

State of Arkansas

As Engrossed: S4/9/25

95th General Assembly

A Bill

Regular Session, 2025

SENATE BILL 441

By: Senators Hester, C. Penzo

By: Representative Pilkington

For An Act To Be Entitled

AN ACT TO CREATE THE JUNK LAWSUIT PREVENTION ACT OF
2025; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE JUNK LAWSUIT PREVENTION
ACT OF 2025.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Title.

This act shall be known and may be cited as the "Junk Lawsuit
Prevention Act of 2025".

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

4-106-201. Prohibited practices.

It shall be ~~unlawful and~~ a violation of this subchapter for any person to sell, market, promote, advertise, or otherwise distribute any card or other purchasing mechanism or device which is not insurance that purports to offer discounts or access to discounts from healthcare providers in health-related purchases in exchange for fees, dues, charges, or other financial consideration paid by a consumer if:

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

(2) The card or other purchasing mechanism or device does not expressly provide in bold and prominent type on the card or in a statement attached to the card that the consumer has the right to cancel his or her



1 registration within thirty (30) days from the effective date of the card or
2 other purchasing mechanism or device;

3 (3) The discounts are not specifically authorized by an
4 individual and separate contract with each healthcare provider listed in
5 conjunction with the card or other purchasing mechanism or device;

6 (4) The discounts or access to discounts offered or the range of
7 discounts or access to the range of discounts offered are, regardless of the
8 literal wording used:

9 (A) Misleading;

10 (B) Deceptive; or

11 (C) Fraudulent;

12 (5) The card or any advertisements for the card in any form
13 include words or phrases that are commonly associated with the business of
14 insurance, such as "health plan", "preexisting condition", or "coverage", in
15 a way that could have a tendency to deceive the public into believing that
16 the cards are a form of insurance;

17 (6) The contract for the card or other purchasing mechanism or
18 device, or any other document that is provided to the consumer at the time
19 the card or other purchasing mechanism or device is received, does not
20 contain:

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

24 (B) Instructions on how a consumer may cancel his or her
25 registration;

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

29 (A) The discounts are not insurance; and

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

32 (8) Electronic advertisements and other electronic promotions
33 concerning the card or other purchasing mechanism or device, including, but
34 not limited to, radio, television, the internet, and telephone solicitations,
35 do not expressly state in a prominent manner that:

36 (A) The discounts are not insurance; and

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

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4 SECTION 3. Arkansas Code § 4-106-202 is amended to read as follows:
5 4-106-202. Penalty.

6 (a)(1) ~~The Attorney General, any~~ Any person, firm, private
7 corporation, municipal or other public corporation, or trade association, if
8 injured, may maintain an action to enjoin a continuance of any act or acts in
9 violation of this subchapter and ~~for the recovery of~~ to recover damages.

10 (2) The Attorney General may maintain an action to enjoin a
11 continuance of any act or acts in violation of this subchapter and to recover
12 damages.

13 (b) Any person subject to liability under this section shall be deemed
14 as a matter of law to have purposely availed himself or herself of the
15 privileges of conducting activities within Arkansas sufficient to subject the
16 person to the personal jurisdiction of the circuit court hearing an action
17 brought pursuant to this subchapter.

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

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

20 (2) In the county where the plaintiff conducts business;

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

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

26 (d)(1) If, in such action, the court shall find that the defendant is
27 violating or has violated any of the provisions of this subchapter, it shall
28 enjoin the defendant from a continuance thereof.

29 (2) It shall not be necessary, except to recover for actual
30 damages ~~under subdivision (d)(3)(B) of this section~~, that actual damages to
31 the plaintiff be alleged or proved.

32 (3) In addition to injunctive relief, the plaintiff in the
33 action shall be entitled to recover from the defendant+

34 ~~(A) Whichever is greater+~~

35 ~~(i) One hundred dollars (\$100) per card or other~~
36 ~~purchasing mechanism or device sold, marketed, promoted, advertised, or~~

~~otherwise distributed within the State of Arkansas; or~~
~~(ii) Ten thousand dollars (\$10,000);~~
~~(B) Three three (3) times the amount of the actual~~
damages, if any, sustained;
~~(C) Reasonable attorney's fees;~~
~~(D) Costs; and~~
~~(E) Any other relief which the court deems proper.~~

(e)(1) All actions under this section shall be commenced within two
(2) years after the date on which the violation of this subchapter occurs or
within two (2) years after the person bringing the action discovers or in the
exercise of reasonable diligence should have discovered the occurrence of the
violation of this subchapter.

(2) The period of limitation provided in this section may be
extended for a period of one hundred eighty (180) days if the person bringing
the action proves by a preponderance of the evidence that the failure to
timely commence the action was caused by the defendant's engaging in conduct
solely calculated to induce the plaintiff to refrain from or postpone the
commencement of the action.

(f)(1) Any defendant in an action brought under the provisions of this
subchapter may be required to testify under § 16-43-211 and as otherwise
provided by law.

(2) In addition, the books and records of the defendant may be
brought into court and introduced, by reference, into evidence.

(g)(1) An action under this section may be brought by a consumer if,
before initiating an action against a business for damages on an individual
or class-wide basis, a consumer provides a business thirty (30) days' written
notice identifying the specific provisions of this subchapter the consumer
alleges have been or are being violated.

(2) In the event a cure is possible and if within the thirty
(30) days under subdivision (g)(1) of this section the business cures the
noticed violation and provides the consumer an express written statement that
the violations have been cured and that no further violations shall occur, an
action for individual damages or class-wide damages shall not be initiated
against the business.

(h) The remedies prescribed in this section are cumulative and in
addition to the remedies prescribed in the Deceptive Trade Practices Act, §

1 4-88-101 et seq., and any other applicable criminal, civil, or administrative
2 penalties.

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4 SECTION 4. DO NOT CODIFY. Retroactivity.

5 *This act is retroactive to January 1, 2021.*

6 /s/Hester
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