

21-1114.

IN ANY ACTION BROUGHT BY THE ATTORNEY GENERAL UNDER § 11-209 OF THE COMMERCIAL LAW ARTICLE, A PERSON THAT SELLS, DISTRIBUTES, OR OTHERWISE DISPOSES OF ANY DRUG, MEDICINE, COSMETIC, FOOD, FOOD ADDITIVE, OR COMMERCIAL FEED, AS DEFINED IN § 6-101 OF THE AGRICULTURE ARTICLE, OR MEDICAL DEVICE:

(1) MAY NOT ASSERT AS A DEFENSE THAT THE PERSON DID NOT DEAL DIRECTLY WITH THE ~~PLAINTIFF~~ PERSON ON WHOSE BEHALF THE ACTION IS BROUGHT; AND

(2) MAY PROVE, AS A PARTIAL OR COMPLETE DEFENSE AGAINST A DAMAGE CLAIM, IN ORDER TO AVOID DUPLICATIVE LIABILITY, THAT ALL OR ANY PART OF AN ALLEGED OVERCHARGE ULTIMATELY WAS PASSED ON TO ANOTHER PERSON BY A PURCHASER OR SELLER IN THE CHAIN OF MANUFACTURE, PRODUCTION, OR DISTRIBUTION WHO PAID THE ALLEGED OVERCHARGE.

### Article - Commercial Law

11-209.

(b) (5) The Attorney General may bring an action on behalf of the State or any of its political subdivisions OR AS PARENS PATRIAE ON BEHALF OF PERSONS RESIDING IN THE STATE to recover the damages provided for by this subsection or any comparable provision of federal law.

(C) AN ACTION BROUGHT BY THE ATTORNEY GENERAL AS PARENS PATRIAE UNDER SUBSECTION (B)(5) OF THIS SECTION IS PRESUMED SUPERIOR TO ANY CLASS ACTION BROUGHT ON BEHALF OF THE SAME PERSON.

[(c)] (D) (1) An action brought to enforce this subtitle shall be commenced within 4 years after the cause of action accrues.

(2) For the purposes of this subsection, a cause of action for a continuing violation accrues at the time of the latest violation.

(3) Whenever the State commences a criminal proceeding under this subtitle or the United States commences a criminal antitrust proceeding under the federal antitrust laws, any civil action under this section related to the subject matter of the criminal proceeding shall be commenced within 1 year after the conclusion of the proceeding or within 4 years after the cause of action accrued, whichever is later.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any action brought under Section 11-209 of the Commercial Law Article ~~on or after~~ before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005.

April 8, 2005