

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 875 of the Regular Session

As Engrossed: H2/2/05 S3/3/05

A Bill

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

HOUSE BILL 1209

4
5 By: Representative Thomason
6 By: Senator Hill

7
8
9 **For An Act To Be Entitled**

10 AN ACT TO REQUIRE DISCLOSURES BY SELLERS OF
11 HEALTH-RELATED CASH DISCOUNT CARDS; TO PROVIDE A
12 CANCELLATION PERIOD FOR THE PURCHASE OF HEALTH-
13 RELATED DISCOUNT CARDS; AND FOR OTHER PURPOSES.

14
15
16 **Subtitle**

17 AN ACT TO REQUIRE DISCLOSURES BY SELLERS
18 OF HEALTH-RELATED CASH DISCOUNT CARDS
19 AND TO PROVIDE A CANCELLATION PERIOD FOR
20 THE PURCHASE OF HEALTH-RELATED DISCOUNT
21 CARDS.

22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Legislative intent.

27 (a) It is found and determined by the General Assembly that:

28 (1) Consumers in the State of Arkansas purchase health-related
29 cash discount cards with the expectation that all health-related cash
30 discount cards will provide significant savings for the cost of health care;

31 (2) Many consumers in the State of Arkansas purchase health-
32 related cash discount cards without the seller providing a full explanation
33 of the range of discounts offered and whether consumers' health-care
34 providers will accept the card; and

35 (3) Many health-related cash discount card providers do not



1 clearly indicate in advertisements or during the sales process that discount
 2 cards are not insurance.

3 (b) This act is intended to provide consumers in the State of Arkansas
 4 with:

5 (1) Additional protections that will ensure that they have
 6 sufficient information with which to make an informed decision before
 7 agreeing to purchase a health-related cash discount card; and

8 (2) A sufficient time period in which to cancel a health-related
 9 cash discount card.

10
 11 SECTION 2. Arkansas Code § 4-106-201 is amended to read as follows:

12 4-106-201. Prohibited practices.

13 It shall be unlawful and a violation of this subchapter for any person
 14 to sell, market, promote, advertise, or otherwise distribute any card or
 15 other purchasing mechanism or device which is not insurance that purports to
 16 offer discounts or access to discounts from health care providers in health-
 17 related purchases where:

18 (1) The card or other purchasing mechanism or device does not
 19 *expressly provide in bold and prominent type that the discounts are not*
 20 *insurance;*

21 (2) The card or other purchasing mechanism or device does not
 22 expressly provide in bold and prominent type on the card or a statement
 23 attached to the card that the consumer has the right to cancel his or her
 24 registration within thirty (30) days from the effective date of the card or
 25 other purchasing mechanism or device;

26 ~~(2)(3)~~ The discounts are not specifically authorized by an
 27 individual and separate contract with each health care provider listed in
 28 conjunction with the card or other purchasing mechanism or device; ~~or~~

29 ~~(3)(4)~~ The discounts or access to discounts offered or the range
 30 of discounts or access to the range of discounts offered are, regardless of
 31 the literal wording used:

32 (A) Misleading;

33 (B) Deceptive; or

34 (C) Fraudulent;

35 ~~(4)(5)~~ The card or any advertisements for the card in any form,
 36 include words or phrases that are commonly associated with the business of

1 insurance, such as "health plan", "pre-existing condition", or "coverage" in
2 a way that could have a tendency to deceive the public into believing that
3 the cards are a form of insurance.

4 ~~(5)~~(6) The contract for the card or other purchasing mechanism
5 or device, or any other document that is provided to the consumer at the time
6 the card or other purchasing mechanism or device is received, does not
7 contain:

8 (A) Information in bold and prominent type that a consumer
9 has the right to cancel his or her registration within thirty (30) days from
10 the effective date of the card or other purchasing mechanism or device; and

11 (B) Instructions on how a consumer may cancel his or her
12 registration;

13 (7) Printed advertisements and other printed promotional
14 materials concerning the card or other purchasing mechanism or device do not
15 expressly provide in bold and prominent type that:

16 (A) The discounts are not insurance; and

17 (B) The card or other purchasing mechanism or device
18 contains a thirty-day cancellation period; or

19 (8) Electronic advertisements and other electronic promotions
20 concerning the card or other purchasing mechanism or device, including, but
21 not limited to, radio, television, the Internet, and telephone solicitations,
22 do not expressly state in a prominent manner that:

23 (A) The discounts are not insurance; and

24 (B) A consumer has the right to cancel the registration
25 within a thirty-day period under § 4-106-205.

26
27 SECTION 3. Arkansas Code § 4-106-202(a), pertaining to persons who may
28 enjoin violations related to health-discount cards, is amended to read as
29 follows:

30 (a) ~~Any~~ The Attorney General, any person, firm, private corporation,
31 municipal or other public corporation, or trade association may maintain an
32 action to enjoin a continuance of any act or acts in violation of this
33 subchapter and for the recovery of damages.

34
35 SECTION 4. Arkansas Code § 4-106-202(c), pertaining to venue for
36 actions related to health-discount cards, is amended to read as follows:

(c) An action for violation of this section may be brought:

(1) In the county where the plaintiff resides;

(2) In the county where the plaintiff conducts business; ~~or~~

(3) In the county where the card or other purchasing mechanism or device was sold, marketed, promoted, advertised, or otherwise distributed; or

(4) In the Pulaski County Circuit Court if the action is initiated by the Attorney General.

SECTION 5. Arkansas Code Title 4, Chapter 1, Subchapter 2 is amended to add a new section to read as follows:

4-106-205. Right to rescind contract -- No waiver of claims.

(a) In addition to any other right to revoke an offer, a buyer who enters into a contract for the purchase of a health-related discount card or other purchasing mechanism or device has the absolute right to cancel the contract and receive a full refund without penalty until midnight of the thirtieth calendar day after the effective date of the card or other purchasing mechanism or device.

(b) The acceptance or use of any card or other purchasing mechanism or device is not a waiver of:

(1) Any claim that may be asserted under this subchapter or under §§ 4-88-101 – 115; or

(2) Any other applicable criminal, civil, or administrative penalties.

/s/ Thomason

APPROVED: 3/16/2005

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