Can an automotive dealership void your warranty?

Understanding the Magnuson-Moss Warranty Act of 1975.

Nearly everyone has heard about someone who has taken a vehicle that has been modified with aftermarket parts to a dealer for warranty service, only to have the dealer refuse to cover the defective items. The dealer usually states that because of the aftermarket parts the warranty is void, without even attempting to determine whether the aftermarket part caused the problem.

This is illegal.

Vehicle manufacturers are not allowed to void the vehicle warranty just because aftermarket parts are on the vehicle. To better understand this problem it is best to know the differences between the two types of new car warranties and the two types of emission warranties.

When a vehicle is purchased new and the owner is protected against the faults that may occur by an expressed warranty - an offer by the manufacturer to assume the responsibility for problems with predetermined parts during a stated period of time. Beyond the expressed warranty, the vehicle manufacturer is often held responsible for further implied warranties. These state that a manufactured product should meet certain standards. However, in both cases, the mere presence of aftermarket parts doesn't void the warranty.

There are also two emission warranties (defect and performance) required under the clean air act. The defect warranty requires the manufacturer to produce a vehicle which, at the time of sale, is free of defects that would cause it to not meet the required emission levels for it's useful life as defined in the law. The performance warranty implies a vehicle must maintain certain levels of emission performance over it's useful life. If the vehicle fails to meet the performance warranty requirements, the manufacturer must make repairs at no cost to the owner, even if an aftermarket part is directly responsible for a warranty claim, the vehicle manufacturer cannot void the performance warranty. This protection is the result of a parts self - certification program developed by the Environmental Protection Agency (EPA) and the Specialty Equipment Market Association (SEMA).

In cases where such a failed aftermarket part is responsible for a warranty claim, the vehicle manufacturer must arrange a settlement with the consumer, but by law the new - vehicle warranty is not voided.

Overall, the laws governing warranties are very clear. The only time a new vehicle warranty can be voided is if an aftermarket part has been installed and it can be proven that it is responsible for an emission warranty claim. However, a vehicle manufacturer or dealership cannot void a warranty simply because an an aftermarket equipment has been installed on a vehicle.

If a dealership denies a warranty claim and you think the claim falls under the rules explained above concerning the clean air act (such as an emission part failure), obtain a written explanation of the dealers refusal. Then follow the steps outlined in the owners manual. However, if this fails, then phone your complaint in to the EPA at (202) 233-9040 or (202) 326-9100.

If a dealer denies a warranty claim involving an implied or expressed new car warranty and you would like help, you can contact the Federal Trade Commission (FTC). The FTC works for the consumer to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop and avoid them. To file a complaint, you can call toll-free, 1-877-FTC-HELP (1-877-382-4357), or use the online complaint form. The FTC enters Internet, telemarketing, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies worldwide.

WHAT IS THE MAGNUSON-MOSS WARRANTY ACT?

On January 4, 1975, President Ford signed into law the Magnuson-Moss Warranty Act, Title 1, ..101-112, 15 U.S.C. ..2301 et seq. This act, effective July 4, 1975, is designed to "improve the adequacy of information available to consumers, prevent deception, and improve competition in the marketing of consumer products. . . ." The Magnuson-Moss Warranty Act applies only to consumer products, which are defined as "any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed)." Under Section 103 of the Act, if a warrantor sells a consumer product costing more than $15 under written warranty, the writing must state the warranty in readily understandable language as determined by standards set forth by the Federal Trade Commission. There is, however, no requirement that a warranty be given nor that any product be warranted for any length of time. Thus the Act only requires that when there is a written warranty, the warrantor clearly disclose the nature of his warranty obligation prior to the sale of the product. The consumer may then compare warranty protection, thus shopping for the "best buy." To further protect the consumer from deception, the Act requires that any written warranty must be labeled as either a "full" or a "limited" warranty. Only warranties that meet the standards of the Act may be labeled as "full." One of the most important provisions of the Act prohibits a warrantor from disclaiming or modifying any implied warranty whenever any written warranty is given or service contract entered into. Implied warranties may, however, be limited in duration if the limitation is reasonable, conscionable, and set forth in clear and unmistakable language prominently displayed on the face of the warranty. A consumer damaged by breach of warranty, or noncompliance with the act, may sue in either state or federal district court. Access to federal court, however, is severely limited by the Act's provision that no claim may be brought in federal court if: (a) The amount in controversy of any individual claim is less than $25,000; (b) the amount in controversy is less than the sum or value of $50,000 computed on the basis of all claims in the suit; or (c) a class action is brought, and the number of named plaintiffs is less than 100. In light of these requirements it is likely that most suits will be brought in state court. If the consumer prevails, he is awarded costs and attorneys' fees. Nothing in the Act invalidates any right or remedy available under state law, and most suits should proceed on claims based on both the Code and the Act.

Understanding the Magnuson-Moss Warranty Act

The Magnuson-Moss Warranty Act is the federal law that governs consumer product warranties. Passed by Congress in 1975, the Act requires manufacturers and sellers of consumer products to

provide consumers with detailed information about warranty coverage. In addition, it affects both the rights of consumers and the obligations of warrantors under written warranties.

To understand the Act, it is useful to be aware of Congress' intentions in passing it. First, Congress wanted to ensure that consumers could get complete information about warranty terms and conditions. By providing consumers with a way of learning what warranty coverage is offered on a product before they buy, the Act gives consumers a way to know what to expect if something goes wrong, and thus helps to increase customer satisfaction.

Second, Congress wanted to ensure that consumers could compare warranty coverage before buying. By comparing, consumers can choose a product with the best combination of price, features, and warranty coverage to meet their individual needs.

Third, Congress intended to promote competition on the basis of warranty coverage. By assuring that consumers can get warranty information, the Act encourages sales promotion on the basis of warranty coverage and competition among companies to meet consumer preferences through various levels of warranty coverage.

Finally, Congress wanted to strengthen existing incentives for companies to perform their warranty obligations in a timely and thorough manner and to resolve any disputes with a minimum of delay and expense to consumers. Thus, the Act makes it easier for consumers to pursue a remedy for breach of warranty in the courts, but it also creates a framework for companies to set up procedures for resolving disputes inexpensively and informally, without litigation.

What the Magnuson-Moss Act Does Not Require

In order to understand how the Act affects you as a businessperson, it is important first to understand what the Act does not require.

First, the Act does not require any business to provide a written warranty. The Act allows businesses to determine whether to warrant their products in writing. However, once a business decides to offer a written warranty on a consumer product, it must comply with the Act.

Second, the Act does not apply to oral warranties. Only written warranties are covered.

Third, the Act does not apply to warranties on services. Only warranties on goods are covered. However, if your warranty covers both the parts provided for a repair and the workmanship in making that repair, the Act does apply to you.

Finally, the Act does not apply to warranties on products sold for resale or for commercial purposes. The Act covers only warranties on consumer products. This means that only warranties on tangible property normally used for personal, family, or household purposes are covered. (This includes property attached to or installed on real property.) Note that applicability of the Act to a particular product does not, however, depend upon how an individual buyer will use it.

The following section of this manual summarizes what the Magnuson-Moss Warranty Act requires warrantors to do, what it prohibits them from doing, and how it affects warranty disputes.

What the Magnuson-Moss Act Requires

In passing the Magnuson-Moss Warranty Act, Congress specified a number of requirements that warrantors must meet. Congress also directed the FTC to adopt rules to cover other requirements. The FTC adopted three Rules under the Act, the Rule on Disclosure of Written Consumer Product Warranty Terms and Conditions (the Disclosure Rule), the Rule on Pre-Sale Availability of Written Warranty Terms (the Pre-Sale Availability Rule), and the Rule on Informal Dispute Settlement Procedures (the Dispute Resolution Rule). In addition, the FTC has issued an interpretive rule that clarifies certain terms and explains some of the provisions of the Act. This section summarizes all the requirements under the Act and the Rules.

The Act and the Rules establish three basic requirements that may apply to you, either as a warrantor or a seller.

As a warrantor, you must designate, or title, your written warranty as either "full" or "limited."
As a warrantor, you must state certain specified information about the coverage of your warranty in a single, clear, and easy-to-read document.
As a warrantor or a seller, you must ensure that warranties are available where your warranted consumer products are sold so that consumers can read them before buying.

The titling requirement, established by the Act, applies to all written warranties on consumer products costing more than $10. However, the disclosure and pre-sale availability requirements, established by FTC Rules, apply to all written warranties on consumer products costing more than $15. Each of these three general requirements is explained in greater detail in the following chapters.

What the Magnuson-Moss Act Does Not Allow

There are three prohibitions under the Magnuson-Moss Act. They involve implied warranties, so-called "tie-in sales" provisions, and deceptive or misleading warranty terms.

Disclaimer or Modification of Implied Warranties

The Act prohibits anyone who offers a written warranty from disclaiming or modifying implied warranties. This means that no matter how broad or narrow your written warranty is, your customers always will receive the basic protection of the implied warranty of merchantability.

There is one permissible modification of implied warranties, however. If you offer a "limited" written warranty, the law allows you to include a provision that restricts the duration of implied warranties to the duration of your limited warranty. For example, if you offer a two-year limited warranty, you can limit implied warranties to two years. However, if you offer a "full" written warranty, you cannot limit the duration of implied warranties.

If you sell a consumer product with a written warranty from the product manufacturer, but you do not warrant the product in writing, you can disclaim your implied warranties. (These are the implied warranties under which the seller, not the manufacturer, would otherwise be responsible.) But, regardless of whether you warrant the products you sell, as a seller, you must give your customers copies of any written warranties from product manufacturers.

"Tie-In Sales" Provisions

Generally, tie-in sales provisions are not allowed. Such a provision would require a purchaser of the warranted product to buy an item or service from a particular company to use with the warranted product in order to be eligible to receive a remedy under the warranty. The following are examples of prohibited tie-in sales provisions.

In order to keep your new Plenum Brand Vacuum Cleaner warranty in effect, you must use genuine Plenum Brand Filter Bags. Failure to have scheduled maintenance performed, at your expense, by the Great American Maintenance Company, Inc., voids this warranty.

While you cannot use a tie-in sales provision, your warranty need not cover use of replacement parts, repairs, or maintenance that is inappropriate for your product. The following is an example of a permissible provision that excludes coverage of such things.

While necessary maintenance or repairs on your AudioMundo Stereo System can be performed by any company, we recommend that you use only authorized AudioMundo dealers. Improper or incorrectly performed maintenance or repair voids this warranty.

Although tie-in sales provisions generally are not allowed, you can include such a provision in your warranty if you can demonstrate to the satisfaction of the FTC that your product will not work properly without a specified item or service. If you believe that this is the case, you should contact the warranty staff of the FTC's Bureau of Consumer Protection for information on how to apply for a waiver of the tie-in sales prohibition.

Deceptive Warranty Terms

Obviously, warranties must not contain deceptive or misleading terms. You cannot offer a warranty that appears to provide coverage but, in fact, provides none. For example, a warranty covering only "moving parts" on an electronic product that has no moving parts would be deceptive and unlawful. Similarly, a warranty that promised service that the warrantor had no intention of providing or could not provide would be deceptive and unlawful.

How the Magnuson Moss Act May Affect Warranty Disputes

Two other features of the Magnuson-Moss Warranty Act are also important to warrantors. First, the Act makes it easier for consumers to take an unresolved warranty problem to court. Second, it encourages companies to use a less formal, and therefore less costly, alternative to legal proceedings. Such alternatives, known as dispute resolution mechanisms, often can be used to settle warranty complaints before they reach litigation.

Consumer Lawsuits

The Act makes it easier for purchasers to sue for breach of warranty by making breach of warranty a violation of federal law, and by allowing consumers to recover court costs and reasonable attorneys' fees. This means that if you lose a lawsuit for breach of either a written or an implied warranty, you may have to pay the customer's costs for bringing the suit, including lawyer's fees.

Because of the stringent federal jurisdictional requirements under the Act, most Magnuson-Moss lawsuits are brought in state court. However, major cases involving many consumers can be brought in federal court as class action suits under the Act.

Although the consumer lawsuit provisions may have little effect on your warranty or your business, they are important to remember if you are involved in warranty disputes.

Alternatives to Consumer Lawsuits

Although the Act makes consumer lawsuits for breach of warranty easier to bring, its goal is not to promote more warranty litigation. On the contrary, the Act encourages companies to use informal dispute resolution mechanisms to settle warranty disputes with their customers. Basically, an informal dispute resolution mechanism is a system that works to resolve warranty problems that are at a stalemate. Such a mechanism may be run by an impartial third party, such as the Better Business Bureau, or by company employees whose only job is to administer the informal dispute resolution system. The impartial third party uses conciliation, mediation, or arbitration to settle warranty disputes.

The Act allows warranties to include a provision that requires customers to try to resolve warranty disputes by means of the informal dispute resolution mechanism before going to court. (This provision applies only to cases based upon the Magnuson-Moss Act.) If you include such a requirement in your warranty, your dispute resolution mechanism must meet the requirements stated in the FTC's Rule on Informal Dispute Settlement Procedures (the Dispute Resolution Rule). Briefly, the Rule requires that a mechanism must:

Be adequately funded and staffed to resolve all disputes quickly;
Be available free of charge to consumers;
Be able to settle disputes independently, without influence from the parties involved;
Follow written procedures;
Inform both parties when it receives notice of a dispute;
Gather, investigate, and organize all information necessary to decide each dispute fairly and quickly;
Provide each party an opportunity to present its side, to submit supporting materials, and to rebut points made by the other party; (the mechanism may allow oral presentations, but only if both parties agree);
Inform both parties of the decision and the reasons supporting it within 40 days of receiving notice of a dispute; Issue decisions that are not binding; either party must be free to take the dispute to court if dissatisfied with the decision (however, companies may, and often do, agree to

be bound by the decision);
Keep complete records on all disputes; and
Be audited annually for compliance with the Rule.

It is clear from these standards that informal dispute resolution mechanisms under the Dispute Resolution Rule are not "informal" in the sense of being unstructured. Rather, they are informal because they do not involve the technical rules of evidence, procedure, and precedents that a court of law must use.

Currently, the FTC's staff is evaluating the Dispute Resolution Rule to determine if informal dispute resolution mechanisms can be made simpler and easier to use. To obtain more information about this review, contact the FTC's warranty staff.

As stated previously, you do not have to comply with the Dispute Resolution Rule if you do not require consumers to use a mechanism before bringing suit under the Magnuson-Moss Act. You may want to consider establishing a mechanism that will make settling warranty disputes easier, even though it may not meet the standards of the Dispute Resolution Rule.

You can view a slightly more detailed legal explanation of the Magnuson - Moss Warranty act of 1975 by clicking on the following link: http://www.pipeline.com/~rmantis/webdoc14.htm

Sources of the above information include:

Superchips Inc. Newsletter / Car Craft September 1994 issue.
Federal Trade Commission Website.
State Bar of Texas Website (texasbarcle.com)