

**As Reported by the Senate Insurance, Commerce, and Labor
Committee**

**129th General Assembly
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Sub. S. B. No. 338

Senator Bacon

Cosponsors: Senators Beagle, Hughes, Brown, Turner

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A B I L L

To enact sections 4720.01, 4720.02, 4720.03, 4720.04, 1
4720.05, 4720.051, 4720.06, 4720.07, 4720.08, 2
4720.09, 4720.10, 4720.11, and 4720.12 of the 3
Revised Code to require registration and establish 4
laws governing the practices of air conveyance 5
system cleaning servicers. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4720.01, 4720.02, 4720.03, 4720.04, 7
4720.05, 4720.051, 4720.06, 4720.07, 4720.08, 4720.09, 4720.10, 8
4720.11, and 4720.12 of the Revised Code be enacted to read as 9
follows: 10

Sec. 4720.01. As used in this chapter: 11

(A) "Air conveyance system cleaning servicer" means any 12
individual or business entity that satisfies both of the 13
following: 14

(1) For compensation, directs, supervises, or has 15
responsibility for the means, method, and manner of performance of 16
air conveyance system cleaning services; 17

(2) Performs or otherwise supervises or directs other individuals who perform air conveyance system cleaning services. 18
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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. 20
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(C) "Consumer" has the same meaning as in section 1345.01 of the Revised Code. 23
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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 to honestly and safely perform air conveyance system cleaning services. 25
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(E) "Department" means the department of commerce. 30

(F) "Director" means the director of commerce or the director's designee. 31
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(G) "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: 33
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(1) An industrialized unit as described in section 3781.06 of the Revised Code; 37
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(2) A mobile home as described in section 4501.01 of the Revised Code. 39
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Sec. 4720.02. (A) No individual or business entity shall do either of the following without registering with or being assigned a registration by the director of commerce in accordance with this chapter: 41
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(1) Act or attempt to act as an air conveyance cleaning system servicer; 45
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(2) Advertise in print, put out any sign, card, or other device that would indicate to the public that the individual or business entity is an air conveyance system cleaning servicer in the state, or cause the individual's or business entity's name to be included in a classified advertisement or directory in the state under a classification as an air conveyance system cleaning servicer. 47
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(B) No individual or business entity that performs air conveyance system cleaning services shall do any of the following: 54
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(1) Represent that a consumer's air conveyance system contains any substance that is dangerous or that continued use by the consumer of their air conveyance system may be harmful when such is not the fact; 56
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(2) Represent that the individual or business entity has any sponsorship, approval, or affiliation relating to air conveyance system cleaning services that the individual or business entity does not have; 60
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(3) Misrepresent any sponsorship, approval, or affiliation relating to air conveyance system cleaning services that the individual or business entity does have; 64
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(4) Misrepresent the benefits of available air conveyance system cleaning services, including the ability to test for and identify mold present in an air conveyance system; 67
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(5) Knowingly make a false report to a consumer, or potential consumer, in a solicitation; 70
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(6) Fail to make available accurate registration information to a consumer. 72
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(C) A violation of any provision of this chapter, including rules adopted by the director of commerce pursuant to section 4720.03 of the Revised Code, shall constitute an unfair, 74
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deceptive, or unconscionable act or practice under sections 77
1345.01 to 1345.13 of the Revised Code. 78

Sec. 4720.03. The director of commerce shall adopt rules 79
establishing all of the following: 80

(A) Registration standards, including financial 81
responsibility and work experience requirements; 82

(B) Applicable fees; 83

(C) A system by which consumers can readily identify 84
registered air conveyance system cleaning servicers, that, at a 85
minimum, should consist of a searchable internet database; 86

(D) Other provisions for the enforcement of this chapter. 87

Sec. 4720.04. (A) The director of commerce shall assign each 88
air conveyance system cleaning servicer registrant a unique 89
registration number at the time a registration is approved and 90
shall keep a record of all registration numbers for a period of 91
twenty years. 92

(B) The director may deny issuance or renewal, or revoke, a 93
registration in accordance with section 4720.08 of the Revised 94
Code for failure to comply with, or violation of, the provisions 95
of this chapter or for any other good cause shown within the 96
purpose of the chapter. A denial or revocation shall not be made 97
except upon reasonable notice to, and opportunity to be heard by, 98
the applicant or registrant. 99

(C) The director may do any of the following in enforcing the 100
chapter: 101

(1) In lieu of revoking a registration, suspend a 102
registration for a reasonable time period; 103

(2) In lieu of suspending a registration, assess a monetary 104
penalty to the registrant; 105

(3) In lieu of revoking a registration, suspend a registration for a reasonable time period and assess a monetary penalty to the registrant; 106
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(4) Issue a new registration to an applicant whose previous registration was revoked. 109
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(D) The director shall prepare, print, and distribute booklets, pamphlets, or other written information that explains the provisions of this chapter and make the information available to consumers. 111
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(E) The director shall not issue or renew a registration until the person applying for registration issuance or renewal demonstrates that the administrator of workers' compensation has issued to the person a certificate in accordance with section 4123.35 of the Revised Code establishing that the person has paid the required premiums or been granted the privilege to self-insure under Chapter 4123. of the Revised Code. 115
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Sec. 4720.05. (A) To register as an air conveyance system cleaning servicer with the director of commerce as required by division (A) of section 4720.02 of the Revised Code, an individual shall do all of the following: 122
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(1) Complete an application for registration on a form provided by the department; 126
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(2) Pay a reasonable fee, determined by the director, in an amount sufficient to meet the expenses the department incurs in administering the registration program; 128
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(3) File a disclosure statement as described in division (C) of this section with the department. 131
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(B) Each air conveyance system cleaning servicer registered under this chapter shall file an amended registration form, provided by the department, within twenty days after any change in 133
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the information required on a registration form. No fee shall be 136
required for the filing of an amendment. 137

(C) In accordance with division (A)(3) of this section, every 138
applicant for an air conveyance system cleaning servicer 139
registration shall file a disclosure statement with the director 140
of commerce stating whether the applicant has been convicted of or 141
pleaded guilty to any crime. If any of the information required to 142
be included in the disclosure statement changes, or if additional 143
information should be added after the applicant or registrant 144
files the statement, the applicant or registrant shall provide 145
that information to the director, in writing, within thirty 146
calendar days of the change or addition. 147

Sec. 4720.051. (A) If an individual who applies for 148
registration pursuant to division (A) of section 4720.05 of the 149
Revised Code intends to perform air conveyance system cleaning 150
services as a business entity or intends to supervise or direct 151
individuals who will perform air conveyance system cleaning 152
services for a business entity, that individual, at the time of 153
applying for a registration or any time thereafter, shall request 154
that the individual's registration be assigned to the business 155
entity with whom the individual is associated. 156

(B) If the individual who requests assignment is issued or 157
holds a registration, the director of commerce shall assign the 158
registration in the name of the business entity. The assigned 159
registration shall state the name and position of the individual 160
who assigned the registration to the business entity. 161

(C) If an individual who assigned a registration to a 162
business entity ceases to be associated with the business entity 163
for any reason, including the death of the individual, the 164
individual or business entity shall notify the director of the 165
date on which the individual ceased to be associated with the 166

business entity. A registration assigned to a business entity is 167
invalid ninety calendar days after the date on which the 168
individual who assigned the registration ceases to be associated 169
with the business entity or at an earlier time to which the 170
business entity and the individual agree. 171

In the event that another individual has also assigned a 172
registration to the business entity, the business entity may 173
continue to operate under the valid registration. 174

(D) Any work a business entity or its employees performs 175
under an assigned registration is deemed to be conducted under the 176
personal supervision of the individual named in the assignment. 177

In the event that more than one registration is assigned to a 178
business entity, any work the business entity or its employees 179
performs is deemed to be conducted under the personal supervision 180
of each individual named in each assignment. 181

(E) Any individual who assigns a registration to a business 182
entity under this section shall be actively engaged in business as 183
an air conveyance system cleaning servicer and be readily 184
available for consultation with the business entity to which the 185
registration is assigned. 186

(F) No registration assigned under this section shall be 187
assigned to more than one business entity at a time. 188

Sec. 4720.06. The provisions of this chapter shall apply to 189
any person engaging in any of the activities regulated by this 190
chapter in the state, including persons whose residence or 191
principal place of business is located outside of the state. 192

Sec. 4720.07. Each registered air conveyance system cleaning 193
servicer shall annually reregister with the director by completing 194
an application for registration on a form provided by the 195
department and paying a reasonable fee, as determined by the 196

director. 197

Sec. 4720.08. (A) In accordance with section 4720.04 of the 198
Revised Code, the director of commerce may refuse to issue, 199
suspend, or revoke any registration of an applicant or registrant 200
upon reasonable proof that the applicant or registrant is 201
incapable, for medical or any other good cause, of executing the 202
functions of a registrant in a manner consistent with the public's 203
health, safety, and welfare or has done any of the following: 204

(1) Obtained a registration through fraud, deception, or 205
misrepresentation; 206

(2) Engaged in the use or employment of dishonesty, fraud, 207
deception, misrepresentation, false promise, or false pretense; 208

(3) Engaged in gross negligence, gross malpractice, or gross 209
incompetence; 210

(4) Engaged in repeated acts of negligence, malpractice, or 211
incompetence; 212

(5) Engaged in professional or occupational misconduct as 213
determined by the director; 214

(6) Except as provided in division (E) of this section, been 215
convicted of or pleaded guilty to any crime involving moral 216
turpitude or relating adversely to a person's competence to 217
honestly and safely perform air conveyance system cleaning 218
services; 219

(7) Had the authority to engage in air conveyance system 220
cleaning services revoked or suspended by any other state, agency, 221
or authority for reasons consistent with this section; 222

(8) Violated or failed to comply with the provisions of any 223
rule administered by the director; 224

(9) Was determined to be a noncomplying employer by the 225

administrator of workers' compensation pursuant to Chapter 4123. 226
of the Revised Code. 227

(B) The director shall prohibit an applicant who violates 228
section 4720.02 of the Revised Code from registering as an air 229
conveyance system cleaning servicer for a period of up to six 230
months after the violation. 231

(C) An applicant or registrant whose registration is denied, 232
suspended, or revoked pursuant to division (A) or (B) of this 233
section, upon a written request transmitted to the director within 234
thirty calendar days of the denial, suspension, or revocation, may 235
appeal the decision pursuant to Chapter 119. of the Revised Code. 236

(D) An applicant or registrant shall have the continuing duty 237
to provide any assistance or information requested by the 238
director, and to cooperate in any inquiry, investigation, or 239
hearing conducted by the director regarding the issuance, denial, 240
suspension, or revocation of a registration. 241

(E) Notwithstanding division (A)(6) of this section, the 242
director shall not deny a registration or have a registration 243
suspended or revoked on the basis of any conviction or plea of 244
guilty disclosed if the applicant or registrant has affirmatively 245
demonstrated to the director clear and convincing evidence of the 246
applicant's or registrant's rehabilitation. In determining whether 247
an applicant or registrant has affirmatively demonstrated 248
rehabilitation, the director shall consider the following factors: 249

(1) The nature and responsibility of the position the 250
applicant or registrant would hold; 251

(2) The nature and seriousness of the offense; 252

(3) The circumstances under which the offense occurred; 253

(4) The date of the offense; 254

(5) The age of the applicant or registrant when the offense 255

<u>was committed;</u>	256
<u>(6) Whether the offense was an isolated incident or repeated situation;</u>	257
<u>(7) Any social conditions that may have contributed to the offense;</u>	259
<u>(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have the applicant or registrant under their supervision.</u>	261
<u>Sec. 4720.09. Every registered air conveyance system cleaning servicer shall secure, maintain, and file with the director of commerce proof of commercial general liability insurance in a minimum amount of five hundred thousand dollars per occurrence. If a registrant's insurance is to be canceled or is nonrenewable, the registrant shall submit to the director a copy of a new insurance policy or a replacement policy that meets the requirements of this section before the former policy lapses.</u>	267
<u>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.</u>	275
<u>If a registration has been assigned to a business entity</u>	285

pursuant to section 4720.051 of the Revised Code, the business 286
entity shall display the registration number of the individual 287
named in the assignment. If more than one registration is assigned 288
to a business entity, the business entity shall display the 289
registration number of each individual named in each assignment. 290

Sec. 4720.11. This chapter and the rules adopted pursuant to 291
it shall supersede any ordinance or regulation of a municipal 292
corporation that provides for licensing or registration of air 293
conveyance system cleaning servicers or for the protection of 294
consumers by bonds or warranties required to be provided by 295
servicers. A municipal corporation may enact ordinances and 296
regulations relating to air conveyance system cleaning servicers 297
that are not provided for in this chapter or in rules adopted by 298
the director of commerce pursuant to this chapter. 299

Sec. 4720.12. (A) No registered air conveyance system 300
cleaning servicer shall perform any air conveyance system cleaning 301
services unless that servicer enters into a written contract with 302
the consumer. The contract shall clearly and accurately set forth 303
in legible form and understandable language all agreements and 304
conditions related to the service, including all of the following: 305

(1) The legal name of the air conveyance system cleaning 306
servicer, and if the registration has been assigned pursuant to 307
section 4720.051 of the Revised Code, the name of the individual 308
associated with the assignment; 309

(2) The business address and registration number, as 310
described in division (A) of section 4720.04 of the Revised Code, 311
of the air conveyance system cleaning servicer; 312

(3) A copy of the proof of commercial general liability 313
insurance required of a servicer pursuant to section 4720.09 of 314
the Revised Code; 315

(4) The total price or other consideration to be paid by the 316
consumer, including the finance charges. 317

Section 2. Section 4720.02 of the Revised Code, as enacted by 318
this act, shall take effect six months after the effective date of 319
this act. 320