

OCCUPATIONAL CODE (EXCERPT)
Act 299 of 1980

339.601 Practicing regulated occupation or using designated title; license or registration required; operation of barber college, school of cosmetology, or real estate school; license or approval required; effect of suspended, revoked, or lapsed license or registration; violation as misdemeanor; penalties; person not licensed as residential builder or residential maintenance and alteration contractor; person not licensed as architect, professional engineer, or professional land surveyor; violation; penalties; restitution; injunctive relief; exceptions; "affected person" defined; investigation; forfeiture; remedies; performance of services by interior designer; notice of conviction to department.

Sec. 601.

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

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

(3) Subject to section 411, a person whose license or registration is suspended, revoked, or lapsed, as determined by the records of the department, is considered unlicensed or unregistered.

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

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

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

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

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

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

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

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

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

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

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

(9) 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 is entitled to actual costs and attorney fees.

(10) This act does not apply to a person that is engaging in or practicing any of the following:

(a) Interior design.

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

(c) Any activity for which the person is licensed under article 11 of the skilled trades regulation act, MCL 339.6101 to 339.6133.

(d) Any activity for which the person is licensed under article 8 of the skilled trades regulation act, MCL 339.5801 to 339.5819.

(e) Any activity for which the person is licensed under article 7 of the skilled trades regulation act, MCL 339.5701 to 339.5739.

(11) As used in subsection (9), "affected person" means a person that is 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 under this act, the department, a person that utilizes the services of the person that is engaging in or attempting to engage in an occupation that is regulated under this act or using a title that is designated by this act without being licensed or registered by the department, or a private association that is composed primarily of members of the occupation in which the person is engaging in or attempting to engage in or in which the person is using a title designated under this act without being registered or licensed by the department.

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

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

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

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

(16) At the time a court enters a conviction under subsection (4), (5), or (6), the court shall notify, by mail, facsimile transmission, or electronic mail, the department of the conviction.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1994, Act 400, Imd. Eff. Dec. 29, 1994 ;-- Am. 1998, Act 250, Eff. Oct. 1, 1998 ;-- Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005 ;-- Am. 2007, Act 155, Imd. Eff. Dec. 21, 2007 ;-- Am. 2007, Act 157, Imd. Eff. Dec. 21, 2007 ;-- Am. 2008, Act 319, Eff. Mar. 31, 2009 ;-- Am. 2016, Act 412, Eff. Apr. 4, 2017

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular Name: Act 299