

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 2213

5 By: Representative Henderson
6

For An Act To Be Entitled

8 AN ACT CONCERNING ARKANSAS PRICE DISCRIMINATION; TO
9 ALLOW RETAILERS TO OFFER DISCOUNTS TO CUSTOMERS; TO
10 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

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13 CONCERNING ARKANSAS PRICE DISCRIMINATION;
14 TO ALLOW RETAILERS TO OFFER DISCOUNTS TO
15 CUSTOMERS; AND TO DECLARE AN EMERGENCY.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. DO NOT CODIFY. Legislative findings and purpose.

22 (a) The General Assembly finds that:

23 (1) Arkansas consumers benefit from discount programs that
24 retailers provide to consumers, such as coupons, loyalty programs, and
25 discounts to members of certain groups, such as students, senior citizens, or
26 members of the United States Armed Forces;

27 (2) Arkansas retailers should have the right to design discount
28 programs for their customers that offer discounts without charge on a
29 nondiscriminatory basis to all members of the public or on a
30 nondiscriminatory basis to all members of a particular group of consumers;

31 (3) Arkansas retailers that have implemented such discount
32 programs in the past should not be held liable for penalties by those persons
33 who chose not to participate in such programs or who were not eligible for
34 such programs; and

35 (4) It is in the best interests of the consumers of this state
36 to allow retailers to design and implement discount programs for consumers



1 without fear of liability.

2 (b) The purpose of this act is to clarify that current Arkansas law
 3 does not prohibit a retailer from offering discounts without charge on a
 4 nondiscriminatory basis to all members of the public or on a
 5 nondiscriminatory basis to all members of a particular group of consumers.

7 SECTION 2. Arkansas Code § 4-75-501 is amended to read as follows:

8 4-75-501. Manufactured products, coal oil, or dressed beef.

9 (a) It ~~shall be~~ is unlawful for any person, company, corporation, or
 10 association engaged in the sale of any manufactured product, coal oil, or
 11 dressed beef, to:

12 (1) Sell any such manufactured product, coal oil, or dressed
 13 beef at a greater cash price at any place in this state, than the person,
 14 company, corporation, or association sells the manufactured product, coal
 15 oil, or dressed beef at other points in this state, after making due
 16 allowance for difference in cost of carriage or other necessary cost; or

17 (2) Willfully refuse or fail to allow to any person,
 18 corporation, or company making purchases of the manufactured product, coal
 19 oil, or dressed beef all rebates and discounts which are granted by them to
 20 other purchasers, for cash, of like quantities of the manufactured product,
 21 coal oil, or dressed beef.

22 (b) This section does not apply to:

23 (1) A discount or rebate that is offered without charge to all
 24 purchasers on an equal basis, regardless of whether the purchaser chooses to
 25 accept or fulfill any of the nonmonetary conditions for receiving the
 26 discount or rebate; or

27 (2) A discount or rebate that is offered without charge to all
 28 members of a specified group, including without limitation senior citizens,
 29 students, or current or former members of the armed forces if that group
 30 shall not be defined by race, color, sex, religion, or national origin of the
 31 purchaser.

32 ~~(b)(1)(c)(1)~~ Any A person, company, corporation, or association
 33 ~~violating any of the provisions of~~ that violates this section shall forfeit
 34 not less than two hundred dollars (\$200) nor more than one thousand dollars
 35 (\$1,000) for ~~every such~~ each offense.

36 (2) Each unlawful sale or refusal or failure to allow the rebate

1 or discount ~~shall constitute~~ constitutes a separate offense.

2 ~~(e)-(1)(d)(1)~~ The penalty in cases ~~pursuant to~~ under this section is to
3 be recovered by an action in the name of the person, company, corporation, or
4 association damaged by the greater price or refusal of, or failure to allow,
5 the rebate or discount or in the name of the state at the relation of any
6 prosecuting attorney in this state.

7 (2)(A) The moneys ~~thus~~ collected under subdivision (d)(1) of
8 this section shall be paid to the person, company, corporation, or
9 association bringing the suit, ~~and, when the suit,~~

10 (B) If a suit is brought in the name of the state, ~~the~~
11 ~~moneys collected shall be paid,~~ one-fourth ($\frac{1}{4}$) of the moneys collected shall
12 be paid to the prosecuting attorney bringing the suit and three-fourths ($\frac{3}{4}$)
13 of the moneys collected shall be paid to the Public School Fund.

14 (3) ~~Actions and suits~~ An action or suit under this section may
15 be brought in any county in which the offense was committed by action at law
16 or suit in equity in the circuit court.

17 (4)(A) ~~When the defendants are persons, companies, or~~
18 ~~associations,~~ If a defendant is a person, corporation, or association the
19 service of summons upon the ~~defendants~~ defendant in any county of this state
20 shall be a sufficient service.

21 (B) ~~Where~~ If the defendant is a corporation, the service
22 of summons upon any agent of the corporation in this state shall be a lawful
23 service.

24 (5) Several offenses under this section may be joined in one (1)
25 action or suit.

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27 SECTION 3. RETROACTIVITY. This act is retroactive to January 1, 2012.

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29 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
30 General Assembly of the State of Arkansas that discount and rebate programs
31 are not available to all Arkansas consumers; that requiring discount and
32 rebate programs to be available to all eligible consumers is important to the
33 economic stimulation of the state; and that this act is necessary because
34 Arkansas consumers will benefit from immediate access to discount and rebate
35 programs. Therefore, an emergency is declared to exist, and this act being
36 immediately necessary for the preservation of the public peace, health, and

1 safety shall become effective on:

2 (1) The date of its approval by the Governor;

3 (2) If the bill is neither approved nor vetoed by the Governor,
4 the expiration of the period of time during which the Governor may veto the
5 bill; or

6 (3) If the bill is vetoed by the Governor and the veto is
7 overridden, the date the last house overrides the veto.

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APPROVED: 04/03/2017

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