

AN ACT

To amend sections 1345.30 and 1345.99 of the Revised Code to specify individuals who are permitted to recommend and fit hearing aids and to prohibit specified sales of hearing aids via mail.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1345.30 and 1345.99 of the Revised Code be amended to read as follows:

Sec. 1345.30. (A) As used in this section and in section 1345.31 of the Revised Code:

(1) "Consumer" means a person who engages in a consumer transaction with a hearing aid dealer, hearing aid fitter, physician, or audiologist.

(2) "Consumer transaction" means a sale, lease, assignment, award by chance, or other transfer of a hearing aid.

(3) "Hearing aid" has the same meaning as in section 4747.01 of the Revised Code, except that it does not include any instrument or device that fits into the ear and is intended to be used only while hunting or shooting.

(B) The following individuals are permitted to recommend or fit a hearing aid:

(1) A hearing aid dealer or hearing aid fitter licensed under Chapter 4747. of the Revised Code;

(2) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(3) An audiologist licensed under Chapter 4753. of the Revised Code.

(C) No person shall sell or distribute 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. Nothing in this section shall be construed to prohibit the distribution of a repaired hearing aid to its owner through the mail upon completion of the repairs.

(D) A hearing aid dealer or hearing aid fitter licensed under Chapter 4747. of the Revised Code, a physician authorized under Chapter 4731. of

the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, or an audiologist licensed under Chapter 4753. of the Revised Code who enters into a consumer transaction with a consumer shall provide a refund to the consumer if the hearing aid is returned to the dealer, fitter, physician, or audiologist not later than thirty days after its original delivery. The refund shall be provided regardless of the reason for the hearing aid's return and regardless of whether the hearing aid is new, refabricated, or used. The thirty-day period for return of the hearing aid does not include any period during which the dealer, fitter, physician, or audiologist has possession or control of the hearing aid after its original delivery to the consumer or a person acting on the consumer's behalf.

A dealer, fitter, physician, or audiologist shall make original delivery of a hearing aid to a consumer or person acting on the consumer's behalf either by delivery in person or by certified mail, return receipt requested. The date of in-person delivery or the date shown on the certified mail return receipt is the hearing aid's original delivery for purposes of this division.

Not later than fifteen days after presentation by the consumer to the dealer, fitter, physician, or audiologist of proof of payment of the agreed-upon consideration for the hearing aid and return of the hearing aid in the condition in which it was received, except for normal wear and tear, the dealer, fitter, physician, or audiologist shall give the consumer a full refund of the consideration paid for the hearing aid, less the amount specified by the dealer, fitter, physician, or audiologist in the receipt required by division ~~(C)~~(E) of this section to cover expenses incurred in connection with the hearing aid.

If the hearing aid is returned in a damaged condition that is beyond normal wear and tear, the dealer, fitter, physician, or audiologist, not later than fifteen days after presentation of proof of payment and return of the hearing aid, shall give the consumer a full refund of the consideration paid for the hearing aid, less an amount equal to the cost of repairing the damage to the hearing aid and the amount the dealer, fitter, physician, or audiologist could withhold under this division had the hearing aid been returned in the condition that it was received, except for normal wear and tear.

~~(C)~~(E) When a hearing aid dealer, hearing aid fitter, physician, or audiologist enters into a consumer transaction with a consumer, the dealer, fitter, physician, or audiologist shall notify the consumer of the provisions of division ~~(B)~~(D) of this section and provide the consumer a receipt for the hearing aid that includes the following statement typed in boldface type of the minimum size of ten points:

"RIGHT TO RETURN THE HEARING AID

WITHIN 30 DAYS AND RECEIVE A REFUND

Under Ohio law (O.R.C. 1345.30), a consumer has the right to return a hearing aid for any reason within 30 days after it is originally delivered to the consumer or a person acting on the consumer's behalf and to receive a refund of the consideration paid for the hearing aid less an amount specified by the hearing aid dealer, hearing aid fitter, physician, or audiologist to cover expenses incurred in connection with the hearing aid not later than 15 days after presenting proof of payment for the hearing aid and returning it in the condition in which it was received, except for normal wear and tear. In this case the amount deducted from the refund will be \$....."

A hearing aid dealer or fitter shall include the statement in the receipt required by section 4747.09 of the Revised Code.

Sec. 1345.99. (A) Whoever violates section 1345.23 or 1345.24 of the Revised Code is guilty of a minor misdemeanor.

(B) Whoever violates division (C) of section 1345.30 or division (D) of section 1345.76 of the Revised Code shall be fined not more than one thousand dollars.

(C) Whoever knowingly violates division (E) of section 1345.02 or knowingly violates section 1345.18 of the Revised Code is guilty of a misdemeanor of the third degree for a first offense and a misdemeanor of the second degree for any subsequent offense.

SECTION 2. That existing sections 1345.30 and 1345.99 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 109

130th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____