



BY EMAIL

January 29, 2014

The Honorable Chip Shields, Chair
Members, Senate General Government, Consumer and
Small Business Protection Committee
900 Court St. NE, S-421,
Salem, Oregon

Re: **OPPOSITION to SB 1521** – Licensing of Commercial Interior Designers.

Dear Chairman Shields and Members of the Committee

On behalf of the National Kitchen & Bath Association (NKBA), an international trade association representing all facets of the Kitchen & Bath Industry and its 678 Members in the State of Oregon who employ designers, fabricators, manufacturers, salespersons, installers, distributors and numerous other related trades, please accept this letter to once again voice our strong objection to Senate Bill 1521 which would license the practice of interior design.

This bill is virtually identical to the one presented to the Committee in 2012 and is part of an ongoing, 30-year long effort on the part of the American Society of Interior Designers and its supported coalitions to license the design profession. As they well know, the sole purpose of the bill is to benefit its members by fencing out the competition through restrictive occupational licensing that the vast majority of designers and tradespersons will not qualify for. The NKBA instead believes that designers should have the right to work and compete on the merits of their skill and expertise and that absent a serious and demonstrable threat to public health, safety, and welfare from the failure to regulate the profession, there is no need to add to the regulatory and legal burdens on small businesses by barring them from working as they have done for years without consumer complaint or concern.

This Bill would negatively impact many hundreds of small businesses who will now, for the first time, be prevented from providing commercial design services to the public. Under the proposed bill, a designer who wishes to work in these spaces must first graduate with a four year or master's degree in interior design, complete a supervised internship of 2 or more years and then pass an expensive, 2-day private exam that does not cover any of the laws, codes or regulations of the State of Oregon. These are services that have been performed for decades by various designers, decorators, office furniture dealers, and tradespersons who will now, if this bill were to pass, be prevented from practicing in any space other than a single-family residential dwelling

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unless the stringent, burdensome, and in many cases, impossible to attain requirements of the act are met.

Without question, occupational licensing laws are appropriate where they are necessary to protect the public health, safety and welfare and where other, less restrictive alternatives, are unavailable. Here however, there is no showing that without the proposed legislation, the public would be harmed in any way. In fact, in response to the interior design lobby's incessant requests for licensing, no less than 13 state agencies throughout the country have studied the need to regulate the profession and have uniformly found an absence of any health, safety, or welfare concern to warrant adoption of a law. In addition, there have been only four states which have adopted interior design licensing laws similar to what is being proposed in Oregon – one of which (Alabama) was declared unconstitutional by that state's Supreme Court and the other (Florida) was nearly repealed by the legislature due to overwhelming evidence that the law served no public purpose. Enacting a new law that is manifestly anti-competitive, will reduce job opportunities for small businesses, and increase the regulatory burdens that businesses and entrepreneurs must navigate in order to work, would be completely contrary to public policy and the vast weight of authority throughout the country, and would only serve to protect the economic self-interests of a small group of interior designers.

The primary objections that NKBA has about SB 1521 center around five primary concerns:

- SB 1521 does nothing to further the protection of **public health, safety, and welfare**. The citizens of Oregon are appropriately protected in the built environment by the State's architectural and engineering practice acts and existing building codes. In other states that have looked at this issue, the unanimous conclusion has been that the code requirements are in place for a reason – they protect the public – and no additional regulation is necessary.
- SB 1521, by allowing interior designers who do not have the training or background sufficient to enable them to prepare and submit construction plans for commercial building permits and certify compliance with applicable building codes, ordinances, laws and regulations could, at best, **create confusion** as to which design professionals are qualified to perform such work and at worst, **place the public in jeopardy** from the issuance of permits based upon the seal of someone who does not have the expertise necessary to ensure the public's health, safety and welfare as architects and engineers do.
- SB 1521 does nothing to increase **consumer protection** and it could lead to added regulation and increased consumer confusion. The NKBA firmly believes

that the purpose of occupational regulation is to protect the public and that one of state government's top responsibilities is to safeguard its citizens. Regulation by nature limits entry into a profession, makes it more difficult for those already working in the industry to compete and should be reserved for professions and occupations that, if unregulated, pose a clear and documented threat to public health, safety, and welfare. SB 1521 is anti-competitive in that it favors one small group of interior designers over the majority of the interior design community and again, does so without serving any identifiable, valid public policy.

- SB 1521 would **negatively impact the consumer and the economy** by making the cost of interior design services more expensive and making it much more difficult for our members, and the majority of the design community, to compete effectively in the marketplace and remain in business. Virtually every study on interior design legislation has concluded that such laws harm the public by artificially inflating consumer prices, erecting unnecessary barriers to entry into the profession, giving government-imposed advantages to those already practicing and failing to demonstrate any social benefit. It goes without saying that by limiting the number of designers who may effectively compete for the public's business, either by making it too costly for them to become licensed (through a required college degree, mandatory internships of between 2-4 years or more, and a costly examination process costing \$1,145 just to apply – plus study guides and prep classes, travel expenses, etc.) or by barring them from the opportunity to be licensed due to the arbitrary requirements imposed in order to even sit for the exam, the cost to the public necessarily and significantly goes up. According to a recently published study, in states where interior designers are currently regulated there are fewer working interior designers, but each earning higher wages, causing consumers to pay higher prices for design services.¹
- SB 1521 would **disproportionately exclude minorities, single income households, and older workers** from the field. Requiring people to obtain a 4-year interior design degree, from a limited number of design schools, and spend years accumulating specific design experience through a closed-shop internship just so they can sit for the exam dramatically limits the ability of persons who might otherwise wish to become an interior designer, often making it cost prohibitive or impossible to enter the profession. The Harrington and Treber study demonstrated that rigorously enforcing interior design licensing laws meant that fewer entrepreneurs were able to enter the market,

¹ David Harrington and Jaret Treber, *Designed by Government, How States Interior Design Cartels Exclude Minorities and Burden Consumers* (2009) at page 6.
<http://www.nkba.org/download/LegislativeFiles/Designed-to-Exclude.pdf>

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and that blacks, Hispanics and those wishing to switch careers later in life were being disproportionately excluded from the field.²

In today's difficult economic climate, absent substantial and direct evidence that the failure to regulate endangers the public welfare, introducing any legislation which would make it even potentially more difficult for designers to enter the workforce, or remain in business and compete for a shrinking number of jobs would have a disastrous impact on the many employers and small businesses which are struggling to survive. Again, there has been presented absolutely no evidence of harm to the public which would warrant the need to enact additional regulation of the profession at all, let alone single out one small segment for special state recognition.

It should also be remembered that neither the public, nor consumer advocacy groups, nor the Attorney General's Consumer Protection Division have submitted this legislation; rather, it has been presented by a small group of interior designers in an effort to protect their economic self-interest and erect a barrier to entry into a profession which, for decades, has not required any additional governmental oversight.

While interior designers are deserving of respect for their role in the design process, special legislative consideration is not warranted based on an objective review of the facts. As such, we urge you to reject this unwarranted attempt to segregate the design community and not advance Senate Bill 1521.

On behalf of the National Kitchen & Bath Association and its members, we would like to thank you again for your consideration of our position and the concerns that have been raised. Of course, if we can provide any additional information or testimony, we would be more than pleased to do so.

Sincerely,



Edward S. Nagorsky
General Counsel
National Kitchen & Bath Association

Cc: Channa Newell

² Harrington and Treber, supra, at pages 8-9.