

MAINE STATE LEGISLATURE

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BUSINESS AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 897, L.D. 1214, Bill, "An Act to Provide a Warranty for Assistive Devices for Persons with Disabilities"

Amend the bill in section 1 in that part designated "§1500." in subsection 1 in the 3rd line (page 1, line 17 in L.D.) by inserting after the following: "used" the following: 'within manufacturer specifications'

Further amend the bill in section 1 in that part designated "§1500." in subsection 1 in the last line (page 1, line 29 in L.D.) by inserting after the following: "maneuver." the following: "Assistive device" does not include a hearing aid as defined by Title 32, section 1658, subsection 5.'

Further amend the bill in section 1 in that part designated "§1500-A." in the first paragraph in the 4th line (page 2, line 2 in L.D.) by inserting after the following: "period" the following: 'if the device is not specifically fit for the consumer's particular needs'

Further amend the bill in section 1 in that part designated "§1500-B." in subsection 1 in the 7th and 8th lines (page 2, lines 19 and 20 in L.D.) by striking out the following: "first delivery" and inserting in its place the following: 'the initial setup'

Further amend the bill in section 1 in that part designated "§1500-B." in subsection 1 in the 8th line (page 2, line 20 in L.D.) by striking out the following: "to" and inserting in its place the following: 'for'

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 897, L.D. 1214

Further amend the bill in section 1 in that part designated
 2 "~~§1500-B.~~" in subsection 2 in the 7th line (page 2, line 34 in
 L.D.) by inserting after the following: "consumer" the following:
 4 'or the funding source'

Further amend the bill in section 1 in that part designated
 6 "~~§1500-B.~~" in subsection 2 by striking out all of the 2nd
 8 underlined sentence (page 2, lines 34 to 36 in L.D.) and
 inserting in its place the following: 'If a repair is required, a
 10 replacement or loan of a comparable assistive device must be
 provided to the consumer as soon as feasible at no charge.'

Further amend the bill in section 1 in that part designated
 14 "~~§1500-C.~~" in subsection 2 in the last 3 lines (page 3, lines 14
 to 16 in L.D.) by striking out the following: "issue the consumer
 16 a voucher valid for the purchase of another suitable assistive
 device from any manufacturer" and inserting in its place the
 18 following: 'refund to the funder the total reimbursement amount
 so that another suitable device may be purchased'

Further amend the bill in section 1 in that part designated
 22 "~~§1500-E.~~" in subsection 2 in the first line (page 3, line 32 in
 L.D.) by striking out the following: "not"

Further amend the bill in section 1 in that part designated
 26 "~~§1500-E.~~" by inserting after subsection 2 a blocked paragraph to
 read:

28 'It is a valid defense to an action brought under this subsection
 30 if, at the time of sale, the dealer had no reasonable way of
 knowing that the device was intended to be used within
 32 manufacturer specifications by the consumer as an assistive
 device as defined by section 1500, subsection 1.'

Further amend the bill by inserting at the end before the
 36 summary the following:

38 **FISCAL NOTE**

40 This bill may increase the number of civil suits filed in
 42 the court system. The additional workload and administrative
 costs associated with the minimal number of new cases filed can
 44 be absorbed within the budgeted resources of the Judicial
 Department. The collection of additional filing fees may also
 46 increase General Fund revenue by minor amounts.'

SUMMARY

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This amendment clarifies that a warranty for an assistive device must be in effect as long as the device is used within manufacturer specifications. This amendment also exempts hearing aids from the definition of assistive device as hearing aids are currently regulated by the Board of Hearing Aid Dealers and Fitters. The 30-day trial period is amended to apply to situations in which the assistive device is not specifically fit for the consumer's particular needs. This amendment also adds language to protect the dealer of assistive devices in situations when, upon the sale of the device, the dealer had no reasonable way of knowing the consumer was to use the device as an assistive device. Also, additional word changes are made to clarify the intent of the bill. The amendment adds a fiscal note to the bill.