

# Bill as Introduced

HB 272-FN - AS INTRODUCED

2011 SESSION

11-0108

10/01

HOUSE BILL            **272-FN**

AN ACT                requiring hearing aid dealers to post a surety bond.

SPONSORS:            Rep. Emerton, Hills 7; Rep. Emerson, Ches 7; Rep. Pilliod, Belk 5; Rep. Dowling, Rock 5; Rep. Benn, Graf 9

COMMITTEE:          Executive Departments and Administration

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ANALYSIS

This bill requires hearing aid dealers registered with the hearing care board to post a surety bond to pay the cost of repairs when the dealer terminates his or her business.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears [~~in brackets and struck through~~].  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eleven*

AN ACT                    requiring hearing aid dealers to post a surety bond.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 Hearing Aid Dealers; Reference to Bond Requirement. Amend RSA 137-F:8 to read as follows:  
2            137-F:8 Registration of Hearing Aid Dealers Required. No person shall engage in the business  
3 of selling or offering for rent hearing aids unless such person is registered **and gives a surety bond**  
4 in accordance with this chapter and unless the registration of such person is current and valid. This  
5 section includes the selling or renting of hearing aids by mail in this state by a person outside the  
6 state. Registration certificates shall be renewed annually on or before June 30.

7            2 Hearing Aid Dealers; Bond Requirement. Amend the section heading of RSA 137-F:9 to read  
8 as follows:

9            137-F:9 Application for Registration; Fees; **Bond**.

10           3 New Paragraph; Hearing Aid Dealers; Bond Requirement Added. Amend RSA 137-F:9 by  
11 inserting after paragraph II the following new paragraph:

12           III. No registration for a hearing aid dealer shall be issued or renewed until the applicant  
13 gives to the board a surety bond in any form approved by the board in a sum of not less than \$15,000,  
14 executed by the applicant and by a surety company authorized to do business in this state. The bond  
15 shall be payable to any person aggrieved by the termination of the business of the registered hearing  
16 aid dealer in this state for the cost of repairs and maintenance, subject to the approval of the board of  
17 the costs. Such person may maintain an action in his or her own name upon the bond in any court  
18 having jurisdiction of the amount claimed, provided, however, that the aggregate liability of the  
19 surety to all persons shall, in no event, exceed the sum of such bond. Any remedies provided by this  
20 paragraph shall not be exclusive of any other remedy which would otherwise exist.

21           4 Effective Date. This act shall take effect January 1, 2012.

LBAO  
11-0108  
12/06/10

**HB 272-FN - FISCAL NOTE**

AN ACT            requiring hearing aid dealers to post a surety bond.

**FISCAL IMPACT:**

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2011 through 2015.

# Speakers



# Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 272-FN

**BILL TITLE:** requiring hearing aid dealers to post a surety bond.

**DATE:** 2/8/11

**LOB ROOM:** 306      **Time Public Hearing Called to Order:** 10:00 am

**Time Adjourned:**

(please circle if present)

**Committee Members:** Reps. McGuire, Hawkins, Sytek, Day, Gould, Pratt, Vita, Perkins, Winter, Bowers, Whitehead, Hansen, Proulx, Schmidt, Pilotte, Jeudy and Sullivan.

**Bill Sponsors:** Rep. Emerton, Hills 7; Rep. Emerson, Ches 7; Rep. Pilliod, Belk 5; Rep. Dowling, Rock 5; Rep. Benn, Graf 9

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

Rep. Emerton – Prime Sponsor

Helps people who purchase a hearing aid and subsequently the company went out of business  
Other dealers would not service hearing aid from the defunct company  
There should probably be a time frame under which the consumer would be able to make a claim under the surety bond.  
If company goes out of business any warranty for the hearing aid may not be valid.  
The purpose of the bond might go beyond the warranty with current language.

Rep. Emerson – Co-Sponsor – Chairs Commission of Deaf and Hard of Hearing

Some complaints about companies disappearing  
Should mirror the bond after the warranty (2 years)  
Bonds would not be cost prohibitive for the company  
The bill refers to the dealers and not manufacturers  
Would have preferred \$100K bond

**Robert Bartoluci** - Avada Hearing Aid

Should audiologists also need to be funded  
Warrantees are from the manufacturer and not the dealer – generally 1-2 years  
Claims that any person from a defunct company would be welcome. He would happily service this hearing aid.  
There is currently no company that would write a bond for this case.  
Patient could send hearing aid to manufacturer for repair.  
May not be able to have all software to service all companies hearing instruments

Carol M. Vita



**David Dachowski** – Owner – Hearing aid company

Believes this is legislators acting on their own agenda.

Would be glad to service any patient's instrument in case that company goes out of business

Only warranty on hearing aids is from manufacturers

After warranty expires, patient would be charged from any provider

Several dealers will service long after expiration of the warranty

Believes this is an intrusion of government in private business

**James Boffetti** – Sr. Asst. Attorney General

Received 24 complaints over last 2 years from people who have bought extended coverage or never got hearing aid

Most complaints involved same business with multiple franchises.

**Herb Hodgdon** – In business for 41 years

Has never had a complaint against his company

Only company ever complained against was "My Life" which has gone out of business

As president of board only 5 complaints over several years except for this one rogue company

No bond should extend more than 2 years

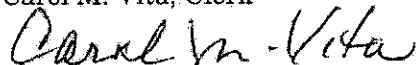
**Don Gross** – Franchiser in Mass. (Miracle Aid)

Does not see problem – the product is always warranted by the manufacturer.

**Kurk Carmhen** – Self – No insurance would want to bond him if he went out of business.

Respectfully submitted,

Carol M. Vita, Clerk



Maurice Pilotte, Asst. Clerk

P.1 of 4

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

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Bill Sponsors: Rep. Emerton, Hills 7; Rep. Emerson, Ches 7; Rep. Pilliod, Belk 5; Rep. Dowling, Rock 5; Rep. Benn, Graf 9

TESTIMONY

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Rep Emerton - Prime Sponsor.
Rep Emerson - Co-sponsor

- Helps people who purchase a hearing aid and subsequently the company goes out of business
- Other dealers would not service hearing aid from the defunct company.
- There should probably be a time frame under which the consumer would be able to make a claim under the surety bond.
- If company goes out of business any warranty for the hearing aid may not be valid.
- The purpose of the bond might go beyond the warranty w/ current language.

Rep Emerson - Co-Sponsor
- Chairs Committee of Deaf + Hard of Hearing
- Some complaints about companies disappearing
- should mirror the bond after the warranty (2 yrs)

F.B. 272

Rep Emerson -

- Bonds would not be cost prohibitive for the company
- The bill refers to the dealers & not manufacturers
- Would have preferred \$100K Bond

Robert Bastaruci - Arada Hearing aid

- Should audiologists also need to be bonded
- Warranties are from the manufacturer & not the dealer
- Generally 1-2 years
- Claims that any person from a defunct company would be welcome, to ~~try~~ He would happily service this hearing aid
- There is currently no company that would write a bond for this case
- Patient could send hearing to manufacturer for repair
- May not be able to have all software to service all companies' hearing instruments

David Dackowski - owner - Hearing aid company

- Believes this is legislators acting on their own agenda

H.B. 272.

3

David Dackowski -

- Would be glad to service any patient's instrument in case that company goes out of business.
- Only warranty on hearing aids is from manufacturer.
- After warranty expires patient would be charged from any provider.
- Several dealers will service Coys after expiration of the warranty.
- Believes this is an intrusion of government in private business.

James Boffotti Sr. Asst. A.G.

- ~~Have~~ Received 24 complaints over last 2 years - from people who have bought extended coverage or never got hearing aid.
- Most complaints involved same business w/ multiple franchises.

Herb Hodgdon - In business for 41 years

- has never had a complaint against his company.
- Only company ever complained against was "my life" which has gone out of business.

H.B. 272

Herb Hodson -

- As president of board only 5 complaints over several years except for this one rogue company.
- No bond should extend more than 2 years

Don Gross - Franchises in Mass (Miracle Aid)

- Does not see problem - the product is always warranted by the manufacturer.

Kurt Carmhan - self -

- No insurance would want to bond him if he went out of business

# Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 272-FN

**BILL TITLE:** requiring hearing aid dealers to post a surety bond.

**DATE:** February 16, 2011

**LOB ROOM:** 306

**Amendments:**

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Schmidt

Seconded by Rep. Bowers

Vote: 16-0 (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

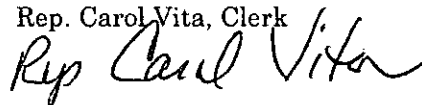
**CONSENT CALENDAR VOTE: 16-0**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Carol Vita, Clerk



HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 272-FN

BILL TITLE: requiring hearing aid dealers to post a surety bond.

DATE: 2/16/11

LOB ROOM: 306

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. SCHMIDT

Seconded by Rep. BOWERS

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Carol Vita, Clerk



EXECUTIVE DEPARTMENTS AND ADMINISTRATION

Bill #: 272 FN Title: \_\_\_\_\_

PH Date: 2, 8, 11

Exec Session Date: 2/16/11

Motion: ITL

Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
McGuire, Carol M, Chairman	✓	
Hawkins, Kenneth, V Chairman	✓	
Sytek, John J	✓	
Day, Russell C	✓	
Gould, Kenneth H	✓	
Pratt, Calvin D	✓	
Vita, Carol M, Clerk	✓	
Perkins, Lawrence B	✓	
Winter, Steven J	✓	
Bowers, Spec	✓	
Hansen, Peter T	✓	
Proulx, Mark L	✓	
Whitehead, Randall A	✓	
Schmidt, Peter B	✓	
Pilotte, Maurice L	✓	
Jeudy, Jean L	✓	
Sullivan, Daniel J		A
TOTAL VOTE:	16	0

# Committee Report

**CONSENT CALENDAR**

**February 17, 2011**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on EXECUTIVE DEPARTMENTS AND  
ADMINISTRATION to which was referred HB272-FN,**

**AN ACT requiring hearing aid dealers to post a surety  
bond. Having considered the same, report the same  
with the following Resolution: RESOLVED, That it is  
INEXPEDIENT TO LEGISLATE.**

**Rep. Peter B Schmidt**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>EXECUTIVE DEPARTMENTS AND ADMINISTRATION</b>
Bill Number:	<b>HB272-FN</b>
Title:	<b>requiring hearing aid dealers to post a surety bond.</b>
Date:	<b>February 17, 2011</b>
Consent Calendar:	<b>YES</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### STATEMENT OF INTENT

The committee heard persuasive testimony from knowledgeable witnesses that this bill, though well-intentioned, is both unnecessary and unworkable. Several dealers testified that surety bonds of the type mandated by the bill are unavailable in the insurance market. Further, hearing aid warranties are provided by manufacturers, not dealers. Lastly, the type of difficulties which prompted the bill sponsor to bring this legislation all traced back to one franchise operation, which has since gone out of business.

Vote 16-0.

Rep. Peter B Schmidt  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## **CONSENT CALENDAR**

### **EXECUTIVE DEPARTMENTS AND ADMINISTRATION**

**HB272-FN**, requiring hearing aid dealers to post a surety bond. **INEXPEDIENT TO LEGISLATE.**

Rep. Peter B Schmidt for EXECUTIVE DEPARTMENTS AND ADMINISTRATION. The committee heard persuasive testimony from knowledgeable witnesses that this bill, though well-intentioned, is both unnecessary and unworkable. Several dealers testified that surety bonds of the type mandated by the bill are unavailable in the insurance market. Further, hearing aid warranties are provided by manufacturers, not dealers. Lastly, the type of difficulties which prompted the bill sponsor to bring this legislation all traced back to one franchise operation, which has since gone out of business.

**Vote 16-0.**

Original: House Clerk  
Cc: Committee Bill File

HB 372

The committee heard persuasive testimony from knowledgeable witnesses that this bill, though well-intentioned, is both unnecessary and unworkable. Several dealers testified that surety bonds of the type mandated by the bill are unavailable in the insurance market. Further, hearing aid warranties are provided by manufacturers, not dealers. Lastly, the type of difficulties which prompted the bill sponsor to bring this legislation all traced back to one franchise operation, which has since gone out of business.

Peter Schmidt for the Committee

*Carol M. Quire*

**Culberson, Kay**

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**From:** reppbs [reppbs@mail.ttlc.net]  
**Sent:** Thursday, February 17, 2011 10:46 AM  
**To:** Culberson, Kay  
**Subject:** Fw: proposed blurb for HB 272-FN

HB 272-FN, requiring hearing aid dealers to post a surety bond. INEXPEDIENT TO LEGISLATE.

Rep. Peter B Schmidt for Executive Departments and Administration: The committee heard persuasive testimony from knowledgeable witnesses that this bill, though well-intentioned, is both unnecessary and unworkable. Several dealers testified that surety bonds of the type mandated by the bill are unavailable in the insurance market. Further, hearing aid warranties are provided by manufacturers, not dealers. Lastly, the type of difficulties which prompted the bill sponsor to bring this legislation all traced back to one franchise operation, which has since gone out of business. VOTE 16-0.

*Peter B. Schmidt*  
*Carol M. Davis*

# COMMITTEE REPORT

COMMITTEE: EDKA

BILL NUMBER: HB292-FU

TITLE: \_\_\_\_\_

DATE: 2/16 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No.  
\_\_\_\_\_

**STATEMENT OF INTENT:**

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COMMITTEE VOTE: 16-0

- Copy to Committee Bill File
- Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,  
Rep. Carol Vitar  
For the Committee