

**Part 4
Disclosure Requirements**

41-3-401 Disclosure of financing arrangements relating to the sale of motor vehicles.

- (1)
- (a) A dealer may not issue a temporary permit or release possession of a motor vehicle that the dealer has sold to someone other than another dealer unless the document of sale contains one of the disclosures listed in Subsection (2).
 - (b) The disclosures shall be set forth clearly and conspicuously on the first or front page of the sale document at the time of sale, executed by the purchaser, and for Subsection (2)(b), executed by the seller also.

- (2)
- (a) The form to be used when financing is the purchaser's responsibility shall read as follows:
"THE PURCHASER OF THE MOTOR VEHICLE DESCRIBED IN THIS CONTRACT ACKNOWLEDGES THAT THE SELLER OF THE MOTOR VEHICLE HAS MADE NO PROMISES, WARRANTIES, OR REPRESENTATIONS REGARDING SELLER'S ABILITY TO OBTAIN FINANCING FOR THE PURCHASE OF THE MOTOR VEHICLE. FURTHERMORE, PURCHASER UNDERSTANDS THAT IF FINANCING IS NECESSARY IN ORDER FOR THE PURCHASER TO COMPLETE THE PAYMENT TERMS OF THIS CONTRACT ALL THE FINANCING ARRANGEMENTS ARE THE SOLE RESPONSIBILITY OF THE PURCHASER.

(Signature of the purchaser)"

- (b) The form to be used when the seller agrees to seek arrangements for financing shall read as follows:
"(1) THE PURCHASER OF THE MOTOR VEHICLE DESCRIBED IN THIS CONTRACT HAS EXECUTED THE CONTRACT IN RELIANCE UPON THE SELLER'S REPRESENTATION THAT THE SELLER CAN PROVIDE FINANCING ARRANGEMENTS FOR THE PURCHASE OF THE MOTOR VEHICLE. THE PRIMARY TERMS OF THE FINANCING ARE AS FOLLOWS:
INTEREST RATE BETWEEN _____ % AND _____ % PER ANNUM, TERM BETWEEN _____ MONTHS AND _____ MONTHS. MONTHLY PAYMENTS BETWEEN \$ _____ PER MONTH AND \$ _____ PER MONTH BASED ON A DOWN PAYMENT OF \$ _____.
- (2) (a) IF SELLER IS NOT ABLE TO ARRANGE FINANCING WITHIN THE TERMS DISCLOSED, THEN SELLER MUST WITHIN SEVEN CALENDAR DAYS OF THE DATE OF SALE MAIL NOTICE TO THE PURCHASER THAT HE HAS NOT BEEN ABLE TO ARRANGE FINANCING.
- (b) PURCHASER THEN HAS 14 DAYS FROM THE DATE OF SALE TO ELECT, IF PURCHASER CHOOSES, TO RESCIND THE CONTRACT OF SALE PURSUANT TO SECTION 41-3-401.
- (c) IN ORDER TO RESCIND THE CONTRACT OF SALE, THE PURCHASER SHALL:
 - (i) RETURN TO SELLER THE MOTOR VEHICLE HE PURCHASED;
 - (ii) PAY THE SELLER AN AMOUNT EQUAL TO THE CURRENT STANDARD MILEAGE RATE FOR THE COST OF OPERATING A MOTOR VEHICLE ESTABLISHED BY THE FEDERAL INTERNAL REVENUE SERVICE FOR EACH MILE THE MOTOR VEHICLE HAS BEEN DRIVEN; AND

(iii) COMPENSATE SELLER FOR ANY PHYSICAL DAMAGE TO THE MOTOR VEHICLE.

(3) IN RETURN, SELLER SHALL GIVE BACK TO THE PURCHASER ALL PAYMENTS OR OTHER CONSIDERATION PAID BY THE PURCHASER, INCLUDING ANY DOWN PAYMENT AND ANY MOTOR VEHICLE TRADED IN.

(4) IF THE TRADE-IN HAS BEEN SOLD OR OTHERWISE DISPOSED OF BEFORE THE PURCHASER RESCINDS THE TRANSACTION, THEN THE SELLER SHALL RETURN TO THE PURCHASER A SUM EQUIVALENT TO THE ALLOWANCE TOWARD THE PURCHASE PRICE GIVEN BY THE SELLER FOR THE TRADE-IN, AS NOTED IN THE DOCUMENT OF SALE.

(5) IF PURCHASER DOES NOT ELECT TO RESCIND THE CONTRACT OF SALE AS PROVIDED IN SUBSECTION (2)(b) OF THIS FORM:

(a) THE PURCHASER IS RESPONSIBLE FOR ADHERENCE TO THE TERMS AND CONDITIONS OF THE CONTRACT OR RISKS BEING FOUND IN DEFAULT OF THE TERMS AND CONDITIONS;

(b) THE TERMS AND CONDITIONS OF THE DISCLOSURES SET FORTH IN SECTION (1) OF THIS FORM ARE NOT BINDING ON THE SELLER; AND

(c) IF FINANCING IS NECESSARY FOR THE PURCHASER TO COMPLETE THE PAYMENT TERMS OF THE CONTRACT OF SALE, THE PURCHASER IS SOLELY RESPONSIBLE FOR MAKING ALL THE FINANCING ARRANGEMENTS.

(6) SIGNING THIS DISCLOSURE DOES NOT PROHIBIT THE PURCHASER FROM SEEKING HIS OWN FINANCING.

(Signature of the purchaser)

(Signature of the seller)"

- (3)
 - (a)
 - (i) In addition to the penalties in this chapter, if the disclosures in Subsection (2) are not properly executed or if the seller is unable to provide the financing arrangements for the purchaser as provided in Subsection (2)(b) within seven calendar days immediately following the sale date disclosed on the document of sale, then in either case the purchaser may return the purchased motor vehicle to the dealer and receive a complete refund of all money and other consideration given to the dealer for the purchase, including any motor vehicle or property used as a trade-in.
 - (ii) If the motor vehicle or property used as a trade-in has been sold or otherwise disposed of, the seller shall return to the purchaser the amount of money equivalent to the allowance towards the purchase price given by the dealer for the motor vehicle or property traded in, as noted in the document of sale.
 - (b) If the purchaser qualifies for the remedies set forth in Subsection (3)(a) and if the purchaser elects to rescind by returning the purchased motor vehicle to the dealer within the prescribed time frame, then the purchaser is liable to the dealer:
 - (i) for all physical damage to the motor vehicle while in the possession of the purchaser; and
 - (ii) in an amount equal to the current standard mileage rate for the cost of operating a motor vehicle established by the federal Internal Revenue Service for each mile the motor vehicle was driven between the date the purchaser first acquired possession and the date when the purchaser returned the motor vehicle to the dealer.

- (c) The purchaser is not entitled to the remedy set forth in Subsections (3)(a) and (b) if the purchaser materially misrepresents in writing any information requested by the dealer in an application for financing, financial statement, or similar document customarily used to elicit personal and financial data upon which a credit decision is normally predicated.
- (4)
 - (a) A dealer who has complied with Subsection (2)(b), but who has not been able to secure financing as set forth in the disclosure, shall within seven days of the date of sale mail written notice to the purchaser:
 - (i) disclosing that the dealer has not been able to secure financing as set forth in the disclosure; and
 - (ii) instructing the purchaser of his right to rescind the contract of sale within 14 calendar days of the date of sale, as provided for in Subsection (2).
 - (b)
 - (i) The dealer shall mail notification to the purchaser within seven calendar days following the date of sale as set forth in the contract of sale.
 - (ii) This notice complies with Subsection (4)(b)(i) if it is postmarked before the end of the seventh day following the date of sale and addressed to the purchaser at the address contained in the document of sale.
 - (iii) If the purchaser's address is not contained on the document of sale, then proof of compliance with the notification provision of this Subsection (4)(b) shall be borne by the dealer.
 - (iv) If a dealer gives notice in the manner prescribed, the purchaser has 14 calendar days from the date of sale to elect to rescind the contract of sale, in accordance with Subsection (2).
 - (c)
 - (i) If a dealer executes the disclosure required by Subsection (2)(b), but is not able to secure financing as set forth in the disclosure, and the dealer fails to give written notice to the purchaser within seven days, as provided for in Subsections (4)(a) and (b), then the purchaser may rescind within seven days of the date he first learns that the dealer has not been able to secure financing as set forth in the disclosure.
 - (ii) Except as provided in this Subsection (4)(c), the purchaser's option to rescind shall be exercised in the manner prescribed in Subsection (3).
 - (d) If the purchaser does not exercise the option to rescind within the specified time limits in Subsections (3) and (4)(c):
 - (i) the purchaser is responsible for adherence to the terms and conditions of the contract of sale;
 - (ii) the dealer is not subject to the financing terms set forth in the disclosure; and
 - (iii) if financing is necessary for the purchaser to complete the payment terms of the contract of sale, the purchaser is solely responsible for making all the financing arrangements.
- (5) A dealer's failure to execute the disclosure required by Subsection (2), or its failure to provide written notice to the purchaser within the time frame specified in this section, subject the dealer to the sanctions in Section 41-3-701.
- (6) Either the purchaser or a dealer may bring an action to enforce his rights under this section. The prevailing party in the action is entitled to reasonable attorneys' fees as part of the costs of suit.
- (7) A motor vehicle returned by the purchaser to the dealer in accordance with the rescission provisions of this section is not considered sold for purposes of notice of sale under Section 41-3-301 and for purposes of sales tax under Title 59, Chapter 12, Sales and Use Tax Act.

Amended by Chapter 71, 2003 General Session

41-3-401.5 Disclosure of financing arrangements relating to the lease of a motor vehicle.

- (1)
- (a) A dealer may not issue a temporary permit or release possession of a motor vehicle wherein the dealer has contracted to enter into a lease agreement to someone other than another dealer unless the contract to enter into a lease agreement contains the disclosure listed in Subsection (2).
 - (b) The disclosure shall be set forth clearly and conspicuously on the first or front page of the contract to enter into a lease agreement, executed by the prospective lessee and the dealer.
- (2) The form to be used when the dealer contracts to enter into a lease agreement for the potential lease of a motor vehicle shall read as follows:

"(1) THE PROSPECTIVE LESSEE OF THE MOTOR VEHICLE DESCRIBED IN THIS CONTRACT TO ENTER INTO A LEASE AGREEMENT HAS EXECUTED THE CONTRACT IN RELIANCE UPON THE DEALER'S REPRESENTATION THAT THE DEALER CAN SECURE FROM A FINANCIAL INSTITUTION FINANCING ARRANGEMENTS FOR THE LEASE OF THE MOTOR VEHICLE. THE PRIMARY TERMS OF THE FINANCING ARRANGEMENT ARE TO BE AS FOLLOWS:

TERM BETWEEN _____ MONTHS AND _____ MONTHS. MONTHLY PAYMENTS BETWEEN \$_____ PER MONTH AND \$ _____ PER MONTH BASED ON A DOWN PAYMENT AND/OR NET TRADE-IN ALLOWANCE OF \$ _____.

(2) (a) IF THE DEALER IS NOT ABLE TO SECURE FINANCING ARRANGEMENTS WITHIN THE TERMS DISCLOSED, THEN THE DEALER MUST WITHIN SEVEN CALENDAR DAYS OF THE DATE OF THE CONTRACT TO ENTER INTO A LEASE AGREEMENT MAIL NOTICE TO THE PROSPECTIVE LESSEE THAT THE DEALER HAS NOT BEEN ABLE TO SECURE FINANCING ARRANGEMENTS IN ACCORDANCE WITH THE DISCLOSED TERMS AND THE CONTRACT TO ENTER INTO A LEASE AGREEMENT IS THEREFORE RESCINDED.

(b) IF THE DEALER IS NOT ABLE TO SECURE FINANCING ARRANGEMENTS WITHIN THE TERMS DISCLOSED, SUCH FAILURE DOES NOT UNDER ANY CIRCUMSTANCES REQUIRE THE DEALER TO PROVIDE THE FINANCING NECESSARY FOR THE PROSPECTIVE LESSEE TO LEASE THE VEHICLE.

(c) IF THE CONTRACT TO ENTER INTO A LEASE AGREEMENT IS RESCINDED, THE PROSPECTIVE LESSEE HAS 48 HOURS FROM RECEIPT OF THE NOTICE TO:

(i) RETURN TO THE DEALER THE MOTOR VEHICLE THE PROSPECTIVE LESSEE AGREED TO LEASE;

(ii) PAY THE DEALER AN AMOUNT EQUAL TO THE CURRENT STANDARD MILEAGE RATE FOR THE COST OF OPERATING A MOTOR VEHICLE ESTABLISHED BY THE FEDERAL INTERNAL REVENUE SERVICE FOR EACH MILE THE MOTOR VEHICLE HAS BEEN DRIVEN WHILE IN THE PROSPECTIVE LESSEE'S POSSESSION; AND

(iii) COMPENSATE THE DEALER FOR ANY PHYSICAL DAMAGE TO THE MOTOR VEHICLE WHILE THE VEHICLE WAS IN THE PROSPECTIVE LESSEE'S POSSESSION.

(3) IN RETURN, UPON RECEIPT OF THE ITEMS SET FORTH IN (2)(c)(i), (ii), and (iii) THE DEALER SHALL RETURN TO THE PROSPECTIVE LESSEE ALL PAYMENTS OR OTHER CONSIDERATION PAID BY THE PROSPECTIVE LESSEE, INCLUDING ANY DOWN PAYMENT AND ANY MOTOR VEHICLE TRADED IN.

(4) IF THE TRADE-IN HAS BEEN SOLD OR OTHERWISE DISPOSED OF BEFORE THE CONTRACT TO ENTER INTO A LEASE AGREEMENT IS RESCINDED, THEN THE

DEALER SHALL RETURN TO THE PROSPECTIVE LESSEE A SUM EQUIVALENT TO THE ALLOWANCE TOWARD THE LEASE PRICE GIVEN BY THE DEALER FOR THE TRADE-IN, AS NOTED IN THE CONTRACT TO ENTER INTO A LEASE AGREEMENT.

(Signature of the Prospective Lessee)

(Signature of the Dealer)"

- (3)
- (a)
- (i) In addition to the penalties in this chapter, if the disclosure in Subsection (2) is not properly executed or if the dealer is unable to secure financing arrangements for the lessee as provided in Subsection (2) within seven calendar days immediately following the date disclosed on the contract to enter into a lease agreement, then in either case the prospective lessee may return the motor vehicle to the dealer and receive a complete refund of all money and other consideration given to the dealer for the contract to enter into a lease agreement, including any motor vehicle or property used as a trade-in.
 - (ii) If the motor vehicle or property used as a trade-in has been sold or otherwise disposed of, the dealer shall return to the prospective lessee the amount of money equivalent to the allowance towards the lease price given by the dealer for the motor vehicle or property traded in, as noted in the contract to enter into a lease agreement.
- (b) If the dealer provides the notice as set forth in Subsection (2)(a) of the disclosure statement, the contract to enter into a lease agreement is rescinded.
- (c) If a contract to enter into a lease agreement is rescinded under Subsection (3)(b):
- (i) the prospective lessee shall return the leased vehicle within 48 hours of receiving a notice that the dealer is unable to secure financing arrangements for the lease; and
 - (ii) the prospective lessee is liable to the dealer:
 - (A) for all physical damage to the motor vehicle while in the possession of the prospective lessee; and
 - (B) in an amount equal to the current standard mileage rate for the cost of operating a motor vehicle established by the federal Internal Revenue Service for each mile the motor vehicle was driven between the date the prospective lessee first acquired possession and the date when the prospective lessee returned the motor vehicle to the dealer.
- (4)
- (a) A dealer who has complied with Subsection (2), but who has not been able to secure financing arrangements as set forth in the disclosure, shall within seven days of the date of the contract to enter into a lease agreement mail written notice to the prospective lessee:
- (i) disclosing that the dealer has not been able to secure financing arrangements as set forth in the disclosure; and
 - (ii) instructing the prospective lessee of the prospective lessee's responsibility to return the vehicle within 48 hours of receiving the notice, as provided for in Subsection (2).
- (b)
- (i) The dealer shall mail notification to the prospective lessee within seven calendar days following the date that the contract to enter into a lease agreement was executed.
 - (ii) A notice complies with Subsection (4)(b)(i) if it is postmarked before the end of the seventh day following the date that the contract to enter into a lease agreement was executed and addressed to the prospective lessee at the address contained in the contract to enter into a lease agreement.

- (iii) If the prospective lessee's address is not contained on the contract to enter into a lease agreement, then proof of compliance with the notification provision of this Subsection (4)(b) shall be borne by the dealer.
 - (iv) If a dealer gives notice in the manner prescribed, the prospective lessee has 48 hours from receipt of the notice to return the vehicle to the dealer.
 - (c) If a dealer executes the disclosure required by Subsection (2), but is not able to secure financing arrangements as set forth in the disclosure, and the dealer fails to give written notice to the prospective lessee within seven days, as provided for in Subsections (4)(a) and (b), then the prospective lessee shall return the vehicle within 48 hours of the date the prospective lessee first learns that the dealer has not been able to secure financing arrangements as set forth in the disclosure.
- (5)
- (a) Either the prospective lessee or a dealer may bring an action to enforce contractual or statutory rights under this section.
 - (b) The prevailing party in an action under Subsection (5)(a) is entitled to reasonable attorney fees as part of the costs of the action.
- (6) A motor vehicle returned by the prospective lessee to the dealer in accordance with the rescission provisions of this section is not considered leased for purposes of sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

Amended by Chapter 100, 2008 General Session

41-3-401.6 Transaction disclosure form.

- (1)
- (a) Before a sale is finalized, a licensee shall provide the transaction disclosure form described in Subsection (3).
 - (b) The licensee and the purchaser shall each execute the transaction disclosure form to memorialize the negotiated terms and prices of the sale.
 - (c) The licensee shall provide the purchaser a copy of the transaction disclosure form.
- (2) The commission shall create the transaction disclosure form as described in Subsection (3).
- (3) The transaction disclosure form shall include:
- (a) the negotiated sale price of the vehicle;
 - (b) the negotiated value of the trade-in vehicle, if applicable;
 - (c) an itemized list of the following legally required taxes and fees:
 - (i) a temporary permit fee pursuant to Section 41-1a-211;
 - (ii) a fee required in Chapter 1a, Part 5, Titling Requirement;
 - (iii) motor vehicle registration fees required under this title;
 - (iv) a dealer documentary service fee as described in rules made in accordance with Sections 41-3-301 and 41-3-302;
 - (v) sales and use taxes required by Title 59, Chapter 12, Sales and Use Tax Act; and
 - (vi) any other taxes or fees required by federal or state law to be paid by the purchaser of a motor vehicle;
 - (d) the subtotal of the amounts described in Subsections (3)(a) through (c);
 - (e) any other optional charges as negotiated by the licensee and purchaser; and
 - (f) the total amount for which the licensee agrees to seek arrangements for financing, if applicable.
- (4) A transaction disclosure form described in this section is not required for a sale at auction or a fleet transaction.

Enacted by Chapter 63, 2023 General Session

41-3-402 Payoff of liens on motor vehicles traded in.

- (1) If a dealer takes a trade-in from a retail customer as part of the sale or lease of a motor vehicle and there is an outstanding loan balance owing on the trade-in, then the dealer:
 - (a) within 21 calendar days of the date of sale or lease, or within 15 calendar days of receiving payment in full for the motor vehicle it sold, whichever date is earlier, shall remit payment to the lienholder sufficient to pay off the lien on the traded in motor vehicle, unless the underlying contract of sale or lease contract has been rescinded before expiration of the 21 days; and
 - (b) shall remit payment to the lienholder sufficient to pay off the lien on the traded in motor vehicle prior to selling the motor vehicle unless Subsection (2) is complied with.
- (2)
 - (a) A dealer shall, at the time of sale of a motor vehicle with a trade-in, notify in writing the person trading in the vehicle that the person remains responsible for any unpaid loan, lease, or other obligation related to the vehicle being traded in.
 - (b) The person trading in the vehicle must separately acknowledge receipt of the notice and acknowledge in writing the person's continuing obligation related to the vehicle being traded in.
- (3) The notice and acknowledgment required under Subsection (2) may be combined with an authorization for payoff and shall contain the following:
 - (a) the customer's name;
 - (b) the customer's address;
 - (c) the dealer's name;
 - (d) the dealer's address;
 - (e) notice to the customer that the motor vehicle the customer is trading in is subject to an unpaid loan, lease, or other obligation;
 - (f) notice to the customer that the customer remains responsible for the unpaid loan, lease, or other obligation despite the trade-in of the motor vehicle; and
 - (g) acknowledgment by signature of the customer that the customer remains responsible for payment of the unpaid loan, lease, or other obligation.
- (4)
 - (a) A dealer shall, within seven calendar days of the date of a trade-in, notify a lienholder on the motor vehicle that the vehicle has been traded in.
 - (b) The notice under Subsection (4)(a) is not required if the lien is fully satisfied within seven calendar days of the date of a trade-in.
- (5) The notice to the lienholder required by Subsection (4) may be combined with an authorization for payoff or a notice to the person trading in the motor vehicle subject to the lien and shall contain the following:
 - (a) notice that a motor vehicle subject to the lienholder's lien has been traded in;
 - (b) notice that the person trading in the motor vehicle subject to the lien has been provided with a notice as required by Subsection (3);
 - (c) the date the motor vehicle was traded in; and
 - (d)
 - (i) a statement that payment for the lien accompanies the notice; or
 - (ii) a statement that payment will be made within the time frame required under Subsection (1).

- (6) A lienholder shall deliver to the dealer a properly executed title that releases the lien within nine calendar days after the day on which the funds are received if the lienholder:
 - (a) has possession of the title for the motor vehicle; and
 - (b) has been paid in full.
- (7)
 - (a) A lienholder who does not have possession of the title but has its account paid in full by a dealer shall provide the dealer with a written statement that the lienholder no longer claims a lien against the motor vehicle.
 - (b) The statement described in Subsection (7)(a) shall be provided within the time limit required by Subsection (6).
- (8) If the final day for performing an act under this section falls on a Saturday, Sunday, or a legal holiday, then the time for performance is extended to the immediately following business day.
- (9) A dealer's failure to comply with the provisions of this section subjects the dealer to the sanctions set forth in Section 41-3-701.
- (10) A person who trades in a motor vehicle to a dealer and who thereafter sustains loss or damage as a result of a dealer's failure to pay off a properly recorded lien on the traded in motor vehicle within the time specified by Subsection (1), may bring an action against the offending dealer to recover damages proximately caused by the dealer's failure to comply with the provisions of this section, together with costs and reasonable attorney fees.

Amended by Chapter 342, 2010 General Session

41-3-403 Dealer noncompliance -- Rights of purchaser -- Penalties.

- (1)
 - (a) Subject to the provisions of Subsection (4), if a dealer fails to comply with Subsection 41-3-301(1), the purchaser may return the purchased motor vehicle to the dealer and receive a complete refund of all money and other consideration given for the purchase, including any motor vehicles or property traded in.
 - (b) If the motor vehicle or property traded in has been sold by the dealer, he shall return to the purchaser the amount of money equivalent to the value of the motor vehicle or property as allowed toward the purchase.
 - (c) Demand for the return may be made directly by the customer, his attorney, or the administrator.
 - (d) Any loan payments or interest due between the sale date and the return date on either the motor vehicle purchased or a motor vehicle traded in, are the responsibility of the dealer.
- (2) Failure of a dealer to comply with this section:
 - (a) is a violation of Subsection 41-3-301(1);
 - (b) is a ground for immediate dealer license suspension; and
 - (c) allows the customer a cause of action against the dealer to recover all consideration owed under Subsection (1).
- (3) A motor vehicle returned under the provisions of this section is not considered to be sold for purposes of:
 - (a) notice of sale under Subsection 41-3-301(2); and
 - (b) sales tax under Title 59, Chapter 12, Sales and Use Tax Act.
- (4) If a dealer fails to comply with Subsection 41-3-301(1), the dealer shall accept the return of a purchased motor vehicle under this section if the purchaser:
 - (a) returns the motor vehicle to the dealer and requests in writing that the purchase be rescinded, prior to the time the dealer submits a certificate of title or manufacturer's certificate of origin

for that motor vehicle, endorsed according to law, to the Motor Vehicle Division, accompanied by all documents required to obtain a new certificate of title and registration in the new owner's name;

- (b) furnishes to the dealer a written odometer disclosure statement in accordance with Section 41-1a-902; and
- (c) pays the dealer an amount equal to the current standard mileage rate for the cost of operating a motor vehicle established by the federal Internal Revenue Service for each mile the motor vehicle was driven between the date the purchaser first acquired possession and the date when the purchaser returned the motor vehicle to the dealer.

Amended by Chapter 210, 2004 General Session

41-3-404 Right of action against dealer, salesperson, crusher, body shop, or surety on bond.

- (1) A person may maintain an action against a dealer, crusher, or body shop on the corporate surety bond if:
 - (a) the person suffers a loss or damage because of:
 - (i) fraud;
 - (ii) fraudulent representation; or
 - (iii) a violation of Section 41-3-210; and
 - (b) the loss or damage results from the action of:
 - (i) a licensed dealer;
 - (ii) a licensed dealer's salesperson acting on behalf of the dealer or within the scope of the salesperson's employment;
 - (iii) a licensed crusher; or
 - (iv) a body shop.
- (2) Successive recovery against a surety on a bond is permitted, but the total aggregate liability on the bond to all persons making claims, regardless of the number of claimants or the number of years a bond remains in force, may not exceed the amount of the bond.
- (3) A cause of action may not be maintained against any surety under any bond required under this chapter except as provided in Section 41-3-205.

Amended by Chapter 239, 1999 General Session

41-3-405 Sale of third party warranty or service contract -- Remission of fee.

- (1) If a dealer licensed under this chapter sells a third party warranty or service contract to a customer, the dealer shall within 15 days remit the fee paid by the customer to the warranty or service contract company.
- (2) Failure of a dealer to remit the fee within 15 days is a ground for dealer license suspension and allows the customer a cause of action against the dealer for damages that otherwise would have been covered by the warranty or service contract.

Renumbered and Amended by Chapter 234, 1992 General Session

41-3-406 Short title.

Sections 41-3-406 through 41-3-414 are known as the "Motor Vehicle Buyback Disclosure Act."

Enacted by Chapter 163, 1993 General Session

41-3-407 Definitions.

As used in Sections 41-3-406 through 41-3-414:

- (1) "Buyback vehicle" means a motor vehicle with an alleged nonconformity that has been replaced or repurchased by a manufacturer as the result of a court judgment, arbitration, or any voluntary agreement entered into between the manufacturer or its agent and a consumer.
- (2) "Consumer" means an individual who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle other than for the purposes of resale, or sublease, during the duration of the period defined under Section 13-20-5.
- (3) "Manufacturer" means any manufacturer, importer, distributor, or anyone who is named as the warrantor on an express written warranty on a motor vehicle.
- (4)
 - (a) "Motor vehicle" includes:
 - (i) a motor home, as defined in Section 13-20-2, but only the self-propelled vehicle and chassis; and
 - (ii) a motor vehicle, as defined in Section 41-1a-102.
 - (b) "Motor vehicle" does not include:
 - (i) those portions of a motor home designated, used, or maintained primarily as a mobile dwelling, office, or commercial space;
 - (ii) farm tractor, motorcycle, road tractor, or truck tractor as defined in Section 41-1a-102;
 - (iii) mobile home as defined in Section 41-1a-102; or
 - (iv) any motor vehicle with a gross laden weight of over 12,000 pounds, except a motor home as defined under Subsection (4)(a)(i).
- (5) "Nonconforming vehicle" means a buyback vehicle that has been investigated and evaluated pursuant to Title 13, Chapter 20, New Motor Vehicle Warranties Act, or a similar law of another state or federal government.
- (6)
 - (a) "Nonconformity" means a defect, malfunction, or condition that fails to conform to the express warranty, or substantially impairs the use, safety, or value of a motor vehicle.
 - (b) "Nonconformity" does not include a defect, malfunction, or condition that results from an accident, abuse, neglect, modification, or alteration of a motor vehicle by a person other than the manufacturer, its authorized agent, or a dealer.
- (7) "Seller" means any person selling, auctioning, leasing, or exchanging a motor vehicle.
- (8) "Violation" means each failure to comply with the obligations imposed by Sections 41-3-406 through 41-3-413. In the case of multiple failures to comply resulting from a single transaction, each failure to comply is a separate violation.

Amended by Chapter 222, 1998 General Session

Amended by Chapter 339, 1998 General Session

41-3-408 Resale of buyback or nonconforming vehicles -- Disclosure statements.

- (1)
 - (a) A motor vehicle may not be offered, auctioned, sold, leased, transferred, or exchanged by a manufacturer or dealer with the knowledge that it is a buyback vehicle or a nonconforming vehicle without prior written disclosure in a clear and conspicuous manner, in accordance with this section.

- (b) This section also applies to buyback vehicles or nonconforming vehicles originally returned to a manufacturer or its agent in another state and subsequently resold, leased, or offered or displayed for resale or lease in this state.
- (c) An owner of a motor vehicle who is not a manufacturer or dealer, but who has been given information as required by Subsection (1)(a) or (b) shall give the information, in writing, to any prospective purchaser of the vehicle.

- (2)
- (a) The following disclosure language shall be contained in each contract for the sale or lease of a buyback vehicle or a nonconforming vehicle to a consumer or shall be contained in a form affixed to a contract, lease, bill of sale, or any other document that transfers title:

"DISCLOSURE STATEMENT

Vehicle Identification Number (VIN):
Year: Make: Model:
Prior Title Number: State of Title:
Odometer Reading:

This is a used motor vehicle. It was previously returned to the manufacturer or its agent in exchange for a replacement motor vehicle or a refund because it was alleged or found to have the following nonconformities:

- 1.
- 2.
- 3.
- 4.
- 5.

**THIS DISCLOSURE MUST BE GIVEN BY THE SELLER TO THE BUYER EVERY
TIME THIS VEHICLE IS RESOLD**

(Buyer's Signature)

Date"

- (b) The text of the disclosure shall be printed in 12 point boldface type except the heading, which shall be in 16 point extra boldface type.
- (c) The entire notice shall be boxed.
- (d) Each nonconformity shall be listed separately on a numbered line.
- (e) A seller must obtain the consumer's acknowledgment of this written disclosure prior to completing a sale, lease, or other transfer of title as evidenced by the consumer's signature within the box containing the disclosure.
- (f) Within 30 days after the sale, lease, or other transfer of title of a nonconforming vehicle, the seller shall deliver to the Motor Vehicle Division a copy of the signed written disclosure required for the sale, lease, or other transfer of title of the nonconforming vehicle. The Motor Vehicle Division shall include the disclosure in the nonconforming vehicle's records.

- (3)
- (a) There shall be affixed to the lower corner of the windshield furthest removed from the driver's side of a nonconforming vehicle, a disclosure statement form which shall be readily visible from the exterior of the vehicle. The form shall be in the following configuration and shall state:

"DISCLOSURE STATEMENT

Vehicle Identification Number (VIN):
Year: _____ Make: _____ Model: _____

Prior Title Number: _____ State of Title: _____

Odometer Reading: _____

Warning: This motor vehicle was previously sold as new. It was subsequently alleged or found to have the following defect(s), malfunction(s), or conditions:

- 1.
- 2.
- 3.
- 4.
- 5.

THIS DISCLOSURE MUST BE GIVEN BY THE SELLER TO THE BUYER EVERY
TIME THIS VEHICLE IS RESOLD"

- (b) The disclosure statement shall be at least 4-1/2 inches wide and 5 inches long.
- (c) The heading shall be boldface type in capital letters not smaller than 18 point in size and the body copy shall be regular or medium face type not smaller than 12 point in size.
- (d) Each nonconformity shall be listed separately on a numbered line.
- (e) The motor vehicle and title identification information must be inserted in the spaces provided.

Amended by Chapter 306, 2007 General Session

41-3-409 Certificate of title -- Brand -- Reporting requirements.

A manufacturer, its agent, or a dealer who accepts the return of a nonconforming vehicle, shall:

- (1) immediately upon receipt, cause the words "MANUFACTURER BUYBACK NONCONFORMING VEHICLE" to be clearly and conspicuously stamped on the face of the original certificate of title, the Manufacturer's Statement of Origin, or other evidence of ownership; and
- (2) within 10 days of receipt of the certificate of title, Manufacturer's Statement of Origin, or other evidence of ownership, submit a copy of the face of that stamped document to the Motor Vehicle Division of the Tax Commission.

Enacted by Chapter 163, 1993 General Session

41-3-410 State civil enforcement.

- (1) If a person violates Sections 41-3-406 through 41-3-409, the attorney general may bring an action to:
 - (a) temporarily or permanently restrain or enjoin the violation;
 - (b) recover any amounts for the benefit of injured consumers for which the violator is liable under Section 41-3-411;
 - (c) recover a civil penalty of up to \$10,000 for each violation that is committed; and
 - (d) obtain any other equitable relief the court determines to be proper, in addition to damages and civil penalties.
- (2) An action under Subsection (1) must be brought within two years from the date on which the violation is discovered and disclosed to the attorney general.

Enacted by Chapter 163, 1993 General Session

41-3-411 Private remedy.

- (1) Any seller who violates Sections 41-3-406 through 41-3-409 is liable to the purchaser for:
 - (a) actual damages if the purchaser elects to retain the buyback vehicle, or the value of the consideration paid for the buyback vehicle if the purchaser elects rescission;
 - (b) the costs of the action and reasonable attorney fees;
 - (c) up to three times the value of the actual damages or the consideration as exemplary damages; and
 - (d) other equitable relief, including rescission and restitution, the court determines to be proper in addition to damages and costs.
- (2) Actual damages include the difference between the actual market value of the buyback vehicle or nonconforming vehicle at the time of purchase and the contract price, towing, repair, and storage expenses, rental of substitute transportation, food and lodging expenses, lost wages, finance charges, sales or use tax, other governmental fees, lease charges, and other incidental and consequential damages.
- (3) Lack of privity is not a bar to any action under this section.
- (4)
 - (a) A permanent injunction, final judgment, or final order of the court obtained by the attorney general under Section 41-3-410 is prima facie evidence, in an action brought under this section, that the defendant has violated Sections 41-3-406 through 41-3-409.
 - (b) This section does not apply to consent orders or stipulated judgments in which there is no admission of liability by the defendant.
- (5) Any action to enforce liability under this section must be brought within two years from the date of discovery by the consumer of the facts underlying the cause of action.

Enacted by Chapter 163, 1993 General Session

41-3-412 Unfair trade practices.

A violation of Sections 41-3-406 through 41-3-409 is an unfair or deceptive practice under Title 13, Chapter 11, Utah Consumer Sales Practices Act.

Enacted by Chapter 163, 1993 General Session

41-3-413 Criminal penalties -- Nonexclusive.

- (1) Knowing or intentional concealment, removal, destruction, or alteration of a disclosure statement or of a certificate of title branded under Section 41-1a-522 is a second degree felony.
- (2) Criminal penalties under this chapter are not exclusive, but are in addition to those under Section 76-10-1801.
- (3) The remedies provided in Sections 41-3-410 through this section are not exclusive but are in addition to any other remedies provided by law.

Enacted by Chapter 163, 1993 General Session

41-3-414 Application.

Sections 41-3-406 through 41-3-414 apply to automobiles repurchased on or after July 1, 1993.

Enacted by Chapter 163, 1993 General Session