



Ohio Legislative Service Commission

Final Analysis

Carla Napolitano

Am. Sub. H.B. 109 130th General Assembly (As Passed by the General Assembly)

Reps. Damschroder, R. Adams, Ruhl, Stinziano, Brenner, Gonzales, Buchy, Maag, Barnes, Bishoff, Brown, Carney, Schuring, Smith, Barborak, C. Hagan, Mallory, Milkovich, Pillich, Batchelder

Sens. Bacon, Burke, Coley, Hughes

Effective date: March 23, 2015

ACT SUMMARY

- Prohibits a person from selling or distributing a hearing aid to a consumer through the mail without a written acknowledgment from the ultimate consumer that an in-person examination is recommended.
- Makes a violation of the prohibitions an unfair or deceptive act or practice and establishes a fine of up to \$1,000.

CONTENT AND OPERATION

Individuals permitted to recommend and fit hearing aids

The act expressly permits all of the following individuals to recommend and fit hearing aids: (1) hearing aid dealers, (2) hearing aid fitters, (3) physicians, and (4) audiologists.¹

Under continuing law, hearing aid dealers and fitters are licensed by the Hearing Aid Dealers and Fitters Licensing Board.² Physicians, audiologists, and any person who measures human hearing for the purpose of selecting a hearing aid (as long as the

¹ R.C. 1345.30(B).

² R.C. Chapter 4747.

selection does not result in an actual sale of a hearing aid by that person) are exempt from licensure. All others are prohibited from selling or fitting hearing aids.³

Additionally, when a consumer enters into a consumer transaction with a hearing aid dealer, hearing aid fitter, physician, or audiologist, continuing law requires all of the following:

(1) That the dealer, fitter, physician, or audiologist provide a refund to a consumer if a hearing aid is returned within 30 days after original delivery of the hearing aid;

(2) That the dealer, fitter, physician, or audiologist provide the refund described above within 15 days of the hearing aid's return;

(3) That the dealer, fitter, physician, or audiologist give a consumer who purchases a hearing aid written notice of the return policy described above.⁴

Prohibitions

The act prohibits a person from selling or distributing a hearing aid through the mail to the ultimate consumer unless the person has received a written acknowledgment from the ultimate consumer that the ultimate consumer was advised that an in-person examination by a licensed professional is recommended. The act specifies that nothing in its provisions is to be construed to prohibit the distribution of a repaired hearing aid to its owner by mail on completion of the repairs.⁵

As with the continuing law requirements concerning hearing aid returns, a hearing aid dealer, hearing aid fitter, physician, or audiologist who violates the act's prohibition commits an unfair or deceptive act or practice under the Consumer Sales Practices Act (CSPA).⁶ Under the CSPA, a consumer may bring an action for damages or other relief against a person who violates the CSPA. The CSPA also allows for the Attorney General to request a court to impose a civil penalty (the court may do so without a request), bring a class action, or seek other relief to restrain the unfair or deceptive act or practice.⁷

³ R.C. 4747.02 and 4747.15, neither in the act.

⁴ R.C. 1345.30(D) and (E).

⁵ R.C. 1345.30(C).

⁶ R.C. 1345.31, not in the act.

⁷ R.C. 1345.07 and 1345.09, not in the act.



The act also establishes a fine of not more than \$1,000 for violating its prohibition.⁸

Devices used while hunting or shooting

The act specifies that neither the act's provisions regarding hearing aids nor the continuing law requirements concerning hearing aid returns apply to any instrument or device that fits into the ear and is intended to be used only while hunting or shooting.⁹

HISTORY

ACTION	DATE
Introduced	03-20-13
Reported, H. Health & Aging	06-12-13
Passed House (77-20)	06-25-13
Reported, S. Commerce & Labor	11-12-13
Rereported, S. Rules	12-11-14
Passed Senate (30-0)	12-11-14
House concurred in Senate amendments (87-2)	12-17-14

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⁸ R.C. 1345.99(B).

⁹ R.C. 1345.30(A)(3).

