

TITLE 9: VEHICLE CODE  
DIVISION 8: FINANCIAL RESPONSIBILITY LAWS

**§ 8208. Assigned Risk Plan - Enforcement and Statutory Causes of Action.**

(a) A court of competent jurisdiction shall order, by way of injunction, in whatever manner the court deems just and proper, any company, business or party that fails to properly participate in the ARP or otherwise fails to abide by the provisions of the rules and regulation of the ARP, to properly participate in the ARP and abide by such rules and regulations. Such injunctive power shall include, but not be limited to, the authority to affirmatively order an insurance provider to offer and provide any parties with the minimum motor vehicle liability insurance as required by this chapter or any rules and regulations.

(b) Any company, business or party that fails to properly participate in the ARP or otherwise fails to abide by the provisions of the rules and regulations of the ARP, shall be ordered to pay the civil fine to the Commonwealth General Fund of \$1,000 as provided in 9 CMC § 8207(g), for each violation of such rules and regulations.

(c) The court shall award damages to be paid by an insurance provider as follows:

(1) To any person, hereafter referred to as a “denied person”, who was denied an automobile liability insurance policy under the ARP by the defendant insurance provider in violation of this chapter or any rules and regulations promulgated thereunder, if after such denial, the denied person incurred liabilities in the form of a civil judgment that would have been covered by the minimum ARP liability insurance policy. The insurance provider shall be ordered to pay to the denied person either: (i) the amount of such incurred liability; or, (ii) the policy limits of the minimum liability coverage in 9 CMC § 8205(a); whichever is less. No insurance provider shall be ordered to pay damages under this subsection if the incurred liabilities in the form of a civil judgment have been paid by another form or another provider of any kind of insurance, or, if another insurance provider of any sort has a lawful obligation to pay such liabilities or judgment.

(2) To any person, hereafter referred to as “the plaintiff”, who sustains damages caused by a person denied an automobile liability insurance policy under the ARP, as referred to in subsection (a) of this section, if such damages are in the form of civil judgment in favor of “the plaintiff” and against the denied person, and, such damages were caused by the denied person and would have been covered by a minimum ARP liability insurance policy. An insurance provider shall only be ordered to pay damages under this subpart to “the plaintiff” up to the minimum policy limits in 9 CMC § 8205(a). No insurance provider shall be ordered to pay damages under this subsection to “the plaintiff” to any degree or in any amount that: the incurred liabilities in the form of a civil judgment against the denied person have been paid by the insurance provider under subsection (c)(1) of this section or by another form or another provider of any kind of insurance, or, if another insurance provider of

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any sort has a lawful obligation to pay the liabilities of the denied person, or, if “the plaintiff” has already been paid such liabilities or judgment by the denied person.

(3) No cause of action shall exist under subsection (c)(2) of this section for “the plaintiff” against an insurance provider that has paid such damages to the denied person under subsection (c)(1) of this section. And, no denied person may bring a cause of action under subsection (c)(1) of this section, against an insurance provider that has paid such damages to “the plaintiff” under subsection (c)(2) of this section.

(d) This chapter hereby creates the above statutory causes of action as set forth above for any person against any insurance provider. The Attorney General may also bring actions under subsection (a) of this section, on behalf of the Commonwealth, or on behalf of private individuals, to ensure proper compliance with this chapter or any regulations promulgated in relation thereto. All prevailing plaintiffs under this chapter, including the Office of the Attorney General, shall be awarded all reasonable attorney's fees and court cost in relation to such an action.

**Source:** PL 11-55, § 6 (§ 8109), modified.