



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** Sub. H.B. 109 of the 130th G.A.

**Date:** July 2, 2013

**Status:** As Passed by the House

**Sponsor:** Rep. Damschroder

**Local Impact Statement Procedure Required:** No

**Contents:** Specifies individuals who are permitted to recommend and fit hearing aids and prohibits sales of hearing aids via mail without a prior in-person evaluation

### State Fiscal Highlights

- No direct fiscal effect on the state.

### Local Fiscal Highlights

- The bill establishes a fine of \$1,000, which local prosecutors would likely assess and distribute to the county where the action was brought.

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### Detailed Fiscal Analysis

The bill specifies individuals who are permitted to recommend and fit hearing aids. These individuals include licensed hearing aid dealers or fitters, physicians authorized to practice medicine, and licensed audiologists. These individuals must have a regular place of business located in Ohio in order to be eligible to sell and distribute hearing aids to consumers. The bill prohibits the sale of hearing aids through the mail without evidence of a prior in-person evaluation between the consumer and the individual permitted to recommend and fit hearing aids. This prohibition does not apply to instruments or devices that fit into the ear and are intended to be used only for hunting or shooting. According to the Executive Director of the Speech-Language Pathology and Audiology Board, the bill will have no direct fiscal effect on the state.

The bill also establishes a fine of not more than \$1,000 for violations of the bill's prohibition. There is some ambiguity related to how these fine revenues are distributed. That being said, the revenue would most likely be disbursed to the county that holds jurisdiction where a case takes place.

## **Potential indirect fiscal effects**

If a violation is deemed to be an unfair or deceptive practice, the Consumer Sales Practices Act (CSPA) would apply. 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 CSPA permits the Attorney General or consumers to file a civil action to pursue remedies. It is uncertain how many consumers will elect to pursue a civil remedy without the assistance of the Attorney General, but the number is assumed to be small as these consumers would, most likely, report a complaint to the Attorney General's Office initially and then allow the Consumer Protection Section to seek a resolution to the complaint.

As a result of the above CSPA enforcement provisions, the number of civil cases filed in county and municipal courts may increase. However, 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.

If the Attorney General's Office successfully pursues a civil remedy under preexisting Consumer Sales Practice Law, the court adjudicating the matter may order civil penalties up to \$25,000. Three-quarters of this civil penalty would be awarded to the Attorney General's Office under the Consumer Protection Enforcement Fund (Fund 6310). The remaining one-quarter of the civil penalty that violators could be ordered to pay would go to the treasury of the county where the case took place (as much as \$6,250 if the \$25,000 maximum possible fine is assessed). The Attorney General may also obtain a restraining order or injunction to prevent an act or practice that violates Chapter 1345. of the Revised Code. If a supplier violates a restraining order or injunction, a fine of up to \$5,000 may be imposed for each day a violation takes place. The Consumer Protection Enforcement Fund would also receive three-quarters of this fine, while one-quarter would go to the treasury of the county where the action was brought.