

IC 24-5-21

Chapter 21. Prescription Drug Discount Cards

IC 24-5-21-1

Applicability

Sec. 1. This chapter does not apply to the following:

- (1) Eye or vision care services, glasses, or contact lenses provided by an optometrist or ophthalmologist.
- (2) A card, device, or other purchasing mechanism that is not insurance but that is administered in conjunction with a health or medical benefit by an insurance company, a nonprofit health service plan corporation, or a health maintenance organization.
- (3) A benefit administered by or under contract with the state of Indiana.
- (4) A customer discount or membership card issued by a store or buying club for use at that store or buying club.

As added by P.L.230-2001, SEC.1.

IC 24-5-21-2

"Person" defined

Sec. 2. As used in this chapter, "person" has the meaning set forth in IC 24-5-0.5-2.

As added by P.L.230-2001, SEC.1.

IC 24-5-21-3

Prohibitions against sale or distribution of card

Sec. 3. A person may not sell, market, promote, advertise, or distribute a card, device, or other purchasing mechanism that purports to offer discounts or access to discounts from a pharmacy for prescription drug or device purchases in the following situations:

- (1) The card, device, or other purchasing mechanism does not expressly state in bold and prominent type, which is prominently placed, that the discounts are not insurance.
- (2) The discounts are not specifically authorized by an individual and separate contract with each pharmacy listed with the card, device, or other purchasing mechanism.
- (3) The discounts or access to discounts offered, or the range of discounts or access to the range of discounts offered are deceptive or misleading.

As added by P.L.230-2001, SEC.1.

IC 24-5-21-4

Indiana resident designated as agent for service of process

Sec. 4. A person who is not exempt under section 1 of this chapter and who sells, markets, promotes, advertises, or distributes a card, device, or other purchasing mechanism that purports to offer discounts or access to discounts from a pharmacy for prescription drug or device purchases shall designate a resident in Indiana as an

agent for service of process and register the agent with the secretary of state.

As added by P.L.230-2001, SEC.1.

IC 24-5-21-5

Card voidable for noncompliance

Sec. 5. A contract entered into to purchase a card, device, or other purchasing mechanism that purports to offer discounts or access to discounts from a pharmacy for prescription drug or device purchases that does not comply with this chapter is voidable by the purchaser.

As added by P.L.230-2001, SEC.1.

IC 24-5-21-6

Legal action for violations

Sec. 6. (a) The attorney general, a prosecuting attorney, or an individual may maintain an action to enjoin any act that is in violation of this chapter and for the recovery of damages.

(b) An action brought under this section may be brought in the county where:

- (1) the plaintiff resides or conducts business;
- (2) the defendant resides or conducts business; or
- (3) the card, device, or other purchasing mechanism that purports to offer discounts or access to discounts from a pharmacy for prescription drug or device purchases was sold, marketed, promoted, advertised, or distributed.

(c) If the court finds that the defendant violated any provision of this chapter, the court shall enjoin the defendant from continuing the acts that are in violation of this chapter.

(d) A plaintiff who prevails in an action under this chapter may recover the following:

- (1) A sum equal to one hundred dollars (\$100) per card, device, or other purchasing mechanism that is sold or distributed in Indiana by the defendant or ten thousand dollars (\$10,000), whichever is greater.
- (2) Three (3) times the amount of actual damages, if any.
- (3) Reasonable attorney's fees.
- (4) Court costs.
- (5) Any other relief that the court considers proper.

As added by P.L.230-2001, SEC.1.

IC 24-5-21-7

Provisions not exclusive

Sec. 7. (a) The provisions of this chapter are not exclusive and do not relieve a person from compliance with other applicable provisions of law.

(b) The penalties in this chapter are cumulative and in addition to any other applicable penalties.

(c) A person that violates this chapter is subject to the penalties

set forth in IC 24-5-0.5.

(d) All actions brought under this chapter must be brought within two (2) years after the date on which the violation of this chapter occurred.

As added by P.L.230-2001, SEC.1.