

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H2/20/25 H2/26/25*

2 95th General Assembly

# A Bill

3 Regular Session, 2025

HOUSE BILL 1473

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5 By: Representative Pilkington

6 By: Senator C. Penzo

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## For An Act To Be Entitled

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AN ACT TO AMEND THE LAW CONCERNING HEALTH-RELATED

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CASH DISCOUNT CARDS; AND FOR OTHER PURPOSES.

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## Subtitle

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TO AMEND THE LAW CONCERNING HEALTH-

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RELATED CASH DISCOUNT CARDS.

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

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19 SECTION 1. Arkansas Code § 4-106-201 is amended to read as follows:

20 4-106-201. Prohibited practices.

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

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

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

35 (3) The discounts are not specifically authorized by an  
36 individual and separate contract with each healthcare provider listed in



1 conjunction with the card or other purchasing mechanism or device;

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

5 (A) Misleading;

6 (B) Deceptive; or

7 (C) Fraudulent;

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

13 (6) The contract for the card or other purchasing mechanism or  
14 device, or any other document that is provided to the consumer at the time  
15 the card or other purchasing mechanism or device is received, does not  
16 contain:

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

20 (B) Instructions on how a consumer may cancel his or her  
21 registration;

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

25 (A) The discounts are not insurance; and

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

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

32 (A) The discounts are not insurance; and

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

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36 SECTION 2. Arkansas Code § 4-106-202 is amended to read as follows:

1 4-106-202. Penalty.

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

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

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

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

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

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

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

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

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

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

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

30 ~~(A) Whichever is greater:~~

31 ~~(i) One hundred dollars (\$100) per card or other~~  
32 ~~purchasing mechanism or device sold, marketed, promoted, advertised, or~~  
33 ~~otherwise distributed within the State of Arkansas; or~~

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

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

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

2 ~~(D) Costs; and~~

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

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

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

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

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

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

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

31 (h) The remedies prescribed in this section are cumulative and in  
32 addition to the remedies prescribed in the Deceptive Trade Practices Act, §  
33 4-88-101 et seq., and any other applicable criminal, civil, or administrative  
34 penalties.

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36 SECTION 3. DO NOT CODIFY. Retroactivity.

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

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*/s/Pilkington*