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By: **Delegates Moe, Conroy, Hubbard, Love, and Vaughn**

Introduced and read first time: February 11, 2005

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2005

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Consumer Protection - Hearing Aids - Cancellation**

3 FOR the purpose of ~~altering the amounts that may be deducted from a refund paid to~~  
 4 ~~a purchaser after cancellation of a hearing aid purchase; requiring that certain~~  
 5 ~~charges may be deducted from a refund only if the charges are identified in a~~  
 6 ~~certain manner as being nonrefundable; altering the contents of certain notices~~  
 7 ~~that must be provided in connection with the sale and delivery of a hearing aid~~  
 8 ~~requiring a seller of a hearing aid to bill fees for diagnostic tests separately from~~  
 9 ~~certain other charges; authorizing a seller of a hearing aid to deduct payments~~  
 10 ~~made for diagnostic tests from a refund paid to a purchaser after cancellation of~~  
 11 ~~a hearing aid purchase; requiring the disclosure of certain information in a~~  
 12 ~~notice of cancellation; making a certain conforming change; and generally~~  
 13 relating to hearing aid sales and cancellations.

14 BY adding to

15 Article - Commercial Law

16 Section 14-2502.1

17 Annotated Code of Maryland

18 (2000 Replacement Volume and 2004 Supplement)

19 BY repealing and reenacting, without amendments,

20 Article - Commercial Law

21 Section 14-2503(a)

22 Annotated Code of Maryland

23 (2000 Replacement Volume and 2004 Supplement)

24 BY repealing and reenacting, with amendments,

1 Article - Commercial Law  
 2 Section ~~14-2503~~ 14-2503(b) and (f)(1) and 14-2504(7)  
 3 Annotated Code of Maryland  
 4 (2000 Replacement Volume and 2004 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Commercial Law**

8 14-2502.1.

9 (A) THE SELLER OF A HEARING AID MUST BILL ANY FEE FOR DIAGNOSTIC  
 10 TESTS SEPARATELY FROM ANY CHARGES FOR THE PURCHASE AND FITTING OF A  
 11 HEARING AID.

12 (B) A SEPARATELY BILLED FEE FOR A DIAGNOSTIC TEST IS NOT SUBJECT TO  
 13 REFUND UNDER § 14-2503 OF THIS SUBTITLE.

14 14-2503.

15 (a) Within 30 days of the date of delivery, a purchaser of a hearing aid may  
 16 cancel the purchase for any reason, by mailing or delivering a notice of cancellation to  
 17 the seller of the hearing aid at the address specified in the contract.

18 (b) (1) Cancellation of the purchase entitles the purchaser to a refund of the  
 19 entire consideration paid, less {10 percent for services} ~~AMOUNTS IDENTIFIED AS~~  
 20 ~~NONREFUNDABLE IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION AND~~  
 21 ~~PAYMENTS MADE FOR DIAGNOSTIC TESTS.~~

22 {(2) If the actual documented expenses incurred by the seller for the  
 23 fitting, delivery, and return of the hearing aid to the manufacturer are in excess of 10  
 24 percent of the purchase price, the seller may retain an amount equal to these  
 25 expenses only if:

26 (i) The amount is conspicuously identified as "nonrefundable" on  
 27 the contract or bill of sale for the hearing aid; and

28 (ii) The total amount retained does not exceed 20 percent of the  
 29 purchase price of the hearing aid.}

30 (2) ~~THE FOLLOWING CHARGES MAY BE DEDUCTED IN THEIR ENTIRETY~~  
 31 ~~FROM A REFUND TO A PURCHASE UNDER THIS SUBSECTION, IF THE CHARGES ARE~~  
 32 ~~CONSPICUOUSLY IDENTIFIED AS NONREFUNDABLE ON THE CONTRACT OR BILL OF~~  
 33 ~~SALE FOR THE HEARING AID:~~

34 (I) ~~PROFESSIONAL AND DIAGNOSTIC FEES; AND~~

35 (II) ~~THE COST OF ACCESSORIES AND CUSTOM MADE ITEMS.~~

1 (3) The seller shall deliver the refund to the purchaser if:

2 (i) The purchase is made at a place other than the place of business  
3 of the seller, within 30 days after the receipt of the notice of cancellation; and

4 (ii) The purchase agreement is made at the place of business of the  
5 seller, within 30 days after the return of the hearing aid.

6 (4) If a hearing aid is sold in a hospital or related institution, the seller  
7 must initiate a refund request with the accounting department of the selling hospital  
8 or related institution within 10 days after receiving the notice of cancellation from the  
9 purchaser.

10 ~~(e) After cancellation of the purchase, if the hearing aid has been delivered to~~  
11 ~~the purchaser, the purchaser must make the hearing aid available to the seller in~~  
12 ~~substantially as good condition as when received.~~

13 ~~(d) The right of cancellation may not be waived or otherwise surrendered.~~

14 ~~(e) (1) The contract or bill of sale for the purchase of a hearing aid shall~~  
15 ~~contain the following statement:~~

16 ~~"You may cancel this purchase for any reason, at any time within 30 days after~~  
17 ~~the date of delivery of the hearing aid. To cover the costs of dispensing the hearing~~  
18 ~~aid, the seller may withhold from the refund [10 percent of the purchase price or the~~  
19 ~~seller's actual costs up to 20 percent of the purchase price] **THE AMOUNT OF ALL**~~  
20 ~~**PROFESSIONAL AND DIAGNOSTIC FEES AND THE COST OF ACCESSORIES AND**~~  
21 ~~**CUSTOM MADE ITEMS."**~~

22 ~~(2) The statement required under this subsection shall:~~

23 ~~(i) Be in bold and conspicuous type of at least 10 point type; and~~

24 ~~(ii) Appear on the same page as and above the space for the~~  
25 ~~purchaser's signature.~~

26 (f) (1) The seller shall provide to the purchaser at the time of delivery of the  
27 hearing aid a notice of cancellation ~~containing~~ THAT STATES THE TOTAL  
28 REFUNDABLE AMOUNT AND CONTAINS the following information:

29 "Notice of Cancellation

30 You may cancel this purchase of a hearing aid within 30 days from the date of  
31 delivery of the hearing aid.

32 If you decide to cancel this contract:

33 1. You must provide notice of the cancellation in writing, within 30 days of  
34 the date of delivery of the hearing aid, to (the seller) at address of seller; and

1 2. You must make the hearing aid available to the seller, in substantially as  
2 good condition as when you received it.

3 The seller may not attempt to obtain a waiver of your rights to cancel."

4 (2) ~~If the hearing aid is sold at the seller's place of business and the  
5 seller is not located within a hospital or other related institution, the notice shall  
6 contain the following statement:~~

7 ~~"Cancellation entitles you to a refund of all money you paid, less [(choose either  
8 10 percent or the actual cost to the seller as provided in this section)] THE AMOUNT  
9 OF ALL PROFESSIONAL AND DIAGNOSTIC FEES AND THE COST OF ACCESSORIES AND  
10 CUSTOM MADE ITEMS, within 30 days after you return the hearing aid to the seller."~~

11 (3) ~~If the hearing aid is sold by a seller affiliated with a hospital or other  
12 related institution, the notice shall contain the following statement:~~

13 ~~"Cancellation entitles you to a refund of all money you paid, less [(choose either  
14 10 percent or the actual cost to the seller as provided in this section)] THE AMOUNT  
15 OF ALL PROFESSIONAL AND DIAGNOSTIC FEES AND THE COST OF ACCESSORIES AND  
16 CUSTOM MADE ITEMS. The seller must initiate a request for the refund from the  
17 selling institution's accounting department within 10 days after you return the  
18 hearing aid to the seller."~~

19 (4) ~~If the hearing aid is sold at a place other than the seller's place of  
20 business the notice shall contain the following statement:~~

21 ~~"Cancellation entitles you to a refund of all money you paid less [(choose either  
22 10 percent or the actual cost to the seller as provided in this section)] THE AMOUNT  
23 OF ALL PROFESSIONAL AND DIAGNOSTIC FEES AND THE COST OF ACCESSORIES AND  
24 CUSTOM MADE ITEMS, within 30 days after the seller receives your notice of  
25 cancellation."~~

26 (5) ~~The notice of cancellation shall be in 10 point type.~~

27 (g) ~~At the time of delivery, the seller shall complete the notice of cancellation  
28 by including the date of delivery and the date by which cancellation must be made.~~

29 14-2504.

30 It is a deceptive trade practice for a seller of hearing aids to:

31 (7) Fail to refund all payments, less {10 percent or} the amount allowed  
32 under § 14-2503(b)(2) of this subtitle AND PAYMENTS FOR DIAGNOSTIC TESTS, made  
33 under the purchase agreement within 30 days after:

34 (i) Receipt of the notice of cancellation if the purchaser's  
35 agreement to purchase is made at a place other than the place of business of the  
36 seller; or

1 (ii) Return of the hearing aid, if the purchaser's agreement to  
2 purchase is made at the place of business of the seller.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2005.