



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** Sub. S.B. 338 of the 129th G.A.

**Date:** June 18, 2012

**Status:** As Passed by the Senate

**Sponsor:** Sen. Bacon

**Local Impact Statement Procedure Required:** No

**Contents:** Establishes laws governing the practices of air conveyance system cleaning servicers

### State Fiscal Highlights

- The bill requires air conveyance system cleaning servicers to register annually with the Department of Commerce. The bill requires the Department to establish the registration fee by rule, but does not specify the state fund into which the registration fees are to be deposited.
- The number of vendors that would be subject to registration under the bill is unknown. However, it appears as though much of the Department's responsibilities under the bill could be managed using current Department employees and resources. This includes creating the registration requirements, maintaining an Internet database of registrants, and producing written materials explaining the requirements under the bill.
- Violations under the bill would be handled under the Consumer Sales Practices Act (CSPA). As a result, the number of complaints handled by the Office of the Attorney General's Consumer Protection Section, funded out of the GRF and the Consumer Protection Enforcement Fund (Fund 6310), could increase. However, the number and scope of complaints filed, investigations performed, and enforcement actions that would be taken as a result of the bill is unknown.

### Local Fiscal Highlights

- As a result of possible CSPA violations, the number of civil cases filed in county and municipal courts may increase. The actual number of cases filed would most likely be relatively small as, under current practice, the Attorney General's Office would seek to use every means available to resolve a complaint before filing in court. The filing of such civil suits would likely generate some additional filing fee and court cost revenue for counties and municipalities and place some additional burdens on the courts that will have to adjudicate these matters.
- The bill specifies that this state law supersedes any ordinance or regulation of a municipal corporation that licenses or registers these vendors, but allows for a

municipal corporation to enact regulations or ordinances that are not provided for in the bill.

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## **Detailed Fiscal Analysis**

### **Background**

The bill establishes new requirements pertaining to vendors who provide air conveyance system cleaning services. Specifically, the bill requires these vendors to register annually with the Department of Commerce. In order to practice lawfully, the bill specifies conditions that vendors must follow in providing these services. This includes (1) maintaining commercial general liability insurance of not less than \$500,000, (2) displaying registration numbers at places of business, on service vehicles, in advertising, and correspondence, and (3) entering into written contracts with customers. The bill also requires the Department to operate a searchable Internet database of registered air conveyance cleaning vendors and provide informational materials concerning these requirements for the benefit of consumers. Any violations of the bill's provisions would be considered unfair and deceptive practices under the Consumer Sales Practices Act, and could therefore involve the Office of the Attorney General. Additionally, the bill specifies that the state law supersedes any ordinance or regulation of a municipal corporation that licenses or registers these vendors, but allows for a municipal corporation to enact regulations or ordinances that are not provided for in the bill. The fiscal effects of the bill are described in more detail below.

### **Registration under the Department of Commerce**

Overall, the Department of Commerce may incur costs to develop and maintain the registry and carry out the other assigned duties in the bill. Presumably, some of the responsibilities could be managed using existing employees and resources. It does not appear as though maintaining a searchable Internet database or providing written materials explaining the bill's requirements would impose significant new costs on the Division that would oversee the new registration program within the Department of Commerce. While there may be some additional costs, some or all of the additional expense could be offset by the annual registration fee that the Department is required to establish by rule. However, the bill does not specify the state fund where these fees are to be deposited.<sup>1</sup> The revenue from registration fees would depend on the number of air conveyance system cleaning servicers in Ohio, which is currently unknown. Additionally, the bill gives the Department the authority to assess a monetary penalty

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<sup>1</sup> According to R.C. 113.09, money that is deposited with the state, "...the disposition of which is not otherwise provided for by law, shall be credited to the general revenue fund..." However, if the vendor registration program were to operate like other similar registration programs, the fees would be directed to a new or existing State Special Revenue fund.

in lieu of suspending or revoking a registration. Presumably, these receipts would be deposited into the same state fund as the fund receiving registration fees.

### **Violations under the Consumer Sales Practices Act**

In addition to the enforcement authority granted to the Director of Commerce to revoke or suspend the registration of a vendor, or assess a monetary penalty against the vendor, the bill specifies that any violation is deemed to be an unfair or deceptive act or practice subject to the provisions of the Consumer Sales Practices Act. While the number and scope of related complaints filed, investigations performed, and enforcement actions that would be taken as a result of the bill are unknown, the Consumer Sales Practices Act (CSPA) permits the Attorney General or consumers of air conveyance system cleaning services to file a civil action to pursue remedies. While it is uncertain how many consumers will pursue a civil remedy without the assistance of the Attorney General, the number would presumably be small. This is because consumers would typically report a complaint to the Consumer Protection Section within the Attorney General's Office in an attempt to resolve the complaint before litigating the problem.