

HOUSE BILL No. 5201

November 1, 2017, Introduced by Reps. Hernandez, Johnson, Barrett, Noble, Hornberger, LaFave, Brann, Glenn, Bellino, Howell, Robinson, Lucido, Howrylak, Miller, Wentworth, Runestad, Pagel, Calley, Webber and Graves and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending section 601 (MCL 339.601), as amended by 2016 PA 412.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

6 (2) A school, institution, or person shall not operate or
7 attempt to operate a barber college, school of cosmetology, or real
8 estate school unless the school, institution, or person is licensed
9 or approved by the department.

10 (3) Subject to section 411, a person whose license or

1 registration is suspended, revoked, or lapsed, as determined by the
2 records of the department, is considered unlicensed or
3 unregistered.

4 (4) Except as otherwise provided for in **SUBSECTION (8) AND**
5 section 735, a person, school, or institution that violates
6 subsection (1) or (2) is guilty of a misdemeanor, punishable by a
7 fine of not more than \$500.00, or imprisonment for not more than 90
8 days, or both.

9 (5) Except as otherwise provided for in section 735, a person,
10 school, or institution that violates subsection (1) or (2) a second
11 or any subsequent time is guilty of a misdemeanor, punishable by a
12 fine of not more than \$1,000.00, or imprisonment for not more than
13 1 year, or both.

14 (6) Notwithstanding subsections (4) and (5), a person that is
15 not licensed under article 24 as a residential builder or a
16 residential maintenance and alteration contractor and that violates
17 subsection (1) or (2) is guilty as follows:

18 (a) In the case of a first offense, a misdemeanor punishable
19 by a fine of not less than \$5,000.00 or more than \$25,000.00, or
20 imprisonment for not more than 1 year, or both.

21 (b) In the case of a second or subsequent offense, a
22 misdemeanor punishable by a fine of not less than \$5,000.00 or more
23 than \$25,000.00, or imprisonment for not more than 2 years, or
24 both.

25 (c) In the case of an offense that causes death or serious
26 injury, a felony punishable by a fine of not less than \$5,000.00 or
27 more than \$25,000.00, or imprisonment for not more than 4 years, or

1 both.

2 (7) Notwithstanding subsections (4) and (5), a person that is
3 not licensed under article 20 as an architect, professional
4 engineer, or professional land surveyor and that violates
5 subsection (1) or (2) is guilty as follows:

6 (a) In the case of a first offense, a misdemeanor punishable
7 by a fine of not less than \$5,000.00 or more than \$25,000.00 or
8 imprisonment for not more than 93 days, or both.

9 (b) In the case of a second or subsequent offense, a
10 misdemeanor punishable by a fine of not less than \$5,000.00 or more
11 than \$25,000.00 or imprisonment for not more than 1 year, or both.

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

16 **(8) A PROSECUTING ATTORNEY OR THE ATTORNEY GENERAL MAY BRING**
17 **AN ACTION FOR A CIVIL VIOLATION IN A COURT OF COMPETENT**
18 **JURISDICTION AGAINST AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) IN**
19 **CONNECTION WITH AN OCCUPATION OR TITLE REGULATED UNDER ARTICLE 10,**
20 **11, 12, 13, 21, OR 22. IN AN ACTION BROUGHT UNDER THIS SUBSECTION,**
21 **THE COURT MAY ASSESS THE DEFENDANT A CIVIL FINE OF NOT MORE THAN**
22 **\$500.00.**

23 **(9) ~~(8)~~**—If a trier of fact finds that a person has violated
24 this act, the trier of fact shall require that person to make
25 restitution, based on proofs submitted to and findings made by the
26 trier of fact as provided by law.

27 **(10) ~~(9)~~**—Notwithstanding the existence and pursuit of any

1 other remedy, an affected person may maintain injunctive action to
2 restrain or prevent a person from violating subsection (1) or (2).
3 If successful in obtaining injunctive relief, the affected person
4 is entitled to actual costs and attorney fees.

5 **(11)** ~~(10)~~—This act does not apply to a person that is engaging
6 in or practicing any of the following:

7 (a) Interior design.

8 (b) Residential building design. As used in this subdivision,
9 "residential building design" means the rendering of residential
10 design services for a detached 1- and 2-family residence building
11 by a person that is exempt from the requirements of section 2012.

12 (c) Any activity for which the person is licensed under
13 article 11 of the skilled trades regulation act, **2016 PA 407**, MCL
14 339.6101 to 339.6133.

15 (d) Any activity for which the person is licensed under
16 article 8 of the skilled trades regulation act, **2016 PA 407**, MCL
17 339.5801 to 339.5819.

18 (e) Any activity for which the person is licensed under
19 article 7 of the skilled trades regulation act, **2016 PA 407**, MCL
20 339.5701 to 339.5739.

21 **(12)** ~~(11)~~—As used in subsection ~~(9)~~, **(10)**, "affected person"
22 means a person that is directly affected by the actions of a person
23 suspected of violating subsection (1) or (2) and includes, but is
24 not limited to, a licensee or registrant, a board established under
25 this act, the department, a person that utilizes the services of
26 the person that is engaging in or attempting to engage in an
27 occupation that is regulated under this act or using a title that

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

7 **(13)** ~~(12)~~—An investigation may be conducted under article 5 to
8 enforce this section. A person that violates this section is
9 subject to this section and sections 506, 602, and 606.

10 **(14)** ~~(13)~~—The department, the attorney general, or a county
11 prosecutor may utilize forfeiture as a remedy in the manner
12 provided for in section 606.

13 **(15)** ~~(14)~~—The remedies under this section are independent and
14 cumulative. The use of 1 remedy by a person does not bar the use of
15 other lawful remedies by that person or the use of a lawful remedy
16 by another person.

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

23 **(17)** ~~(16)~~—At the time a court enters a conviction under
24 subsection (4), (5), or (6), the court shall notify, by mail,
25 facsimile transmission, or electronic mail, the department of the
26 conviction.

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.