL WHO FAILS TO PRODUCE THE CARD DESCRIBED IN SUBSECTION
5 (5) IS NOT CONSIDERED IN VIOLATION OF THIS SUBSECTION IF HE OR SHE
6 PRODUCES THE CARD WITHIN 24 HOURS AFTER BEING REQUESTED BY AN
7 INSPECTOR AND PRESENTS IT TO THE ENFORCING AGENCY. FAILURE TO
8 PRODUCE ANY IDENTIFICATION UPON THE REQUEST OF AN INSPECTOR SHALL
9 BE CONSIDERED A VIOLATION OF THIS ACT BY THE CARPENTER CONTRACTOR
10 SUPERVISING THE JOBSITE.

11 (7) THE USE BY A HOMEOWNER ACTING AS HIS OR HER OWN CONTRACTOR
12 OF UNREGISTERED CARPENTERS OR CARPENTERS NOT EXEMPT FROM
13 REGISTRATION UNDER THIS ARTICLE IS CONSIDERED A THREAT TO THE
14 PUBLIC HEALTH, SAFETY, AND WELFARE. THE DEPARTMENT OR AN ENFORCING
15 AGENCY MAY ISSUE A STOP-WORK ORDER BASED ON AN AFFIDAVIT SUBMITTED
16 BY A PERSON FAMILIAR WITH THE FACTS SET FORTH IN THE AFFIDAVIT, OR,
17 IF APPROPRIATE, BASED UPON AN AFFIDAVIT ON INFORMATION AND BELIEF,
18 THAT AN IMMINENT THREAT TO THE PUBLIC HEALTH, SAFETY, AND WELFARE
19 EXISTS DUE TO THE USE OF UNREGISTERED CARPENTERS OR CARPENTERS NOT
20 EXEMPT FROM REGISTRATION UNDER THIS ARTICLE. THEREAFTER, THE
21 PROCEEDINGS DESCRIBED IN THIS ARTICLE SHALL BE PROMPTLY COMMENCED
22 AND DECIDED IN 3 OR FEWER BUSINESS DAYS.

23 (8) A STOP-WORK ORDER SHALL BE CONSPICUOUSLY POSTED AT A
24 JOBSITE. THE ISSUANCE OF A STOP-WORK ORDER OPERATES TO STOP ALL
25 WORK AT THE JOBSITE.

26 (9) A PERSON MAY PETITION THE DEPARTMENT OR AN ENFORCING
27 AGENCY TO DISSOLVE THE STOP-WORK ORDER. UPON RECEIVING A PETITION,

1 THE DEPARTMENT OR AN ENFORCING AGENCY IMMEDIATELY SHALL SCHEDULE A
2 HEARING, WITHIN 3 BUSINESS DAYS OR LESS, TO DECIDE WHETHER TO GRANT
3 OR DENY THE REQUESTED RELIEF. THE FILING OF A PETITION DOES NOT
4 OPERATE TO STAY THE EFFECT OF A STOP-WORK ORDER.

5 (10) UPON A SHOWING ACCEPTABLE TO THE DEPARTMENT OR ENFORCING
6 AGENCY OF COMPLIANCE WITH THE PROVISION OF THIS ARTICLE, THE
7 VIOLATION OF WHICH WAS THE BASIS OF THE STOP-WORK ORDER, THE
8 DEPARTMENT OR ENFORCING AGENCY MAY RESCIND THE STOP-WORK ORDER.

9 (11) A HEARINGS EXAMINER SHALL GRANT THE REQUESTED RELIEF
10 DISSOLVING THE STOP-WORK ORDER, UNLESS SUFFICIENT EVIDENCE IS
11 PRESENTED THAT AN IMMINENT THREAT TO THE PUBLIC HEALTH, SAFETY, AND
12 WELFARE EXISTS THAT REQUIRES EMERGENCY ACTION AND CONTINUATION OF
13 THE DEPARTMENT'S OR ENFORCING AGENCY'S STOP-WORK ORDER.

14 (12) NOTWITHSTANDING ARTICLE 6, A LICENSED CONTRACTOR WHO
15 VIOLATES THIS ARTICLE BY UTILIZING UNREGISTERED CARPENTERS IS
16 LIABLE FOR A CIVIL VIOLATION OF NOT LESS THAN \$500.00, TO BE
17 DEPOSITED INTO THE BUILDER ENFORCEMENT FUND CREATED IN SECTION 39
18 OF THE STATE LICENSE FEE ACT, 1979 PA 152, MCL 338.2239.

19 Enacting section 1. This amendatory act takes effect 18 months
20 after the date it is enacted.

21 Enacting section 2. This amendatory act does not take effect
22 unless Senate Bill No.____ or House Bill No. 6534(request no.
23 03332'05 a) of the 93rd Legislature is enacted into law.