325F.784 PRESCRIPTION DRUG DISCOUNTS.

Subdivision 1. **Regulation.** A person shall not sell, market, promote, advertise, or otherwise distribute any card or other purchasing mechanism or device that is not insurance that purports to offer discounts or access to discounts from pharmacies for prescription drug purchases when:

(1) the card or other purchasing mechanism or device does not expressly state in bold and prominent type, 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 in conjunction with the card or other purchasing mechanism or device; or

(3) the discounts or access to discounts offered, or the range of discounts or access to the range of discounts offered, are misleading, deceptive, or fraudulent.

Subd. 2. **Enforcement.** (a) The attorney general, or an individual or other person, may maintain an action to enjoin any act in violation of this section and for the recovery of damages.

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

(1) in the county where the plaintiff resides;

(2) in the county where the plaintiff conducts business; or

(3) in the county where the card or other purchasing mechanism or device was sold, marketed, promoted, advertised, or otherwise distributed.

(c)(1) If the court finds that the defendant has violated any of the provisions of this section, the court shall enjoin the defendant from continuing the acts that are in violation of this section.

(2) It is not necessary, except to recover for actual damages under clause (3), item (ii), that actual damages to the plaintiff be alleged or proved in order to maintain an action under this section.

(3) In addition to injunctive relief, the plaintiff in the action may recover from the defendant:

(i) $100 per card or other purchasing mechanism or device sold, marketed, promoted, advertised, or otherwise distributed within this state, or $10,000, whichever is greater;

(ii) three times the amount of the actual damages, if any, sustained;

(iii) reasonable attorney fees;

(iv) costs; and

(v) any other relief that the court considers proper.

(d) An action under this section must be commenced within two years after the date on which the violation occurred or within two years after the person bringing the action discovered, or in the exercise of reasonable diligence should have discovered, the occurrence of the violation.

(e) The remedies prescribed in this section are cumulative and in addition to any other applicable criminal, civil, or administrative penalties.

Subd. 3. **Designation of agent for service of process.** Any person who sells, markets, promotes, advertises, or otherwise distributes any card or other purchasing mechanism or device that is not insurance

that purports to offer discounts or access to discounts from pharmacies for prescription drug purchases in this state shall designate a resident of this state as an agent for service of process and register the agent with the secretary of state.

Subd. 4. **Nonapplication.** This section does not apply to:

(1) the following goods or services provided by an optometrist or ophthalmologist: eye or vision care services, glasses, or contact lenses;

(2) any card or other purchasing mechanism or device that is not insurance and which is administered in conjunction with a medical benefit by a health insurer, or nonprofit health service plan corporation or health maintenance organization;

(3) a benefit administered by or under contract with, the state of Minnesota; or

(4) a customer discount or membership card issued by a store or buying club for use at that store or buying club.

History: *2000 c 303 s 1*