

SECOND REGULAR SESSION

HOUSE BILL NO. 1988

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MOON (Sponsor), BURLISON, ANDERSON, SWAN,
CORNEJO, BAHR, FRAKER AND CARPENTER (Co-sponsors).

5677H.021

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 209.251, 346.010, 346.055, and 346.120, RSMo, and to enact in lieu thereof four new sections relating to hearing instruments.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 209.251, 346.010, 346.055, and 346.120, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 209.251, 346.010, 346.055, and 346.120, to read as follows:

209.251. As used in sections 209.251 to 209.259, the following terms mean:

(1) "Adaptive telecommunications equipment", equipment that translates, enhances or otherwise transforms the receiving or sending of telecommunications into a form accessible to individuals with disabilities. The term adaptive telecommunications equipment includes adaptive telephone equipment and other types of adaptive devices such as computer input and output adaptations necessary for telecommunications access;

(2) "Basic telecommunications access line", a telecommunications line which provides service from the telephone company central office to the customer's premises which enables the customer to originate and terminate long distance and local telecommunications;

(3) "Commission", the public service commission;

(4) "Consumer support and outreach", services that include, but are not limited to, assisting individuals with disabilities or their families or caregivers in the selection of the most appropriate adaptive telecommunications equipment to meet their needs, providing basic training and technical assistance in the installation and use of adaptive telecommunications equipment,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 and development and dissemination of information to increase awareness and use of adaptive
16 telecommunications equipment;

17 (5) **“Consumer support provider”, any individual or agency who provides consumer**
18 **support and outreach services including a licensed physician, audiologist, speech**
19 **pathologist, hearing instrument specialist or a qualified agency;**

20 (6) "Department", the department of labor and industrial relations;

21 [(6)] (7) "Eligible subscriber", any individual who has been certified as deaf,
22 hearing-impaired, speech-impaired or as having another disability that causes the inability to use
23 telecommunications equipment and services by a licensed physician, audiologist, speech
24 pathologist, hearing instrument specialist or a qualified agency. **An eligible subscriber shall**
25 **be referred to the certifying consumer support provider for services;**

26 [(7)] (8) "Missouri assistive technology advisory council" or "council", the body which
27 directs the Missouri assistive technology program pursuant to sections 191.850 to 191.865;

28 [(8)] (9) "Program administrator", the entity or entities designated to design the statewide
29 telecommunications equipment distribution program, develop and implement the program
30 policies and procedures, assure delivery of consumer support and outreach and account for and
31 pay all program expenses;

32 [(9)] (10) "Surcharge", an additional charge which is to be paid by local exchange
33 telephone company subscribers pursuant to the rate recovery mechanism established pursuant
34 to sections 209.255, 209.257 and 209.259 in order to implement the programs described in
35 sections 209.251 to 209.259;

36 [(10)] (11) "Telecommunications", the transmission of any form of information
37 including, but not limited to, voice, graphics, text, dynamic content, and data structures of all
38 types whether they are in electronic, visual, auditory, optical or any other form;

39 [(11)] (12) "Telecommunications device for the deaf" or "TDD", a telecommunications
40 device capable of allowing deaf, hearing-impaired or speech-impaired individuals to transmit
41 messages over basic telephone access lines by sending and receiving typed messages.

346.010. As used in sections 346.010 to 346.250, except as the context may require
2 otherwise, the following terms mean:

3 (1) "Audiologist", a clinical audiologist licensed pursuant to chapter 345;

4 (2) "Board", the Missouri board of examiners for hearing instrument specialists, which
5 is established in section 346.120;

6 (3) "Department", the department of insurance, financial institutions and professional
7 registration;

8 (4) "Division", the division of professional registration;

9 (5) "Hearing instrument" or "hearing aid", any wearable instrument or device designed
10 for or offered for the purpose of aiding or compensating for impaired human hearing and **that**
11 **can provide more than fifteen decibel full-on gain via a two cc coupler at any single**
12 **frequency from two hundred through six thousand cycles per second, and** any parts,
13 attachments, or accessories, including earmold, but excluding batteries, cords, receivers and
14 repairs;

15 (6) "Hearing instrument specialist" or "specialist", a person licensed by the state pursuant
16 to sections 346.010 to 346.250 who is authorized to engage in the practice of fitting hearing
17 instruments;

18 (7) "Hearing instrument specialist in-training", a person who holds a temporary permit
19 issued by the division to fit hearing instruments under the supervision of a hearing instrument
20 specialist;

21 (8) "License", a license issued by the state under sections 346.010 to 346.250 to hearing
22 instrument specialists;

23 (9) "Otolaryngologist", a person licensed to practice medicine and surgery in the state
24 of Missouri pursuant to chapter 334 and who spends the majority of the person's practice seeing
25 patients with ear, nose, and throat diseases;

26 (10) "Person", an individual, corporation, partnership, joint venture, association, trust
27 or any other legal entity;

28 (11) "Practice of fitting hearing instruments", [the selection, adaptation, and sale of
29 hearing instruments, including the testing and evaluation of hearing by means of an audiometer
30 and the making of impressions for earmolds] **eliciting patient histories; performing**
31 **comprehensive hearing evaluations, including administering otoscopy and performing**
32 **tympometry; administering and interpreting tests of human hearing; referring as**
33 **appropriate for cochlear implant evaluation or other clinical, rehabilitative, or medical**
34 **interventions; determining candidacy for hearing aids, tinnitus management devices, and**
35 **other assistive listening devices; providing recommendation, selection, and sale of a hearing**
36 **aid, tinnitus management device, or assistive device; performing hearing aid fittings,**
37 **programming, and adjustments; assessing hearing aid efficacy utilizing appropriate fitting**
38 **verification methodology; performing hearing aid repairs; administering cerumen**
39 **management in the course of examining ears, taking ear impressions or fitting of hearing**
40 **aids; taking ear impressions and preparing, designing, and modifying ear molds; providing**
41 **counseling and aural rehabilitation services; providing supervision and in-service training**
42 **of those entering the dispensing profession; providing hearing health education; providing**
43 **community services, such as in hearing conservation programs, school testing programs,**
44 **or working with organizations serving individuals with hearing loss, and the deaf;**

45 **providing assistive technologies for public and private individuals, classrooms, and**
46 **vocational needs; or any other manner consistent with federal law;**

47 (12) "Registration of supervision", the process of obtaining a certificate of authority
48 issued by the division to a hearing instrument specialist that enables the specialist to supervise
49 one or more hearing instrument specialists in-training, as defined by division rules;

50 (13) "Sell or sale", any transfer of title or of the right to use by lease, bailment, or any
51 other contract, excluding wholesale transactions with distributors or dealers;

52 (14) "Supervised training", the program of education and experience, as defined by
53 division rule, required to be followed by each hearing instrument specialist in-training;

54 (15) "Supervisor", a hearing instrument specialist who has filed a registration of
55 supervision with the board and has received from the division a certificate of authority;

56 (16) "Temporary permit", a permit issued by the division while the applicant is in
57 training to become a licensed hearing instrument specialist.

346.055. 1. An applicant may obtain a license [by successfully passing a qualifying
2 examination of the type described in sections 346.010 to 346.250,] provided the applicant:

3 (1) Is at least eighteen years of age; and

4 (2) Is of good moral character; and

5 (3) **Successfully passes a qualifying examination as described under sections**
6 **346.010 to 346.250; and**

7 (4) (a) Holds an associate's degree or higher, from a state or regionally accredited
8 institution of higher education, in hearing instrument sciences; or

9 (b) Holds an associate's level degree or higher, from a state or regionally accredited
10 institution of higher education[, and submits proof of completion of the International Hearing
11 Society's Distance Learning for Professionals in Hearing Health Sciences [course, and submits
12 proof of completion of the Hearing Instrument Specialists in Training program as established by
13 the Board of Examiners for Hearing Instrument Specialists] **Course**; or

14 (c) Holds a master's or doctoral degree in audiology from a state or regionally accredited
15 institution; or

16 (d) Holds a current, unsuspended, unrevoked license from another jurisdiction if the
17 standards for licensing in such other jurisdiction, as determined by the board, are substantially
18 equivalent to or exceed those required in paragraph (a) or (b) of subdivision (3) of this
19 subsection; or

20 (e) Holds a current, unsuspended, unrevoked license from another jurisdiction, has been
21 actively practicing as a licensed hearing aid fitter or dispenser in another jurisdiction for no less
22 than forty-eight of the last seventy-two months, and submits proof of completion of advance

23 certification from either the International Hearing Society or the National Board for Certification
24 in Hearing Instrument Sciences.

25 2. The provisions of subsection 1 of this section shall not apply to any person holding
26 a valid Missouri hearing instrument specialist license under this chapter when applying for the
27 renewal of that license. These provisions shall apply to any person holding a hearing instrument
28 specialist-in-training permit at the time of their application for licensure or renewal of said
29 permit.

30 3. (1) The board shall promulgate reasonable standards and rules for the evaluation of
31 applicants for purposes of determining the course of instruction and training required of each
32 applicant for a hearing instrument specialist license under the requirement of subdivision (3) of
33 subsection 1 of this section.

34 (2) Any rule or portion of a rule, as that term is defined in section 536.010, that is created
35 under the authority delegated in this section shall become effective only if it complies with and
36 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
37 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
38 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule
39 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
40 proposed or adopted after August 28, 2013, shall be invalid and void.

 346.120. 1. There is hereby established the "Missouri Board of Examiners for Hearing
2 Instrument Specialists", which shall guide, advise and make recommendations to the division.
3 [The council for hearing aid dealers and fitters is abolished. Nothing herein shall be construed
4 to prevent the appointment of any current member of the council for hearing aid dealers and
5 fitters to the Missouri board of examiners for hearing instrument specialists upon August 28,
6 1995.]

7 2. Members of the board shall be United States citizens and residents of the state for a
8 period of not less than one year. The board shall consist of [five] **seven** hearing instrument
9 specialists[, one otolaryngologist,] **and** one voting public member [and one] . **One hearing**
10 **instrument specialist position may be an** audiologist [holding a certificate of clinical
11 competence and] **who is** licensed pursuant to [chapter] **both chapters 345 and 346. One**
12 **hearing instrument specialist position may be an otolaryngologist who is not required to**
13 **be licensed under chapter 346.** Each hearing instrument specialist on the board shall have no
14 less than five years of experience in the practice of fitting hearing instruments and shall hold a
15 valid license as a hearing instrument specialist as provided in sections 346.010 to 346.250.

16 3. Each member of the board shall be appointed by the governor with the advice and
17 consent of the senate. The term of office of each member shall be for four years, except that the
18 first board appointed shall consist of two members, one of which shall be the public member,

19 whose terms shall be for four years, two members whose terms shall be for three years, two
20 members whose terms shall be for two years and two members whose terms shall be for one
21 year. Upon the expiration of a member's term, the governor shall appoint a successor. The
22 members of the board shall annually designate one member to serve as chairperson and another
23 to serve as vice chairperson. Upon the absence of the chairperson, the vice chairperson shall
24 assume the duties of the chairperson.

25 4. No member of the board who has served a full term may be reappointed to the board
26 until at least one year after the expiration of the member's term of office.

27 5. Each member of the board shall receive as compensation an amount set by the division
28 for each day devoted to the affairs of the board and shall be reimbursed for the member's actual
29 and necessary expenses incurred in the performance of the member's duties.

30 6. The public member shall be at the time of appointment a citizen of the United States,
31 a resident of this state for a period of one year and a registered voter; a person who is not, and
32 never was, a member of any profession licensed or regulated under this chapter or the spouse of
33 such person; and a person who does not have, and never has had, a material financial interest in
34 either the providing of the professional services regulated by this chapter, or any activity or
35 organization directly related to any profession licensed or regulated under this chapter. The
36 duties of the public member shall not include the determination of the technical requirements to
37 be met for licensure or whether any person meets such technical requirements or of the technical
38 competence or technical judgment of a licensee or a candidate for licensure.

39 7. No member of the board shall use his or her position on the board to advance any
40 financial or material interest the member may have in the provision of professional services
41 regulated by sections 346.010 to 346.250. Members of the board may be removed from office
42 for cause. Upon death, resignation or removal from office of any member of the board, any such
43 vacancy shall be filled by the governor.

44 8. The board may sue and be sued as the Missouri board of examiners for hearing
45 instrument specialists, and its members need not be named as parties.
46 Members of the board shall not be personally liable, either jointly or severally, for any act
47 committed in the performance of their official duties as board members, nor shall any board
48 member be personally liable for any costs which accrue in any action by or against the board.

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