

1 State of Arkansas  
2 95th General Assembly  
3 Regular Session, 2025  
4

# A Bill

SENATE BILL 441

5 By: Senators Hester, C. Penzo  
6 By: Representative Pilkington  
7

## For An Act To Be Entitled

8  
9 AN ACT TO CREATE THE JUNK LAWSUIT PREVENTION ACT OF  
10 2025; AND FOR OTHER PURPOSES.  
11

## Subtitle

12  
13 TO CREATE THE JUNK LAWSUIT PREVENTION  
14 ACT OF 2025.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 SECTION 1. DO NOT CODIFY. Title.

20 This act shall be known and may be cited as the "Junk Lawsuit  
21 Prevention Act of 2025".  
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23 SECTION 2. Arkansas Code § 4-106-201 is amended to read as follows:  
24 4-106-201. Prohibited practices.

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

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

34 (2) The card or other purchasing mechanism or device does not  
35 expressly provide in bold and prominent type on the card or in a statement  
36 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~~

1 ~~otherwise distributed within the State of Arkansas; or~~

2 ~~(ii) Ten thousand dollars (\$10,000);~~

3 ~~(B) Three three (3) times the amount of the actual~~  
4 ~~damages, if any, sustained;~~

5 ~~(C) Reasonable attorney's fees;~~

6 ~~(D) Costs; and~~

7 ~~(E) Any other relief which the court deems proper.~~

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

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

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

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

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

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

35 (h) The remedies prescribed in this section are cumulative and in  
36 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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SECTION 4. DO NOT CODIFY. Retroactivity.

This act shall apply retroactively to an act that is alleged to be in violation of this subchapter that occurred before the effective date of this act.