

Enrolled Senate Bill 558

Sponsored by Senator GELSNER BLOUIN; Representative NELSON (Pre-session filed.)

CHAPTER

AN ACT

Relating to over-the-counter hearing aids; amending ORS 694.015, 694.025 and 694.032; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 694.015 is amended to read:

694.015. As used in ORS 694.015 to 694.170, unless the context requires otherwise:

[(1) "Council" means the Advisory Council on Hearing Aids, created within the Health Licensing Office.]

[(2)] (1) "Dealing in hearing aids" means the sale, lease or rental, [or] attempted sale, lease or rental **or ordering the use** of hearing aids in conjunction with the evaluation or measurement of the powers or range of human hearing and the recommendation, selection or adaptation of hearing aids.

[(3)] (2)(a) "Hearing aid" means any prosthetic instrument or device designed for or represented as aiding, improving or correcting defective human hearing and any parts, attachments or accessories of such an instrument or device. [A hearing aid is not intended to include]

(b) "Hearing aid" does not include:

(A) Any device which is surgically implanted or otherwise medically inserted by a physician licensed by ORS chapter 677 for the purpose of treating or correcting a hearing impairment[.]; **or**

(B) An over-the-counter hearing aid.

(3) "Over-the-counter hearing aid" has the meaning given that term in 21 C.F.R. 800.30.

SECTION 2. ORS 694.025 is amended to read:

694.025. (1) A person may not deal in hearing aids or display a sign or in any other way advertise or represent that the person deals in hearing aids unless the person holds an active license issued by the Health Licensing Office as provided in ORS 694.015 to 694.170.

(2) Notwithstanding subsection (1) of this section, ORS 694.015 to 694.170 do not apply to:

(a) An audiologist licensed under ORS chapter 681.

(b) A physician licensed under ORS chapter 677.

(c) A person involved in the sale of an over-the-counter hearing aid.

SECTION 3. ORS 694.032 is amended to read:

694.032. (1) It [shall be] **is** unlawful for any person to offer for sale or sell a hearing aid in this state by direct mail.

(2) Any offer for sale or sale of a hearing aid in this state must include the availability of fitting the hearing aid in this state prior to the sale.

(3) Nothing in this section is intended to prohibit:

(a) Advertising by mail or delivery of a hearing aid by mail if the fitting and sale were completed in this state.

(b) The sale by direct mail of an over-the-counter hearing aid.

SECTION 4. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by Senate March 28, 2023

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Lori L. Brocker, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House May 8, 2023

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Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Secretary of State