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OHIO LEGISLATIVE SERVICE COMMISSION

Wendy Zhan, Director

Office of Research
and Drafting

Legislative Budget
Office

H.B. 184*
135th General Assembly

Occupational Regulation Report

[Click here for H.B. 184's Bill Analysis / Fiscal Note](#)

Primary Sponsors: Reps. Bird and Brennan

Impacted Profession: Professional solicitors

Paul Luzzi, Attorney

LSC is required by law to issue a report for each introduced bill that substantially changes or enacts an occupational regulation. The report must: (1) explain the bill's regulatory framework in the context of Ohio's statutory policy of using the least restrictive regulation necessary to protect consumers, (2) compare the regulatory schemes governing the same occupation in other states, and (3) examine the bill's potential impact on employment, consumer choice, market competition, and cost to government.¹

LEAST RESTRICTIVE REGULATION COMPARISON

Ohio's general regulatory policy

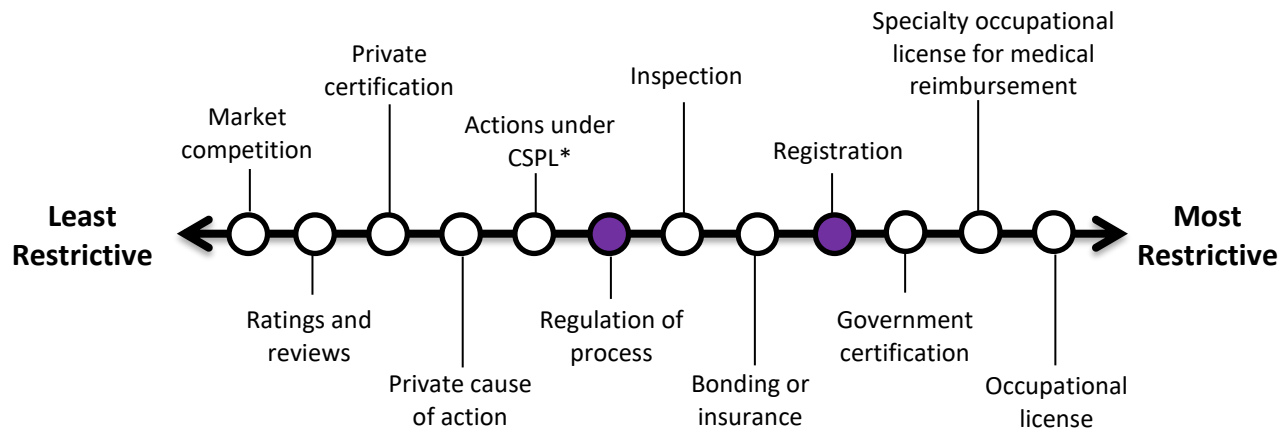
The general policy of the state is reliance on market competition and private remedies to protect the interests of consumers in commercial transactions involving the sale of goods or services. For circumstances in which the General Assembly determines that additional safeguards are necessary to protect consumers from "present, significant, and substantiated harms that threaten health, safety, or welfare," the state's expressed intent is to enact the "least restrictive regulation that will adequately protect consumers from such harms."²

The degree of "restrictiveness" of an occupational regulation is prescribed by statute. The following graphic identifies each type of occupational regulation expressly mentioned in the state's policy by least to most restrictive:

* This report addresses the "As Introduced" version of H.B. 184. It does not account for changes that may have been adopted after the bill's introduction.

¹ R.C. 103.26, not in the bill.

² R.C. 4798.01 and 4798.02, neither in the bill.



*CSPL – The Consumer Sales Practices Law

The bill places collection receptacles and their operators under the regulation of the Ohio Charitable Solicitation Law.³ Under the bill, a “collection receptacle” is an attended or unattended container used to collect donations of any item other than money.⁴ The bill requires a receptacle’s operator to register as a professional solicitor in accordance with continuing law. It also requires a receptacle to display specified information about the operator and the charitable organization that will receive collections or benefits from a receptacle.

The bill makes additional changes to the Law, including the following:

- Requiring a professional solicitor to pay the Attorney General a \$200 fee before commencing any solicitation campaign.
- Requiring a professional solicitor to maintain audio recordings of each phone solicitation the solicitor makes for up to three years after the completion of a solicitation campaign.
- Allowing the Attorney General to examine a professional solicitor’s pitch sheets, solicitation scripts, and recordings when investigating any alleged violation of the Law.⁵

Necessity of regulations

Representative Bird, one of the bill’s joint sponsor’s, testified that the purpose of H.B. 184 is to increase transparency for those who make charitable donations. Representative Brennan, who is also a joint sponsor, testified the bill will increase public safety, transparency, and fairness by making it easier to identify donation receptacle operators.⁶

³ R.C. Chapter 1716.

⁴ R.C. 1716.01

⁵ R.C. 1716.06, 1716.07, and 1716.15.

⁶ [Representative Adam Bird Proponent Testimony](#) and [Representative Sean Patrick Brennan Proponent Testimony](#), which are available on the General Assembly’s website, legislature.ohio.gov, by searching for “HB184” and looking under the “Committee Activity” tab.

Restrictiveness of regulations

The state's general policy specifies that a registration requirement is an appropriate means of protecting consumers against potential damages from transient service providers.⁷ The bill's extension of an existing registration requirement (for professional solicitors) to the operators of certain collection receptacles would seemingly assist contributors to those receptacles who are victimized by fraudulent or misleading practices in locating the perpetrator and remedying their damages. The potential harms addressed by the bill are, at least, analogous to those anticipated by the state's policy. Therefore, the registration requirement appears to be appropriate under that policy.

The state's policy does not provide specific guidance as to when a regulation of process is the best means of protecting the health, safety, and welfare of consumers. However, the policy as a whole suggests that regulations of process are the most preferred method of regulation when market competition, ratings and reviews, private certifications, private causes of action, and actions under the state's Consumer Sales Practices Law do not provide sufficient protection. The bill's process regulations require: (1) professional solicitors to pay a \$200 fee to the Attorney General before commencing a solicitation campaign, (2) professional solicitors to maintain audio recordings of phone solicitations for up to three years, and (3) operators of collection receptacles to display a conspicuous and permanent sign or label on every side of the receptacle with specified information. The regulations would seemingly assist the Attorney General in investigating misconduct, contributors in pursuing actions under the state's Consumer Sales Practices Law, and potential contributors in assessing the credibility of a particular collection receptacle. Whether that assistance is a necessary addition to the protections afforded by current law is a policy decision.

IMPACT STATEMENT

Opportunities for employment

As of October 2023, 107 professional solicitors were registered with the Attorney General. It is unknown how many charitable collection receptacles are operating through solicitors not registered with the state. The bill's requirement that operators of these receptacles register as professional solicitors imposes a small barrier to employment, mainly from the dual \$200 fees payable to the Attorney General as well as a \$25,000 bonding requirement. The audio recording retention requirement imposes administrative costs on professional solicitors, which may result in a reduction in opportunities for employment.

Consumer choice

To the extent that the bill restricts the number of charitable collection receptacle operators or increases the costs for these operators, it may reduce the choice and increase the costs to charitable organizations that contract with these operators.

⁷ R.C. 4798.02(B)(4), not in the bill.

Market competition

Again, the bill could deter persons currently operating collection receptacles for charitable organizations from continuing to do so due to the increased regulatory requirements they become subject to under the Charitable Solicitation Law.⁸ On the other hand, to the extent receptacles are already being operated by professional solicitors, the bill may even the playing field for these operators by requiring all operators to bear the costs of registration.

Cost to government

An official with the Attorney General's office reports that the office expects an increase in costs from the bill, because the office does not currently track collection receptacles. The office, however, does not have an estimate of the magnitude of the increase. Similarly, the office expects some increase in revenue received from registration fees that would partially offset the agency's costs, but does not have an estimate of the magnitude of such an increase.

SUMMARY OF PROPOSED REGULATIONS

In addition to the changes discussed under "**Restrictiveness of regulations**" above, the bill does all of the following:

- Limits all charitable solicitations that are subject to the Ohio Charitable Solicitation Law to four years;
- Permits a contract between a professional solicitor and a charitable organization to express the benefit the charitable organization will receive based on an amount of dollars per pound of goods collected;
- Prohibits, expressly, a charitable solicitation or charitable sales promotion from violating the federal Telemarketing Sales Rule.

For a summary of the full bill, please see the [LSC bill analysis \(PDF\)](#).

⁸ R.C. 1716.07.

COMPARISON TO OTHER STATES

Two of the five states that neighbor Ohio require an operator of a collection receptacle to obtain a license or to register with a state agency. These states, Kentucky and Michigan, also require certain disclosures to be placed on collection receptacles. The disclosures must identify the operator of the collection receptacle and provide information concerning the associated charitable organization, if one exists. Michigan is the only state that includes audio recordings in its record retention requirements. Both Michigan and Pennsylvania permit the state’s Attorney General to examine the professional solicitor or professional fund raiser’s solicitation materials.

State	Collection Receptacle Operator Registration	Collection Receptacle Disclosure Requirements	Professional Solicitor Audio Recording Retention	Government Agency Authorized to Examine Sales Pitch Sheets, Solicitation Scripts, and Audio Recordings
Indiana	No, operators of collection receptacles (or persons described by similar language) are not specifically mentioned in Indiana law	None	No, record retention requirements only apply to fiscal records <i>(Ind. Code Ann. 23-7-8-5(a))</i>	No, the law permits the Indiana Attorney General to inspect fiscal records only <i>(Ind. Code Ann. 23-7-8-5(b))</i>
Kentucky	Yes, a person, other than a bona fide employee of a charitable organization, who solicits collections “indirectly” by operating a collections receptacle must register with the Kentucky Attorney General as a professional solicitor and must: <ul style="list-style-type: none"> ▪ Pay \$300 for registration, valid for one year; ▪ Post a \$25,000 surety bond 	Yes, if the collection receptacle is for a charitable purpose and the professional solicitor places or maintains a receptacle in public view for the purpose of collecting contributions in the form of clothing, household items, and other items, the receptacle must contain a sign or label that includes: <ul style="list-style-type: none"> ▪ The professional solicitor’s name, telephone number or email address, and the 	No, a professional solicitor must maintain fiscal records concerning charitable solicitations in Kentucky. These records must be kept on file during each solicitation campaign and for at least three years after completion of the solicitation campaign. <i>(Ky. Rev. Stat. 367.666(2))</i>	No, the law requires the fiscal records to be made available to the Kentucky Attorney General. <i>(Ky. Rev. Stat. 367.666(4))</i>

State	Collection Receptacle Operator Registration	Collection Receptacle Disclosure Requirements	Professional Solicitor Audio Recording Retention	Government Agency Authorized to Examine Sales Pitch Sheets, Solicitation Scripts, and Audio Recordings
	<p><i>(Ky. Rev. Stat. 367.650 and 367.652)</i></p>	<p>fact that the professional solicitor is being paid for providing services;</p> <ul style="list-style-type: none"> ▪ The name of the charitable organization the professional solicitor represents and a description of how the contributions raised by the solicitation will be used for a charitable or civic purpose; ▪ A statement that reads as follows: “Items donated here support, in part, a for-profit professional solicitor.” The statement’s lettering must be not less than two inches in height and one-half inch in width and placed immediately below the opening in the receptacle used to deposit donations <p><i>(Ky. Rev. Stat. 367.668)</i></p>		

State	Collection Receptacle Operator Registration	Collection Receptacle Disclosure Requirements	Professional Solicitor Audio Recording Retention	Government Agency Authorized to Examine Sales Pitch Sheets, Solicitation Scripts, and Audio Recordings
		<p>If the collection receptacle is not for a charitable purpose, it must state the following:</p> <ul style="list-style-type: none"> ▪ The name, address, telephone number, and email address of the person who places or maintains the receptacle or establishes or maintains the drop-off site; ▪ A statement that reads as follows: “Donations do not qualify as a charitable contribution for federal tax purposes” <p><i>(Ky. Rev. Stat. 367.664)</i></p>		
Michigan	<p>Yes, a person that operates a “clothing donation box” is a professional fund raiser and must obtain a license from the Michigan Attorney General. The person is subject to:</p> <ul style="list-style-type: none"> ▪ An annual registration requirement; 	<p>The operator of the clothing donation box is prohibited from:</p> <ul style="list-style-type: none"> ▪ Marking the box or any sign near it in any manner that represents or implies that personal property placed in the box, or the proceeds of that personal property, is donated to 	<p>Yes, licensees must retain, for an unspecified period of time, soliciting materials, which include recordings used to solicit money from the public</p> <p><i>(Mich. Comp. Laws 400.272(i), 400.274, and 400.278)</i></p>	<p>Yes, materials that are used to solicit money from the public, including scripts and recordings, must be open to inspection at all reasonable times by the Michigan Attorney General or the Michigan Attorney General’s authorized representative</p>

State	Collection Receiptable Operator Registration	Collection Receiptable Disclosure Requirements	Professional Solicitor Audio Recording Retention	Government Agency Authorized to Examine Sales Pitch Sheets, Solicitation Scripts, and Audio Recordings
	<ul style="list-style-type: none"> ▪ A \$10,000 bond requirement <p><i>(Mich. Comp. Laws 400.272(c) and (f), 400.287, and 400.289)</i></p>	<p>one or more charitable organizations if it is not;</p> <ul style="list-style-type: none"> ▪ Displaying the name, logo, trademark, or service mark of a charitable organization on a clothing donation box or on any sign near it if that charitable organization does not receive any of the personal property placed in the box or any of the proceeds of that personal property; ▪ If charitable organizations receive some but not all of the personal property placed in the clothing donation box or the proceeds of that personal property, failing to clearly and conspicuously disclose this on the donation box or on a sign at the box. The disclosure must include the name, address, and telephone number of each charitable organization 		<p><i>(Mich. Comp. Laws 400.272, 400.274, and 400.278)</i></p>

State	Collection Receptacle Operator Registration	Collection Receptacle Disclosure Requirements	Professional Solicitor Audio Recording Retention	Government Agency Authorized to Examine Sales Pitch Sheets, Solicitation Scripts, and Audio Recordings
		<p>that receives any of that property or those proceeds and the name, address, and telephone number of any other person that receives any of that property or those proceeds</p> <p><i>(Mich. Comp. Laws 400.289)</i></p>		
Pennsylvania	<p>No, operators of collection receptacles (or persons described by similar language) are not specifically mentioned in Pennsylvania law</p>	None	<p>No, audio recordings are not included in record retention requirements, but each charitable organization required to register must maintain records, books, and reports for at least three years</p> <p><i>(10 P.S. 162.5)</i></p>	<p>Yes, all records, books and reports must be made available for inspection on demand by the Pennsylvania Department of State and the Office of Attorney General</p> <p><i>(10 P.S. 162.5)</i></p>
West Virginia	<p>No, operators of collection receptacles (or persons described by similar language) are not specifically mentioned in West Virginia law</p>	None	<p>No, only fiscal records must be retained</p> <p><i>(W. Va. Code 29-19-11)</i></p>	<p>No, the West Virginia Attorney General and Secretary of State may inspect fiscal records only</p> <p><i>(W. Va. Code 29-19-11)</i></p>