

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 338**

**Senator Bacon**

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**A B I L L**

To enact sections 4720.01 to 4720.12 of the Revised Code to require registration and establish laws governing the practices of air conveyance system cleaning servicers. 1  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4720.01, 4720.02, 4720.03, 4720.04, 4720.05, 4720.06, 4720.07, 4720.08, 4720.09, 4720.10, 4720.11, and 4720.12 of the Revised Code be enacted to read as follows: 5  
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**Sec. 4720.01.** As used in this chapter: 8

(A) "Air conveyance system cleaning servicer" means a person engaged in the business of air conveyance system cleaning services for a commercial or residential property for compensation. 9  
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(B) "Air conveyance system cleaning service" means the cleaning of a whole system within a forced airstream, consisting of various heating and cooling components. 12  
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(C) "Consumer" has the same meaning as in section 1345.01 of the Revised Code. 15  
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(D) "Crime" means any offense involving consumer fraud, predatory marketing practices, misleading advertising practices, or any other offense relating adversely to a person's competence 17  
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to honestly and safely perform air conveyance system cleaning services. 20  
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(E) "Department" means the department of commerce. 22

(F) "Director" means the director of commerce or the director's designee. 23  
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(G) "Person" means an individual, corporation, partnership, association, or any other form of business organization or entity, and its officers, representatives, agents, and employees. 25  
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(H) "Residential property" means any single or multi-unit structure used in whole or in part as a place of dwelling and any accessory construction incidental to the structure. "Residential property" does not include either of the following: 28  
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(1) An industrialized unit as described in section 3781.06 of the Revised Code; 32  
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(2) A mobile home as described in section 4501.01 of the Revised Code. 34  
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**Sec. 4720.02.** (A) No person shall do either of the following without registering with the director of commerce in accordance with this chapter: 36  
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(1) Offer or attempt to perform, engage, or receive remuneration for performing or engaging in the business of air conveyance system cleaning services; 39  
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(2) Advertise in print, put out any sign, card, or other device that would indicate to the public that the person is an air conveyance system cleaning servicer in the state, or cause the person's name to be included in a classified advertisement or directory in the state under a classification as an air conveyance system cleaning servicer. 42  
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(B) No air conveyance system cleaning servicer shall do any 48

of the following either before or after registering with the 49  
director of commerce in accordance with this chapter: 50

(1) Represent that a consumer's air conveyance system 51  
contains any substance that is dangerous or that continued use by 52  
the consumer of their air conveyance system may be harmful when 53  
such is not the fact; 54

(2) Represent that the air conveyance system cleaning 55  
servicer has any sponsorship, approval, or affiliation that the 56  
air conveyance system cleaning servicer does not have; 57

(3) Misrepresent any sponsorship, approval, or affiliation 58  
that the air conveyance system cleaning servicer does have; 59

(4) Misrepresent the benefits of available air conveyance 60  
system cleaning services, including the ability to test for and 61  
identify mold present in an air conveyance system; 62

(5) Knowingly make a false report to a consumer, or potential 63  
consumer, in a solicitation; 64

(6) Fail to make available accurate registration information 65  
to a consumer. 66

(C) A violation of any provision of this chapter, including 67  
rules adopted by the director of commerce pursuant to section 68  
4720.03 of the Revised Code, shall constitute an unfair, 69  
deceptive, or unconscionable act or practice under sections 70  
1345.01 to 1345.13 of the Revised Code. 71

**Sec. 4720.03.** The director of commerce shall adopt rules 72  
establishing all of the following: 73

(A) Registration standards, including financial 74  
responsibility and work experience requirements; 75

(B) Applicable fees; 76

(C) A system by which consumers can readily identify 77

registered air conveyance system cleaning servicers, that, at a 78  
minimum, should consist of a searchable internet database; 79

(D) Other provisions for the enforcement of this chapter. 80

**Sec. 4720.04.** (A) The director of commerce shall assign each 81  
air conveyance system cleaning servicer registrant a unique 82  
registration number at the time a registration is approved and 83  
shall keep a record of all assignments for a period of twenty 84  
years. 85

(B) The director may deny issuance or renewal, or revoke, a 86  
registration in accordance with section 4720.08 of the Revised 87  
Code for failure to comply with, or violation of, the provisions 88  
of this chapter or for any other good cause shown within the 89  
purpose of the chapter. A denial or revocation shall not be made 90  
except upon reasonable notice to, and opportunity to be heard by, 91  
the applicant or registrant. 92

(C) The director may do any of the following in enforcing the 93  
chapter: 94

(1) In lieu of revoking a registration, suspend a 95  
registration for a reasonable time period; 96

(2) In lieu of suspending a registration, assess a monetary 97  
penalty to the registrant; 98

(3) In lieu of revoking a registration, suspend a 99  
registration for a reasonable time period and assess a monetary 100  
penalty to the registrant; 101

(4) Issue a new registration to an applicant whose previous 102  
registration was revoked. 103

(D) The director shall prepare, print, and distribute 104  
booklets, pamphlets, or other written information that explains 105  
the provisions of this chapter and make the information available 106  
to consumers. 107

(E) The director shall not issue or renew a registration 108  
until the person applying for registration issuance or renewal 109  
demonstrates that the administrator of workers' compensation has 110  
issued to the person a certificate in accordance with section 111  
4123.35 of the Revised Code establishing that the person has paid 112  
the required premiums or been granted the privilege to self-insure 113  
under Chapter 4123. of the Revised Code. 114

Sec. 4720.05. (A) To register as an air conveyance system 115  
cleaning servicer with the director of commerce as required by 116  
division (A) of section 4720.02 of the Revised Code, a person 117  
shall do all of the following: 118

(1) Complete an application for registration on a form 119  
provided by the department; 120

(2) Pay a reasonable fee, determined by the director, in an 121  
amount sufficient to meet the expenses the department incurs in 122  
administering the registration program; 123

(3) File a disclosure statement as described in division (C) 124  
of this section with the department. 125

(B) Each air conveyance system cleaning servicer registered 126  
under this chapter shall file an amended registration form, 127  
provided by the department, within twenty days after any change in 128  
the information required on a registration form. No fee shall be 129  
required for the filing of an amendment. 130

(C) In accordance with division (A)(3) of this section, every 131  
applicant for an air conveyance system cleaning servicer 132  
registration shall file a disclosure statement with the director 133  
of commerce stating whether the applicant has been convicted of or 134  
pleaded guilty to any crime. If any of the information required to 135  
be included in the disclosure statement changes, or if additional 136  
information should be added after the applicant or registrant 137

files the statement, the applicant or registrant shall provide 138  
that information to the director, in writing, within thirty 139  
calendar days of the change or addition. 140

Sec. 4720.06. The provisions of this chapter shall apply to 141  
any person engaging in any of the activities regulated by this 142  
chapter in the state, including persons whose residence or 143  
principal place of business is located outside of the state. 144

Sec. 4720.07. Each person registered as an air conveyance 145  
system cleaning servicer shall annually reregister with the 146  
director by completing an application for registration on a form 147  
provided by the department and paying a reasonable fee, as 148  
determined by the director. 149

Sec. 4720.08. (A) In accordance with section 4720.04 of the 150  
Revised Code, the director of commerce may refuse to issue, 151  
suspend, or revoke any registration of an applicant or registrant 152  
upon reasonable proof that the applicant or registrant is 153  
incapable, for medical or any other good cause, of executing the 154  
functions of a registrant in a manner consistent with the public's 155  
health, safety, and welfare or has done any of the following: 156

(1) Obtained a registration through fraud, deception, or 157  
misrepresentation; 158

(2) Engaged in the use or employment of dishonesty, fraud, 159  
deception, misrepresentation, false promise, or false pretense; 160

(3) Engaged in gross negligence, gross malpractice, or gross 161  
incompetence; 162

(4) Engaged in repeated acts of negligence, malpractice, or 163  
incompetence; 164

(5) Engaged in professional or occupational misconduct as 165  
determined by the director; 166

(6) Except as provided in division (E) of this section, been 167  
convicted of or pleaded guilty to any crime involving moral 168  
turpitude or relating adversely to a person's competence to 169  
honestly and safely perform air conveyance system cleaning 170  
services; 171

(7) Had the authority to engage in air conveyance system 172  
cleaning services revoked or suspended by any other state, agency, 173  
or authority for reasons consistent with this section; 174

(8) Violated or failed to comply with the provisions of any 175  
rule administered by the director; 176

(9) Was determined to be a noncomplying employer by the 177  
administrator of workers' compensation pursuant to Chapter 4123. 178  
of the Revised Code. 179

(B) The director shall prohibit a person who violates section 180  
4720.02 of the Revised Code from registering as an air conveyance 181  
system cleaning servicer for a period of up to six months after 182  
the violation. 183

(C) An applicant or registrant whose registration is denied, 184  
suspended, or revoked pursuant to division (A) or (B) of this 185  
section, upon a written request transmitted to the director within 186  
thirty calendar days of the denial, suspension, or revocation, may 187  
appeal the decision pursuant to Chapter 119. of the Revised Code. 188

(D) An applicant or registrant shall have the continuing duty 189  
to provide any assistance or information requested by the 190  
director, and to cooperate in any inquiry, investigation, or 191  
hearing conducted by the director regarding the issuance, denial, 192  
suspension, or revocation of a registration. 193

(E) Notwithstanding division (A)(6) of this section, the 194  
director shall not deny a registration or have a registration 195  
suspended or revoked on the basis of any conviction or plea of 196  
guilty disclosed if the applicant or registrant has affirmatively 197

<u>demonstrated to the director clear and convincing evidence of the</u>	198
<u>applicant's or registrant's rehabilitation. In determining whether</u>	199
<u>an applicant or registrant has affirmatively demonstrated</u>	200
<u>rehabilitation, the director shall consider the following factors:</u>	201
<u>(1) The nature and responsibility of the position the</u>	202
<u>applicant or registrant would hold;</u>	203
<u>(2) The nature and seriousness of the offense;</u>	204
<u>(3) The circumstances under which the offense occurred;</u>	205
<u>(4) The date of the offense;</u>	206
<u>(5) The age of the applicant or registrant when the offense</u>	207
<u>was committed;</u>	208
<u>(6) Whether the offense was an isolated incident or repeated</u>	209
<u>situation;</u>	210
<u>(7) Any social conditions that may have contributed to the</u>	211
<u>offense;</u>	212
<u>(8) Any evidence of rehabilitation, including good conduct in</u>	213
<u>prison or in the community, counseling or psychiatric treatment</u>	214
<u>received, acquisition of additional academic or vocational</u>	215
<u>schooling, successful participation in correctional work-release</u>	216
<u>programs, or the recommendation of persons who have the applicant</u>	217
<u>or registrant under their supervision.</u>	218
<u>Sec. 4720.09. Every registered air conveyance system cleaning</u>	219
<u>servicer shall secure, maintain, and file with the director of</u>	220
<u>commerce proof of commercial general liability insurance in a</u>	221
<u>minimum amount of five hundred thousand dollars per occurrence. If</u>	222
<u>a registrant's insurance is to be canceled or is nonrenewable, the</u>	223
<u>registrant shall submit to the director a copy of a new insurance</u>	224
<u>policy or a replacement policy that meets the requirements of this</u>	225
<u>section before the former policy lapses.</u>	226



Sec. 4720.10. Each registrant shall prominently display the registration number assigned to the registrant, as described in division (A) of section 4720.04 of the Revised Code, in the registrant's place of business, in all advertisements distributed within the state, on business documents, contracts, and correspondence with consumers of air conveyance system cleaning services, and on all commercial vehicles registered in the state that are leased or owned by the registrant and used by the registrant for the purpose of engaging in air conveyance system cleaning services.

Sec. 4720.11. This chapter and the rules adopted pursuant to it shall supersede any ordinance or regulation of a municipal corporation that provides for licensing or registration of air conveyance system cleaning servicers or for the protection of consumers by bonds or warranties required to be provided by servicers. A municipal corporation may enact ordinances and regulations relating to air conveyance system cleaning servicers that are not provided for in this chapter or in rules adopted by the director of commerce pursuant to this chapter.

Sec. 4720.12. (A) No registered air conveyance system cleaning servicer shall perform any air conveyance system cleaning services unless that person enters into a written contract with the consumer. The contract shall clearly and accurately set forth in legible form and understandable language all agreements and conditions related to the service, including all of the following:

(1) The legal name, business address, and registration number, as described in division (A) of section 4720.04 of the Revised Code, of the air conveyance system cleaning servicer;

(2) A copy of the proof of commercial general liability insurance required of a servicer pursuant to section 4720.09 of

<u>the Revised Code;</u>	257
<u>(3) The total price or other consideration to be paid by the</u>	258
<u>consumer, including the finance charges.</u>	259
<b>Section 2.</b> The provisions of this act shall take effect six	260
months after the effective date of the act.	261