

# HOUSE BILL REPORT

## ESB 5210

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### As Passed House - Amended:

April 10, 2019

**Title:** An act relating to notification to purchasers of hearing instruments about uses and benefits of telecoil and bluetooth technology.

**Brief Description:** Notifying purchasers of hearing instruments about uses and benefits of telecoil and bluetooth technology.

**Sponsors:** Senators Palumbo, Bailey, Rolfes, Wilson, C., Randall, Hunt, Das and Keiser.

### Brief History:

#### Committee Activity:

Health Care & Wellness: 3/20/19, 3/27/19 [DPA].

#### Floor Activity:

Passed House - Amended: 4/10/19, 93-2.

### Brief Summary of Engrossed Bill (As Amended by House)

- Requires persons who dispense hearing instruments to notify potential purchasers of the uses, benefits, and limitations of current hearing assistive technologies, as defined by the Department of Health in rule.
- Requires the Office of the Deaf and Hard of Hearing to develop educational materials on the uses, benefits, and limitations of hearing assistive technology.

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## HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass as amended. Signed by 14 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers, Davis, DeBolt, Harris, Jinkins, Riccelli, Robinson, Stonier, Thai and Tharinger.

**Staff:** Kim Weidenaar (786-7120).

### Background:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

### Hearing Instruments.

A "hearing instrument" is defined as any wearable prosthetic instrument or device designed for or represented as aiding, improving, compensating for, or correcting defective human hearing and any parts, attachments, or accessories of such an instrument or device, excluding batteries and cords, ear molds, and assistive listening devices. The fitting and dispensing of hearing instruments must be performed by a licensed hearing aid specialist, a licensed audiologist, or an audiologist holding an interim permit from the Department of Health (Department). Hearing instruments may use a number of different technologies, including telecoil and Bluetooth, which have different benefits, uses, and limitations.

### Americans with Disabilities Act.

Under the Americans with Disabilities Act, assistive listening systems must be available in assembly areas where audible communication is integral to the use of the space. Assembly areas include classrooms, lecture halls, courtrooms, public meeting and hearing rooms, legislative chambers, theaters, concert halls, stadiums, convention centers, and other locations.

### **Summary of Amended Bill:**

Any person who fits or dispenses hearing instruments must:

- prior to an initial fitting and purchase, notify a person seeking to purchase a hearing instrument, both orally and in writing, about the uses, benefits, and limitations of current hearing assistive technologies, as defined by the Department of Health (Department) in rule; and
- provide any person purchasing a hearing instrument, a receipt that contains language verifying that the consumer was informed prior to fitting and purchase of the uses, benefits, and limitations of current hearing assistive technologies, as defined by the Department in rule, which must be signed by the purchaser.

The notification provisions may not be construed as creating a private right of action.

The Department may adopt rules to create a standard receipt form.

The Office of the Deaf and Hard of Hearing must develop educational materials to be distributed by hearing aid dispensers, including audiologists, to persons with hearing loss explaining the uses, benefits, and limitations of hearing assistive technologies. A person required to provide written notice may produce the written materials, use materials produced by the hearing instrument manufacturer or use the materials created by the Office of the Deaf and Hard of Hearing.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The bill requires audiologists and hearing aid fitters to tell patients about telecoil- and Bluetooth-enabled hearing aids prior to purchase. The Americans with Disabilities Act requires assistive listening systems in places of public accommodation, and to access the assistive listening system the hearing aid must be telecoil-enabled. This is about equal access for those with hearing loss.

The hearing instrument technology has advanced and changed drastically over the years. While being able to connect to assistive listening systems through a telecoil is great, Bluetooth connection is also very important in daily life. It allows people to connect directly to personal devices like phones, tablets, and portable microphones. However, Bluetooth only works in short distances.

Education and guidance on how an individual can hear well beyond just the hearing aid is very important. Often people have waited many years to get a hearing aid and have stopped doing a number of activities like going to town halls and the theater because they cannot hear and so they talk to the audiologist about how they can hear the things close to them such as the television and phone. Most professionals will share info about Bluetooth and tell patients they will be able to connect to their phone or television but do not discuss that there are other types of technologies out there. Therefore it is up to the patient to ask, but the responsibility should be on the hearing aid provider to provide this information and discuss the options.

The bill requires a receipt that confirms a person was told about the different technologies, so a person cannot go back later to challenge that they were not told. There is some concern about the amendment stating that there is no private right of action against those engaging in the fitting and dispensing of hearing instruments.

(Opposed) None.

(Other) There are some concerns about the bill. Requiring patients to be counseled about specific types of technologies that are listed in statute is bad policy. Technologies change and new things come to the market. There are better ways to achieve the goal of making sure that patients get the information that they need.

This bill was a surprise to some practitioners because they had not heard any complaints. Typically in the consultation appointment you talk about the patient's lifestyle and how to best use hearing aid technology in those situations. While there is always going to be a provider out there who does not do the best job, this bill is not needed. There are several other types of technology on the market, they are evolving all of the time, and there are various ways to access assistive hearing technology. There is a concern that this bill could result in unnecessary disciplinary actions. While the connectivity options need to be discussed with patients, a mandate may not be the best way to achieve it.

**Persons Testifying:** (In support) Cynthia Stewart and Warren Weissman, Hearing Loss Association; and Cheri Perazzoli, Let's Loop Washington; Diana Townsend.

(Other) Nancy Bowen-Hicks, Washington State Academy of Audiology; and Melissa Johnson, Washington State Speech-Language-Hearing Association.

**Persons Signed In To Testify But Not Testifying: None.**