

(I) BUY A PRODUCT OR SERVICE FROM THE PERSON GIVING THE THING OF VALUE; OR

(II) REFRAIN FROM BUYING A PRODUCT OR SERVICE OF A COMPETITOR OF THE PERSON GIVING THE THING OF VALUE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 56, § 526(a), as that subsection related to a violation of § 521(8).

Defined terms: "Person" § 1-101
"Provide hearing aid services" § 8-101

8-515. ADVERTISING PROFESSIONAL METHODS OR SUPERIORITY.

WHILE PROVIDING OR OFFERING TO PROVIDE HEARING AID SERVICES, A PERSON MAY NOT ADVERTISE PROFESSIONAL METHODS OR PROFESSIONAL SUPERIORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 56, § 526(a), as that subsection related to a violation of § 521(5).

The Business Occupations Article Review Committee notes, for consideration by the General Assembly, that this section may be an unconstitutional restriction on commercial speech, as protected by the 1st Amendment to the United States Constitution. Bates v. State Bar of Arizona, 433 U.S. 350, 363, 97 S.Ct. 2691, 2698 (1977), reh'g denied, 434 U.S. 881, 98 S.Ct. 242 (1977); Virginia Pharmacy Board v. Virginia Citizens Consumer Council, 425 U.S. 748, 761-62, 96 S.Ct. 1817, 1825-26 (1976). The United States Supreme Court has developed a 4 part test to determine whether a restriction on commercial speech is constitutional. The first step is to determine whether the speech is truthful, is not misleading, and concerns a lawful activity. If so, that speech can only be restricted if the restriction seeks to implement a substantial government interest, directly advances that interest, and reaches no farther than necessary to accomplish its objective. Metromedia, Inc. v. City of San Diego, 453 U.S. 490, 507, 101 S.Ct. 2882, 2892 (1981); Central Hudson Gas & Electric Corp. v. Public Service Commission, 447 U.S. 557, 566, 100 S.Ct. 2343, 2351 (1980).

A substantial government interest, such as protecting the welfare of hearing impaired individuals, may exist. However, it is unclear how a prohibition on advertising professional methods or professional