

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.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H2/2/05
A Bill

HOUSE BILL 1209

5 By: Representative Thomason
6
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8 **For An Act To Be Entitled**

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

16 AN ACT TO REQUIRE DISCLOSURES BY SELLERS
17 OF HEALTH-RELATED CASH DISCOUNT CARDS
18 AND TO PROVIDE A CANCELLATION PERIOD FOR
19 THE PURCHASE OF HEALTH-RELATED DISCOUNT
20 CARDS.
21
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Legislative intent.

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

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

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

34 (3) Many health-related cash discount card providers do not
35 clearly indicate in advertisements or during the sales process that discount
36 cards are not insurance.



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

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

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

8
9 SECTION 2. Arkansas Code § 4-106-201 is amended to read as follows:

10 4-106-201. Prohibited practices.

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

16 (1) The card or other purchasing mechanism or device does not
17 expressly provide in bold and prominent type that ~~the~~:

18 (A) The discounts are not insurance; and

19 (B) The consumer has the right to cancel his or her
20 registration within forty-five (45) days from the effective date of the card
21 or other purchasing mechanism or device;

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

25 (3) The discounts or access to discounts offered or the range of
26 discounts or access to the range of discounts offered are, regardless of the
27 literal wording used:

28 (A) Misleading;

29 (B) Deceptive; or

30 (C) Fraudulent;

31 (4) The card or any advertisements for the card in any form,
32 include words or phrases that are commonly associated with the business of
33 insurance, such as “health plan”, “pre-existing condition”, or “coverage” in
34 a way that could have a tendency to deceive the public into believing that
35 the cards are a form of insurance.

36 (5) The contract for the card or other purchasing mechanism or

1 device does not contain information in bold and prominent type that a
 2 consumer has the right to cancel his or her registration within forty-five
 3 (45) days from the effective date of the card or other purchasing mechanism
 4 or device;

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

8 (A) The discounts are not insurance; and

9 (B) The card or other purchasing mechanism or device
 10 contains a forty-five-day cancellation period as well as instructions on how
 11 a consumer may cancel his or her registration; or

12 (7) Electronic advertisements and other electronic promotions
 13 concerning the card or other purchasing mechanism or device, including, but
 14 not limited to, radio, television, the Internet, and telephone solicitations,
 15 do not expressly state in a prominent manner that:

16 (A) The discounts are not insurance; and

17 (B) A consumer has the right to cancel the registration
 18 within a forty-five-day period under § 4-106-205.

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

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

27
 28 SECTION 4. Arkansas Code § 4-106-202(c), pertaining to venue for
 29 actions related to health-discount cards, is amended to read as follows:

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

31 (1) In the county where the plaintiff resides;

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

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

36 (4) In the Pulaski County Circuit Court if the action is

1 initiated by the Attorney General.

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

5 4-106-205. Right to rescind contract -- No waiver of claims.

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

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

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

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

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19 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
20 General Assembly that consumers in the State of Arkansas purchase health-
21 related cash discount cards with the expectation that all health-related cash
22 discount cards will provide significant savings from the cost of health care;
23 that many consumers in the State of Arkansas purchase health-related cash
24 discount cards without the seller providing a full explanation of the range
25 of discounts offered and whether their health-care providers will accept
26 their card; that many health-related cash discount card providers do not
27 clearly indicate in advertisements or during the sales process that discount
28 cards are not insurance; that the provisions of this act will provide
29 consumers in the State of Arkansas with additional protections that will
30 ensure that consumers will have adequate time to cancel a health-related cash
31 discount card; and that a delay in the effective date of this act could work
32 irreparable harm upon consumers in Arkansas. Therefore, an emergency is
33 declared to exist and this act being immediately necessary for the
34 preservation of the public peace, health, and safety shall become effective
35 on:

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

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

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

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/s/ Thomason