

By: Driver

H.B. No. 1692

A BILL TO BE ENTITLED

AN ACT

relating to regulation of interior designers; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 1053, Occupations Code, as effective June 1, 2003, is amended by adding Section 1053.0001 to read as follows:

Sec. 1053.0001. SHORT TITLE. This chapter may be cited as the Interior Design Practice Act.

SECTION 2. Section 1053.001, Occupations Code, as effective June 1, 2003, is amended by amending Subdivisions (2) and (3) and adding Subdivisions (4) through (7) to read as follows:

(2)(A) "Interior design" means the performance of professional services that include, but are not limited to:

(i) preparing, and filing with code enforcement officials, interior design construction documents for nonstructural or nonseismic interior construction;

(ii) obtaining building permits for nonstructural or nonseismic interior construction;

(iii) preparing documents to illustrate materials, finishes, space planning, reflected ceiling plans, furnishings, fixtures, and equipment;

(iv) analyzing the client's needs, goals, and life safety requirements while protecting the health, safety, and welfare of the public;

1                   (v) integrating findings with knowledge of  
2 interior design;

3                   (vi) formulating preliminary design  
4 concepts that are appropriate, functional, and aesthetic;

5                   (vii) developing and presenting final  
6 design recommendations through appropriate presentation media;

7                   (viii) collaborating with architects and  
8 other licensed professionals as required for regulatory approval;

9                   (ix) preparing and administering bids and  
10 contract documents as the client's agent; and

11                   (x) reviewing and evaluating the  
12 implementation of projects while in progress and upon completion as  
13 a representative of and on behalf of the client.

14                   (B) The term "interior design" does not include  
15 design or construction of structural, mechanical, plumbing,  
16 heating, air conditioning, ventilation, electrical or vertical  
17 transportation systems, fire-rated vertical shafts in multistory  
18 structures, fire-related protection of structural elements, smoke  
19 evacuation and compartmentalization, emergency sprinkler systems,  
20 or emergency alarm systems [~~(A) identification, research, or~~  
21 ~~development of a creative solution to a problem relating to the~~  
22 ~~function or quality of an interior environment,~~

23                   ~~[(B) performance of a service relating to an~~  
24 ~~interior space, including programming, design analysis, space~~  
25 ~~planning of non-load-bearing interior construction, and~~  
26 ~~application of aesthetic principles, by using specialized~~  
27 ~~knowledge of interior construction, building codes, equipment,~~

1 ~~materials, or furnishings, or~~

2 ~~[(C) preparation of an interior design plan,~~  
3 ~~specification, or related document about the design of a~~  
4 ~~non-load-bearing interior space].~~

5 (3) "Interior designer" means a person who is  
6 registered under this chapter to engage in the practice of interior  
7 design. A registered interior designer means a person registered  
8 under this chapter.

9 (4) "Nonstructural or nonseismic" means interior  
10 elements or components that are not load bearing, do not assist in  
11 the seismic design, and do not require computations related to a  
12 building's structural design. The term includes ceiling and  
13 partition systems that employ standard bracing and are not part of  
14 the structural integrity of the building. The term does not include  
15 the structural frame system supporting a building.

16 (5) "Space planning" means the analysis and design of  
17 spatial and occupancy requirements, including space layouts and  
18 final planning.

19 (6) "Reflected ceiling plan" means a ceiling design  
20 that illustrates a ceiling as if it were projected downward and may  
21 include lighting and other elements.

22 (7) "Responsible supervisory control" is the direct  
23 responsibility for supervision by a registered interior designer of  
24 the work and the decision-making process including the ability to  
25 review, enforce, and control compliance with all design criteria  
26 and life safety requirements.

27 SECTION 3. Section 1053.002, Occupations Code, as effective

June 1, 2003, is amended to read as follows:

Sec. 1053.002. APPLICATION. (a) This chapter does not apply to a person who

~~[(1) does not use the title "interior designer" and does not use the term "interior design" to describe a service the person offers or performs; or~~

~~[(2)] is registered to practice architecture in this state, except that such persons may not refer to themselves as "registered interior designers" unless registered under this chapter.~~

(b) This chapter does not:

(1) prohibit an employee of a retail establishment from providing consultation regarding interior decoration or furnishings on the premises of the retail establishment or in the furtherance of a retail sale or prospective retail sale ~~[an interior designer or architect from performing an interior design service under the control, instruction, or supervision of the interior designer or architect]; [or]~~

(2) restrict the practice or activities of or the provision of a service by a person engaged in a profession or occupation for which the person is licensed or registered in this state under any other law; or

(3) restrict persons who provide decorative services or assistance in the selection of surface materials, window treatments, wall coverings, paint, floor coverings, surface-mounted fixtures, and loose furnishings.

SECTION 4. Section 1053.051, Occupations Code, as effective

June 1, 2003, is amended by adding Subsections (c) and (d) to read as follows:

(c) The board shall administer and enforce provisions of this chapter and shall adopt regulations to carry out policies of this chapter.

(d) At all times at least one member of the board must be a registered interior designer.

SECTION 5. Subsection (a), Section 1053.052, Occupations Code, as effective June 1, 2003, is amended to read as follows:

(a) The board shall set the following fees, unless otherwise set in the General Appropriations Act, in amounts that are reasonable and necessary to cover the costs of administering this chapter:

- (1) a registration application fee;
- (2) an annual registration renewal fee; and
- (3) a reciprocal registration fee~~[, and~~
- ~~[(4) an examination fee].~~

SECTION 6. Section 1053.101, Occupations Code, as effective June 1, 2003, is amended to read as follows:

Sec. 1053.101. CONTRACTS AND CONSUMER INFORMATION. (a) An interior designer may be engaged by a client as a consultant, specifier, or supplier on the basis of a fixed fee, a rate for time, or a percentage of project or product cost. Before entering into a contract, an interior designer must clearly determine the scope and nature of the project and must discuss the proposed project in detail with the client, including the manner in which all compensation would be paid. A contract between an interior

1 designer and client, whether oral or written, shall establish the  
2 scope and nature of the project and the manner in which all  
3 compensation is to be paid. Unless the client knows and agrees, the  
4 interior designer may not accept any form of compensation, whether  
5 cash or in kind, from a supplier of goods or services related to the  
6 project.

7 (b) Before beginning work on a project, a registered  
8 interior designer must provide the client with the name and mailing  
9 address of the board and tell the client that the board regulates  
10 the practice of interior design in this state.

11 (c) The board shall prepare information of interest to  
12 consumers that describes:

- 13 (1) the functions of the board under this chapter;  
14 (2) the effect of this chapter on consumers' legal  
15 rights; and  
16 (3) the procedures by which a consumer complaint is  
17 filed with and resolved by the board.

18 (d) ~~[(b)]~~ The board shall make the information available to  
19 the public and appropriate state agencies.

20 SECTION 7. The heading to Subchapter D, Chapter 1053,  
21 Occupations Code, as effective June 1, 2003, is amended to read as  
22 follows:

23 SUBCHAPTER D. REGISTRATION [~~REQUIREMENTS~~]

24 SECTION 8. Sections 1053.151 and 1053.152, Occupations  
25 Code, as effective June 1, 2003, is amended to read as follows:

26 Sec. 1053.151. REGISTRATION REQUIRED. (a) A person [~~other~~  
27 ~~than an interior designer~~] may not:

1           (1) engage in the practice of interior design or offer  
2 or attempt to engage in the practice of interior design unless the  
3 person is registered under this chapter; or

4           (2) hold himself or herself out to the public as being  
5 engaged in the practice of interior design or use the words  
6 "interior design" or "interior designer" in the person's name in  
7 any manner unless all interior design services provided by the  
8 person are rendered by or under the responsible supervisory control  
9 of a person registered under this chapter.

10          (b) A registered interior designer must be present at each  
11 location where interior design is practiced. That interior  
12 designer bears responsibility for the interior design work  
13 performed at that location and must exercise responsible  
14 supervisory control over nonregistered persons who provide  
15 interior design services at that location ~~[represent that the~~  
16 ~~person is an "interior designer" by using that title; or~~

17                 ~~[(2) represent, by using the term "interior design," a~~  
18 ~~service the person offers or performs]~~.

19          Sec. 1053.152. ELIGIBILITY REQUIREMENTS. (a) The board  
20 shall establish the qualifications for the issuance or renewal of a  
21 certificate of registration under this chapter, including the  
22 qualifications under Subsection (b).

23          (b) To be eligible for a certificate of registration, an  
24 applicant must:

25                 (1) meet the qualifications established by the board  
26 under Subsection (a);

27                 (2) ~~[pass the registration examination; and~~

1           ~~[(3)]~~ pay the required fees;

2           (3) hold a professional degree in interior design from  
3 a design program accredited by the Foundation for Interior Design  
4 Education Research or a substantially equivalent program as  
5 determined by the board;

6           (4) have two years of diversified experience as  
7 determined by the board; and

8           (5) demonstrate knowledge of the requirements of  
9 applicable building codes, fire codes, and local regulations that  
10 define the minimum requirements for safe practice as determined by  
11 the board.

12           SECTION 9. Subchapter D, Chapter 1053, Occupations Code, as  
13 effective June 1, 2003, is amended by adding Section 1053.1525 to  
14 read as follows:

15           Sec. 1053.1525. GRANDFATHERED REGISTRANTS. (a) Any  
16 person who applies for registration and remits the application and  
17 initial fees not later than two years after the effective date of  
18 this section shall be registered by the board if:

19           (1) the person has previously passed the examination  
20 of the National Council for Interior Design Qualification; or

21           (2) the person is registered under the law as it  
22 existed immediately before the effective date of this section, the  
23 person's license is not inactive, expired, suspended, or revoked,  
24 and on or after the effective date of this section the person:

25           (A) passes the building and barrier-free code  
26 section of the National Council for Interior Design Qualification;  
27 or



1                   (B) completes 15 hours of board approved  
2 continuing education classes relating to building and barrier-free  
3 codes and regulations, which hours shall be in addition to the  
4 biannual continuing education required of all registrants.

5           (b) This section expires August 31, 2005.

6           SECTION 10. Sections 1053.160 and 1053.161, Occupations  
7 Code, as effective June 1, 2003, are amended to read as follows:

8           Sec. 1053.160. [~~USE OF INTERIOR DESIGNER'S~~] SEAL. (a) On  
9 registration, each registered interior designer must obtain a seal  
10 of a design established by the board bearing:

11                   (1) the registrant's name and registration number;

12                   (2) the words "Registered Interior Designer";

13                   (3) the words "State of Texas"; and

14                   (4) the date the registrant's certification of  
15 registration expires.

16           (b) An interior designer shall maintain a seal as approved  
17 by the board and must stamp or impress the seal on each drawing or  
18 specification issued by the interior designer's office for use in  
19 this state.

20           (c) A person may not use or attempt to use an interior  
21 designer's seal, a similar seal, or a replica of the seal unless the  
22 use is by or under the responsible supervisory control of an  
23 interior designer.

24           (d) An interior designer may not permit a person who is not  
25 an interior designer to use the interior designer's seal without  
26 the interior designer's personal supervision.

27           (e) Interior design construction documents bearing the seal

1 of a registered interior designer shall be accepted for filing by  
2 the appropriate jurisdiction or local building department [~~An~~  
3 ~~interior designer is entitled to use any seal adopted by the board~~].

4 Sec. 1053.161. RECIPROCITY. The board may waive any  
5 registration requirement for an applicant who:

6 (1) is licensed or registered to practice interior  
7 design by another state that has licensing or registration  
8 requirements substantially equivalent or more stringent, as  
9 determined by the board, to the requirements of this state;

10 (2) is in good standing with the state that issued the  
11 license or registration; [~~and~~]

12 (3) submits an application and pays an administrative  
13 fee to the board; and

14 (4) holds a current certificate number issued by the  
15 National Council for Interior Design Qualification.

16 SECTION 11. The heading and Subsection (a), Section  
17 1053.201, Occupations Code, as effective June 1, 2003, are amended  
18 to read as follows:

19 Sec. 1053.201. BIANNUAL [~~ANNUAL~~] RENEWAL REQUIRED.

20 (a) The board shall provide for the biannual [~~annual~~]  
21 renewal of a certificate of registration.

22 SECTION 12. Subsection (c), Section 1053.203, Occupations  
23 Code, as effective June 1, 2003, is amended to read as follows:

24 (c) If a person's certificate of registration has been  
25 expired for one year or more, the board may revoke the certificate  
26 of registration. The board may require an applicant for  
27 reinstatement of a certificate of registration revoked under this

1 subsection to meet ~~[pass]~~ the eligibility and application  
2 requirements under Subchapter D ~~[registration examination. If the~~  
3 ~~person passes the examination, the person's certificate of~~  
4 ~~registration may be reinstated on receipt of a fee in an amount~~  
5 ~~determined by the board]~~.

6 SECTION 13. Subsection (a), Section 1053.205, Occupations  
7 Code, as effective June 1, 2003, is amended to read as follows:

8 (a) The board shall require continuing education programs  
9 as a condition for renewal of a certificate of registration. Each  
10 registered interior designer shall complete a minimum of 16  
11 continuing education program hours for each biannual registration  
12 period.

13 SECTION 14. Section 1053.351, Occupations Code, as  
14 effective June 1, 2003, is amended to read as follows:

15 Sec. 1053.351. CRIMINAL PENALTY. (a) A person commits an  
16 offense if, in violation of this chapter, the person or a member of  
17 the person's firm:

18 (1) engages in the practice of interior design, or  
19 offers or attempts to engage in the practice of interior design, for  
20 a fee or other direct compensation; or

21 (2) advertises or puts out a sign, card, or drawing  
22 designating the person as an interior design firm or interior  
23 designer or uses another business or professional title that uses a  
24 form of the word "interior design."

25 (b) An offense under this section is a misdemeanor  
26 punishable by a fine of not less than \$250 and not more than \$1,000.  
27 Each day of violation is a separate offense.

1        (c) In an action brought under this section, the board may  
2 be represented by a district or county attorney or by other counsel  
3 as necessary ~~[the person knowingly violates Section 1053.151 or a~~  
4 ~~standard of conduct adopted under this chapter.~~

5        ~~[(b) An offense under this section is a Class C~~  
6 ~~misdemeanor].~~

7        SECTION 15. Sections 1053.154 through 1053.158,  
8 Occupations Code, as effective June 1, 2003, are repealed.

9        SECTION 16. (a) This Act takes effect immediately if it  
10 receives a vote of two-thirds of all members elected to each house,  
11 as provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect September 1, 2003.

14        (b) The change in law made by this Act applies only to an  
15 application for the issuance or renewal of a registration that is  
16 made on or after January 1, 2004. An application made before the  
17 effective date of this Act is governed by the law in effect  
18 immediately before that date, and the former law is continued in  
19 effect for that purpose.

20        (c) The Texas Board of Architectural Examiners shall adopt  
21 rules under Chapter 1053, Occupations Code, as amended by this Act,  
22 not later than December 1, 2003.