

SENATE BILL No. 1325

September 25, 2012, Introduced by Senators EMMONS and MARLEAU and referred to the Committee on Regulatory Reform.

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 2008 PA 319, 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	Land surveyors	April 1
5	Landscape architects	July 1
6	LICENSED INTERIOR DESIGNERS	JANUARY 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) Subject to section 411, a person whose license or
 22 registration is suspended, revoked, or lapsed, as determined by
 23 the records of the department, is considered unlicensed or
 24 unregistered.

25 (4) Except as otherwise provided for in **SUBSECTION (6),**
 26 **SUBSECTION (7), OR** section 735, a person, school, or institution
 27 that violates subsection (1) or (2) is guilty of a misdemeanor,
 28 punishable by a fine of not more than \$500.00, or imprisonment

1 for not more than 90 days, or both.

2 (5) Except as otherwise provided for in **SUBSECTION (6),**
3 **SUBSECTION (7), OR** section 735, a person, school, or institution
4 that violates subsection (1) or (2) a second or any subsequent
5 time is guilty of a misdemeanor, punishable by a fine of not more
6 than \$1,000.00, or imprisonment for not more than 1 year, or
7 both.

8 (6) ~~Notwithstanding subsections (4) and (5), a~~ **A person THAT**
9 **IS** not licensed under article 24 as a residential builder or a
10 residential maintenance and alteration contractor ~~who~~ **AND**
11 violates subsection (1) or (2) is guilty ~~as follows OF 1 OR MORE~~
12 **OF THE FOLLOWING:**

13 (a) ~~In the case of~~ **IF THE VIOLATION IS** a first offense, a
14 misdemeanor punishable by a fine of not less than \$5,000.00 or
15 more than \$25,000.00, or imprisonment for not more than 1 year,
16 or both.

17 (b) ~~In the case of~~ **IF THE VIOLATION IS** a second or
18 subsequent offense, a misdemeanor punishable by a fine of not
19 less than \$5,000.00 or more than \$25,000.00, or imprisonment for
20 not more than 2 years, or both.

21 (c) ~~In the case of an offense that~~ **IF THE VIOLATION** causes
22 death or serious injury, a felony punishable by a fine of not
23 less than \$5,000.00 or more than \$25,000.00, or imprisonment for
24 not more than 4 years, or both.

25 (7) ~~Notwithstanding subsections (4) and (5), a~~ **A person THAT**
26 **IS** not licensed under article 20 as an architect, professional
27 engineer, or professional land surveyor ~~who~~ **AND** violates

1 subsection (1) or (2) is guilty ~~as follows~~ **OF 1 OR MORE OF THE**
 2 **FOLLOWING:**

3 (a) ~~In the case of~~ **IF THE VIOLATION IS** a first offense, a
 4 misdemeanor punishable by a fine of not less than \$5,000.00 or
 5 more than \$25,000.00 or imprisonment for not more than 93 days,
 6 or both.

7 (b) ~~In the case of~~ **IF THE VIOLATION IS** a second or
 8 subsequent offense, a misdemeanor punishable by a fine of not
 9 less than \$5,000.00 or more than \$25,000.00 or imprisonment for
 10 not more than 1 year, or both.

11 (c) ~~In the case of an offense that~~ **IF THE VIOLATION** causes
 12 death or serious injury, a felony punishable by a fine of not
 13 less than \$5,000.00 or more than \$25,000.00 or imprisonment for
 14 not more than 4 years, or both.

15 (8) ~~Any~~ **A PENALTY FOR A** violation of this act shall include
 16 a requirement that restitution be made, based upon proofs
 17 submitted to and findings made by the trier of fact as provided
 18 by law.

19 (9) Notwithstanding the existence and pursuit of any other
 20 remedy, an affected person may maintain **AN** injunctive action to
 21 restrain or prevent a person from violating subsection (1) or
 22 (2). If successful in obtaining injunctive relief, the affected
 23 person ~~shall be~~ **IS** entitled to actual costs and attorney fees.

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

26 ~~—— (a) Interior design.~~

27 **(A)** ~~(b)~~ Residential building design. As used in this

1 subdivision, "residential building design" means the rendering of
2 residential design services for a detached 1- and 2-family
3 residence building by a person ~~exempted from the requirements of~~
4 **THAT IS EXEMPT FROM THIS ARTICLE UNDER** section 2012.

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

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

10 (D) ~~(e)~~ Any activity for which the person is licensed under
11 the electrical administrative act, 1956 PA 217, MCL 338.881 to
12 338.892.

13 (11) As used in subsection (9), "affected person" means a
14 person directly affected by the actions of a person suspected of
15 violating subsection (1) or (2) and includes, but is not limited
16 to, a licensee or registrant, a board established ~~pursuant to~~
17 **UNDER** this act, the department, a person ~~who~~ **THAT** has utilized
18 the services of the person engaging in or attempting to engage in
19 an occupation regulated under this act or using a title
20 designated by this act without being licensed or registered by
21 the department, or a private association composed primarily of
22 members of the occupation in which the person is engaging in or
23 attempting to engage in or in which the person is using a title
24 designated under this act without being registered or licensed by
25 the department.

26 (12) An investigation may be conducted under article 5 to
27 enforce this section. A person ~~who~~ **THAT** violates this section

1 ~~shall be~~ **IS** subject to this section and sections 506, 602, and
2 606.

3 (13) The department, the attorney general, or a county
4 prosecutor may utilize forfeiture as a remedy in the manner
5 ~~provided for~~ **DESCRIBED** in section 606.

6 (14) The remedies under this section are independent and
7 cumulative. The use of 1 remedy by a person ~~shall~~ **DOES** not bar
8 the use of other lawful remedies by that person or the use of a
9 lawful remedy by another person.

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

16 (15) ~~(16) Upon entering~~ **IF A COURT ENTERS** a conviction under
17 subsection (4), (5), or (6), a ~~THE~~ court ~~entering the conviction~~
18 shall notify, by mail, facsimile transmission, or electronic
19 mail, the bureau of commercial services at the department **OF THE**
20 **CONVICTION.**

21 **ARTICLE 28**

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

23 (A) **"LICENSED INTERIOR DESIGN SERVICES" MEANS SERVICES IN**
24 **CONNECTION WITH THE DESIGN OF INTERIOR SPACES AND MAY INVOLVE THE**
25 **DESIGN AND PREPARATION OF CONSTRUCTION DOCUMENTS AND**
26 **SPECIFICATIONS FOR THE ALTERATION OR CONSTRUCTION OF AN INTERIOR**
27 **SPACE, ROOM, OR AREA OF A BUILDING OR STRUCTURE DESIGNED FOR**

1 HUMAN HABITATION OR OCCUPANCY, INCLUDING THE DELINEATION OF NON-
2 LOAD-BEARING BUILDING PARTITIONS, MATERIALS, FINISHES, FURNITURE,
3 FIXTURES, LIGHTING, EQUIPMENT, SWITCHES, OUTLETS, AND RELATED
4 NONSTRUCTURAL DEMOLITION.

5 (B) "LICENSED INTERIOR DESIGNER" MEANS AN INDIVIDUAL WHO
6 PERFORMS LICENSED INTERIOR DESIGN SERVICES. LICENSED INTERIOR
7 DESIGN SERVICES ARE PERFORMED AFTER DESIGN EFFECTS OF THOSE
8 SERVICES ARE INCORPORATED, BY THE MICHIGAN BUILDING CODE ADOPTED
9 UNDER THE STILLE-DEROSSETT-HALE SINGLE STATE CONSTRUCTION CODE
10 ACT, 1972 PA 230, MCL 125.1501 TO 125.1531, INTO THE BASIC DESIGN
11 OF A BUILDING'S OR STRUCTURE'S STRUCTURAL FRAME AND ELECTRICAL,
12 PLUMBING, FIRE SAFETY, AND MECHANICAL SYSTEMS. LICENSED INTERIOR
13 DESIGN SERVICES MAY INCORPORATE COLLABORATION WITH OTHER
14 REGISTERED DESIGN PROFESSIONALS AND THEIR DESIGN SERVICES, IF
15 NECESSARY, AND MAY BE INCORPORATED IN THE SUBMISSION OF THE
16 CONSTRUCTION DOCUMENTS.

17 SEC. 2803. THE BOARD OF LICENSED INTERIOR DESIGN IS CREATED.

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

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

27 SEC. 2807. (1) AN INDIVIDUAL SHALL NOT PROVIDE OR OFFER TO

1 PROVIDE LICENSED INTERIOR DESIGN SERVICES UNLESS LICENSED UNDER
2 THIS ARTICLE OR EXEMPT FROM LICENSURE UNDER SUBSECTION (2).

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

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

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

16 (C) AN INDIVIDUAL WHO IS ENGAGED IN LICENSED INTERIOR DESIGN
17 SERVICES ON PROPERTY OWNED OR LEASED BY THAT INDIVIDUAL SO LONG
18 AS HE OR SHE DOES NOT HOLD HIMSELF OR HERSELF OUT AS A LICENSED
19 INTERIOR DESIGNER.

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

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

27 (F) AN INDIVIDUAL ENGAGING IN LICENSED INTERIOR DESIGN

1 SERVICES 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 MUST MEET THE EXAMINATION REQUIREMENTS OF
9 SUBSECTION (4) TO RECEIVE A LICENSE UNDER THIS ARTICLE.

10 (2) IF AN APPLICATION THAT IS PROPERLY SUBMITTED BY AN
11 INDIVIDUAL IS APPROVED, THE DEPARTMENT SHALL ISSUE A LICENSE TO
12 THE INDIVIDUAL. THE TERM OF A LICENSE ISSUED UNDER THIS ARTICLE
13 IS 3 YEARS. ONLY AN INDIVIDUAL IS ELIGIBLE FOR A LICENSE UNDER
14 THIS ARTICLE.

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

26 (4) FOR APPLICANTS WHO ARE NOT APPLYING FOR LICENSURE UNDER
27 SUBSECTION (3), THE MOST CURRENT EXAMINATION OFFERED BY THE

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

12 SEC. 2811. THE DEPARTMENT SHALL ISSUE A LICENSE TO AN
13 INDIVIDUAL FROM ANOTHER JURISDICTION, STATE, OR COUNTRY IF THE
14 BOARD DETERMINES THAT THE OTHER JURISDICTION, STATE, OR COUNTRY
15 HAS SUBSTANTIALLY SIMILAR REQUIREMENTS FOR LICENSURE AS THIS
16 STATE AND ALLOWS RECIPROCITY TO MICHIGAN LICENSEES.

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

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

24 SEC. 2817. (1) WHEN AN INDIVIDUAL IS LICENSED UNDER THIS
25 ARTICLE, HE OR SHE SHALL OBTAIN A SEAL AUTHORIZED BY THE BOARD
26 THAT BEARS THE LICENSEE'S NAME AND A LEGEND INDICATING "LICENSED
27 INTERIOR DESIGNER".

1 (2) A LICENSEE SHALL SEAL A PLAN, REPORT, OR SPECIFICATION
2 ISSUED BY THE LICENSEE WHEN FILED WITH A PUBLIC AUTHORITY.

3 SEC. 2819. A PERSON WHO VIOLATES THIS ARTICLE OR RULES
4 PROMULGATED UNDER THIS ARTICLE OR THAT DOES 1 OR MORE OF THE
5 FOLLOWING IS SUBJECT TO THE PENALTIES AND REMEDIES UNDER ARTICLE
6 6:

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

9 (B) USES A TERM PROTECTED BY THIS ARTICLE WITHOUT A LICENSE
10 UNDER THIS ARTICLE.

11 (C) SUBMITS TO A PUBLIC OFFICIAL IN THIS STATE OR A
12 POLITICAL SUBDIVISION OF THIS STATE FOR APPROVAL A PERMIT OR A
13 PLAN, REPORT, OR SPECIFICATION FOR FILING AS A PUBLIC RECORD THAT
14 DOES NOT BEAR A SEAL OF A LICENSEE AS REQUIRED UNDER SECTION
15 2817.

16 Enacting section 1. Section 601a of the occupational code,
17 1980 PA 299, MCL 339.601a, is repealed.

18 Enacting section 2. This amendatory act does not take effect
19 unless all of the following bills of the 96th Legislature are
20 enacted into law:

21 (a) Senate Bill No. 1327.

22
23 (b) Senate Bill No. 1326.