

**As Passed by the House**

**130th General Assembly**

**Regular Session**

**2013-2014**

**Sub. H. B. No. 109**

**Representative Damschroder**

**Cosponsors: Representatives Adams, R., Ruhl, Stinziano, Brenner,  
Gonzales, Buchy, Maag, Barnes, Bishoff, Brown, Carney, Schuring, Smith,  
Barborak, Hagan, C., Mallory, Milkovich, Pillich Speaker Batchelder**

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**A B I L L**

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. 17

(4) "Regular place of business" means a location at which an individual holds the individual's self out to be physically available to the consumer. 18  
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(B) The following individuals are permitted to recommend or fit a hearing aid: 21  
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(1) A hearing aid dealer or hearing aid fitter licensed under Chapter 4747. of the Revised Code; 23  
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(2) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; 25  
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(3) An audiologist licensed under Chapter 4753. of the Revised Code. 28  
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(C) Individuals permitted to recommend or fit a hearing aid pursuant to division (B) of this section shall have a regular place of business located within this state to be eligible to sell and distribute hearing aids. 30  
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(D) No person shall sell or distribute 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 pursuant to division (B) of this section. 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. 34  
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(E) 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 42  
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transaction with a consumer shall provide a refund to the consumer 47  
if the hearing aid is returned to the dealer, fitter, physician, 48  
or audiologist not later than thirty days after its original 49  
delivery. The refund shall be provided regardless of the reason 50  
for the hearing aid's return and regardless of whether the hearing 51  
aid is new, refabricated, or used. The thirty-day period for 52  
return of the hearing aid does not include any period during which 53  
the dealer, fitter, physician, or audiologist has possession or 54  
control of the hearing aid after its original delivery to the 55  
consumer or a person acting on the consumer's behalf. 56

A dealer, fitter, physician, or audiologist shall make 57  
original delivery of a hearing aid to a consumer or person acting 58  
on the consumer's behalf either by delivery in person or by 59  
certified mail, return receipt requested. The date of in-person 60  
delivery or the date shown on the certified mail return receipt is 61  
the hearing aid's original delivery for purposes of this division. 62

Not later than fifteen days after presentation by the 63  
consumer to the dealer, fitter, physician, or audiologist of proof 64  
of payment of the agreed-upon consideration for the hearing aid 65  
and return of the hearing aid in the condition in which it was 66  
received, except for normal wear and tear, the dealer, fitter, 67  
physician, or audiologist shall give the consumer a full refund of 68  
the consideration paid for the hearing aid, less the amount 69  
specified by the dealer, fitter, physician, or audiologist in the 70  
receipt required by division ~~(C)~~(F) of this section to cover 71  
expenses incurred in connection with the hearing aid. 72

If the hearing aid is returned in a damaged condition that is 73  
beyond normal wear and tear, the dealer, fitter, physician, or 74  
audiologist, not later than fifteen days after presentation of 75  
proof of payment and return of the hearing aid, shall give the 76  
consumer a full refund of the consideration paid for the hearing 77  
aid, less an amount equal to the cost of repairing the damage to 78

the hearing aid and the amount the dealer, fitter, physician, or 79  
audiologist could withhold under this division had the hearing aid 80  
been returned in the condition that it was received, except for 81  
normal wear and tear. 82

~~(C)~~(F) When a hearing aid dealer, hearing aid fitter, 83  
physician, or audiologist enters into a consumer transaction with 84  
a consumer, the dealer, fitter, physician, or audiologist shall 85  
notify the consumer of the provisions of division ~~(B)~~(E) of this 86  
section and provide the consumer a receipt for the hearing aid 87  
that includes the following statement typed in boldface type of 88  
the minimum size of ten points: 89

"RIGHT TO RETURN THE HEARING AID 90  
WITHIN 30 DAYS AND RECEIVE A REFUND 91

Under Ohio law (O.R.C. 1345.30), a consumer has the right to 92  
return a hearing aid for any reason within 30 days after it is 93  
originally delivered to the consumer or a person acting on the 94  
consumer's behalf and to receive a refund of the consideration 95  
paid for the hearing aid less an amount specified by the hearing 96  
aid dealer, hearing aid fitter, physician, or audiologist to cover 97  
expenses incurred in connection with the hearing aid not later 98  
than 15 days after presenting proof of payment for the hearing aid 99  
and returning it in the condition in which it was received, except 100  
for normal wear and tear. In this case the amount deducted from 101  
the refund will be \$....." 102

A hearing aid dealer or fitter shall include the statement in 103  
the receipt required by section 4747.09 of the Revised Code. 104

**Sec. 1345.99.** (A) Whoever violates section 1345.23 or 1345.24 105  
of the Revised Code is guilty of a minor misdemeanor. 106

(B) Whoever violates division (D) of section 1345.30 or 107  
division (D) of section 1345.76 of the Revised Code shall be fined 108  
not more than one thousand dollars. 109

(C) Whoever knowingly violates division (E) of section 110  
1345.02 or knowingly violates section 1345.18 of the Revised Code 111  
is guilty of a misdemeanor of the third degree for a first offense 112  
and a misdemeanor of the second degree for any subsequent offense. 113

**Section 2.** That existing sections 1345.30 and 1345.99 of the 114  
Revised Code are hereby repealed. 115