

SENATE BILL No. 508

AN ACT concerning discount cards; filing requirements with the secretary of state; amending K.S.A. 50-1,101 and 50-1,103 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 50-1,101 is hereby amended to read as follows: 50-1,101. (a) Any supplier who markets, promotes, advertises or otherwise distributes any discount card in Kansas shall not make misleading, deceptive or fraudulent representations regarding the discount or range of discounts offered by such discount card or the access to any range of discounts offered by such discount card.

(b) Any supplier who sells any discount card in Kansas shall:

(1) *File an annual notice with the secretary of state of the intention to sell the discount card on a form as prescribed by the secretary of state to be signed under penalty of perjury.*

~~(1)~~ (2) State in bold and prominent type that such discount is not insurance on all advertisements and on all discount cards;

~~(2)~~ (3) have a separate contract with each health care provider or network of health care providers listed in conjunction with the discount card;

~~(3)~~ (4) not make misleading, deceptive or fraudulent representations regarding the discount or range of discounts offered by such discount card or the access to any range of discounts offered by such discount card; and

~~(4)~~ (5) (A) Except as provided in subparagraph (B), provide each prospective customer before purchase or at the time of the confirmation required by K.S.A. 50-672, and amendments thereto, a written list for each type of service offered in conjunction with the discount card containing the name, address, and phone number of the closest 25 health care providers in the prospective customer's service area that are contractually bound to honor the discount card. The written list of providers may be provided electronically if requested in that format by the prospective customer.

(B) Unless the supplier has complied with subparagraph (A), the supplier of the discount card must provide the customer a 30-day right to cancel and shall mail the written list required by subparagraph (A) of paragraph 4 within seven calendar days of the date of the transaction.

~~(5)~~ (6) Make available to each customer on an ongoing basis thereafter through a toll-free telephone number, the internet, or in writing upon request, the name, address and phone number of all health care providers in such customer's service area who are contractually bound to honor the discount card.

~~(6)~~ (7) Maintain a surety bond in the amount of \$50,000 ~~issued by a surety company authorized to do business in this state, or establish and maintain a surety account in the amount of \$50,000 at a federally insured bank, savings and loan association or federal savings bank located in this state. The surety bond shall be submitted to the secretary of state along with the annual notice. Each surety bond shall be approved by the attorney general prior to filing.~~ Each surety bond and surety account shall be subject to the following:

(A) A copy of the bond ~~or a statement identifying the depository, trustee and account number of the surety account,~~ and thereafter proof of annual renewal of the bond ~~or maintenance of the surety account,~~ shall be filed with the secretary of state *with the annual notice*. Each such filing shall be accompanied by a filing fee of no more than \$250 to cover the cost of filing and administration. Fees received under this act by the secretary of state shall be deposited in the state treasury to the credit of the information and copy service services fee fund.

(B) ~~A surety account shall be maintained until two years after the date that the discount card company ceases operations in the state. Funds from any surety account shall not be released to the discount card company without the specific consent of the attorney general.~~

~~(C)~~ No surety on a discount card company bond shall cancel such bond without giving written notice thereof to the secretary of state *and discount card company*. ~~Whenever the secretary of state receives notice of a surety's intention to cancel a discount card company's bond, the secretary of state shall notify the affected discount card company that, Unless such discount card company files another \$50,000 surety bond with the secretary of state or establishes a \$50,000 surety account on or before the cancellation date of such discount card company's surety bond,~~

then such discount card company will no longer be authorized to do business in this state *as a discount card company*.

~~(D)~~ (C) The bond ~~or surety account~~ shall be in favor of any person and the attorney general for the benefit of any person who is damaged by any violation of this act, including any violation by the supplier or by any other person which markets, promotes, advertises or otherwise distributes a discount card on behalf of the supplier. The bond shall cover any violation occurring during the time period during which the bond is in effect.

~~(E)~~ (D) Any person claiming against the bond ~~or surety account~~ for a violation of this act may maintain an action at law against the discount card company ~~and against the surety or trustee of the surety account. The aggregate liability of the surety or trustee of the surety account to all persons damaged by violations of this act may not exceed the amount of the surety bond or account.~~

(c) *The month in which the supplier files its first annual notice with the secretary of state is the month in which its filings are due annually thereafter.*

Sec. 2. K.S.A. 50-1,103 is hereby amended to read as follows: 50-1,103. (a) Any supplier who sells, markets, promotes, advertises or otherwise distributes any discount card in Kansas shall designate a resident agent, who is a resident of Kansas, ~~for service of process and such resident agent shall register with the secretary of state pursuant to K.S.A. 60-306 and amendments thereto, and a registered office in Kansas for service of process.~~ (1) *The supplier who sells any discount card shall file annually with the secretary of state the resident agent's name and registered office's address, which shall be a street address, on the annual notice form prescribed by the secretary of state to be signed under penalty of perjury.*

(2) *Any supplier who markets, promotes, advertises or otherwise distributes any discount card in Kansas shall designate a resident agent who is a resident of Kansas for service of process and such resident agent shall register with the secretary of state pursuant to K.S.A. 60-306, and amendments thereto, on forms that are prescribed by the secretary of state.*

(b) *An appointment shall be amended in writing and filed with the secretary of state whenever the resident agent's name or registered office's address is no longer accurate on a form as prescribed by the secretary of state. Each such filing shall be accompanied by a filing fee of no more than \$75 to cover the cost of filing and administration. Fees received under this act by the secretary of state shall be deposited in the state treasury to the credit of the information services fee fund.*

Sec. 3. K.S.A. 50-1,101 and 50-1,103 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.