

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