



Ohio Legislative Service Commission

Bill Analysis

Nicholas A. Keller

Am. Sub. H.B. 109

130th General Assembly

(As Reported by S. Commerce and Labor)

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

BILL SUMMARY

- Prohibits a person from selling or distributing a hearing aid to a consumer through the mail without a prior in-person evaluation from an individual permitted to recommend or fit hearing aids.
- Makes a violation of the bill's 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 bill 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 current 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 selection does not result in an actual sale of a hearing aid by that person) are exempt from licensure.³ All others are prohibited from selling or fitting hearing aids.⁴

¹ R.C. 1345.30(B).

² R.C. Chapter 4747.

³ R.C. 4747.15, not in the bill.

⁴ R.C. 4747.02, not in the bill.

Additionally, when a consumer enters into a consumer transaction with a hearing aid dealer, hearing aid fitter, physician, or audiologist, current 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.⁵

Prohibitions

The bill prohibits a person from selling or distributing a hearing aid through the mail to the ultimate consumer unless the person has evidence that there has been a prior in-person evaluation between the consumer and an individual permitted to recommend or fit a hearing aid under the bill. The bill 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.⁶

As with the current law requirements concerning hearing aid returns, a hearing aid dealer, hearing aid fitter, physician, or audiologist who violates the bill's prohibition commits an unfair or deceptive act or practice under the Consumer Sales Practices Act (CSPA).⁷ 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 impose a civil penalty, bring a class action, or seek other relief to restrain the unfair or deceptive act or practice.⁸

The bill also establishes a fine of not more than \$1,000 for violating its prohibition.⁹

⁵ R.C. 1345.30(D) and (E).

⁶ R.C. 1345.30(C).

⁷ R.C. 1345.31, not in the bill.

⁸ R.C. 1345.07 and 1345.09, not in the bill.

⁹ R.C. 1345.99(B).



Devices used while hunting or shooting

The bill specifies that neither the bill's provisions regarding hearing aids nor the current 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.¹⁰

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

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¹⁰ R.C. 1345.30(A)(3).

