

House Bill No. 761

An act relating to the fitting and dispensing of hearing aids; amending s. 484.0512, F.S.; providing a criminal penalty for failure of a seller to refund within a specified time moneys required to be refunded to a purchaser for the return or attempted return of a hearing aid; providing a definition; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 484.0512, Florida Statutes, is amended to read:

484.0512 Thirty-day trial period; purchaser's right to cancel; notice; refund; cancellation fee; criminal penalty procedures.—

(1) A person selling a hearing aid in this state must provide the buyer with written notice of a 30-day trial period and money-back guarantee. The guarantee must permit the purchaser to cancel the purchase for a valid reason as defined by rule of the board within 30 days after receiving the hearing aid, by returning the hearing aid or mailing written notice of cancellation to the seller. If the hearing aid must be repaired, remade, or adjusted during the 30-day trial period, the running of the 30-day trial period is suspended 1 day for each 24-hour period that the hearing aid is not in the purchaser's possession. A repaired, remade, or adjusted hearing aid must be claimed by the purchaser within 3 working days after notification of availability. The running of the 30-day trial period resumes on the day the purchaser reclaims the repaired, remade, or adjusted hearing aid or on the fourth day after notification of availability.

(2) The board, in consultation with the Board of Speech-Language Pathology and Audiology, shall prescribe by rule the terms and conditions to be contained in the money-back guarantee and any exceptions thereto. Such rule shall provide, at a minimum, that the charges for earmolds and service provided to fit the hearing aid may be retained by the licensee. The rules shall also set forth any reasonable charges to be held by the licensee as a cancellation fee. Such rule shall be effective on or before December 1, 1994. Should the board fail to adopt such rule, a licensee may not charge a cancellation fee which exceeds 5 percent of the total charge for a hearing aid alone. The terms and conditions of the guarantee, including the total amount available for refund, shall be provided in writing to the purchaser prior to the signing of the contract.

(3) Within 30 days after the return or attempted return of the hearing aid, the seller shall refund all moneys that must be refunded to a purchaser pursuant to this section. A violation of this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) For purposes of this section, the term "seller" or "person selling a hearing aid" includes:

(a) Any natural person licensed under this part or any other natural person who signs a sales receipt required by s. 484.051(2) or s. 468.1245(2) or who otherwise fits, delivers, or dispenses a hearing aid.

(b) Any business organization, whether a sole proprietorship, partnership, corporation, professional association, joint venture, business trust, or other legal entity, which dispenses a hearing aid or enters into an agreement to dispense a hearing aid.

(c) Any person who controls, manages, or operates an establishment or business that dispenses a hearing aid or enters into an agreement to dispense a hearing aid.

Section 2. This act shall take effect July 1, 2003.

Approved by the Governor June 24, 2003.

Filed in Office Secretary of State June 24, 2003.