

As Re-reported by the Senate Rules Committee

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Am. 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

(B) The following individuals are permitted to recommend or
fit a hearing aid: 18
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(1) A hearing aid dealer or hearing aid fitter licensed under
Chapter 4747. of the Revised Code; 20
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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; 22
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(3) An audiologist licensed under Chapter 4753. of the
Revised Code. 25
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(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. 27
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(D) A hearing aid dealer or hearing aid fitter licensed under 35
Chapter 4747. of the Revised Code, a physician authorized under 36
Chapter 4731. of the Revised Code to practice medicine and surgery 37
or osteopathic medicine and surgery, or an audiologist licensed 38
under Chapter 4753. of the Revised Code who enters into a consumer 39
transaction with a consumer shall provide a refund to the consumer 40
if the hearing aid is returned to the dealer, fitter, physician, 41
or audiologist not later than thirty days after its original 42
delivery. The refund shall be provided regardless of the reason 43
for the hearing aid's return and regardless of whether the hearing 44
aid is new, refabricated, or used. The thirty-day period for 45
return of the hearing aid does not include any period during which 46
the dealer, fitter, physician, or audiologist has possession or 47

control of the hearing aid after its original delivery to the 48
consumer or a person acting on the consumer's behalf. 49

A dealer, fitter, physician, or audiologist shall make 50
original delivery of a hearing aid to a consumer or person acting 51
on the consumer's behalf either by delivery in person or by 52
certified mail, return receipt requested. The date of in-person 53
delivery or the date shown on the certified mail return receipt is 54
the hearing aid's original delivery for purposes of this division. 55

Not later than fifteen days after presentation by the 56
consumer to the dealer, fitter, physician, or audiologist of proof 57
of payment of the agreed-upon consideration for the hearing aid 58
and return of the hearing aid in the condition in which it was 59
received, except for normal wear and tear, the dealer, fitter, 60
physician, or audiologist shall give the consumer a full refund of 61
the consideration paid for the hearing aid, less the amount 62
specified by the dealer, fitter, physician, or audiologist in the 63
receipt required by division ~~(C)~~(E) of this section to cover 64
expenses incurred in connection with the hearing aid. 65

If the hearing aid is returned in a damaged condition that is 66
beyond normal wear and tear, the dealer, fitter, physician, or 67
audiologist, not later than fifteen days after presentation of 68
proof of payment and return of the hearing aid, shall give the 69
consumer a full refund of the consideration paid for the hearing 70
aid, less an amount equal to the cost of repairing the damage to 71
the hearing aid and the amount the dealer, fitter, physician, or 72
audiologist could withhold under this division had the hearing aid 73
been returned in the condition that it was received, except for 74
normal wear and tear. 75

~~(C)~~(E) When a hearing aid dealer, hearing aid fitter, 76
physician, or audiologist enters into a consumer transaction with 77
a consumer, the dealer, fitter, physician, or audiologist shall 78
notify the consumer of the provisions of division ~~(B)~~(D) of this 79

section and provide the consumer a receipt for the hearing aid 80
that includes the following statement typed in boldface type of 81
the minimum size of ten points: 82

"RIGHT TO RETURN THE HEARING AID 83
WITHIN 30 DAYS AND RECEIVE A REFUND 84

Under Ohio law (O.R.C. 1345.30), a consumer has the right to 85
return a hearing aid for any reason within 30 days after it is 86
originally delivered to the consumer or a person acting on the 87
consumer's behalf and to receive a refund of the consideration 88
paid for the hearing aid less an amount specified by the hearing 89
aid dealer, hearing aid fitter, physician, or audiologist to cover 90
expenses incurred in connection with the hearing aid not later 91
than 15 days after presenting proof of payment for the hearing aid 92
and returning it in the condition in which it was received, except 93
for normal wear and tear. In this case the amount deducted from 94
the refund will be \$....." 95

A hearing aid dealer or fitter shall include the statement in 96
the receipt required by section 4747.09 of the Revised Code. 97

Sec. 1345.99. (A) Whoever violates section 1345.23 or 1345.24 98
of the Revised Code is guilty of a minor misdemeanor. 99

(B) Whoever violates division (C) of section 1345.30 or 100
division (D) of section 1345.76 of the Revised Code shall be fined 101
not more than one thousand dollars. 102

(C) Whoever knowingly violates division (E) of section 103
1345.02 or knowingly violates section 1345.18 of the Revised Code 104
is guilty of a misdemeanor of the third degree for a first offense 105
and a misdemeanor of the second degree for any subsequent offense. 106

Section 2. That existing sections 1345.30 and 1345.99 of the 107
Revised Code are hereby repealed. 108