



Does Your Warranty Comply with Federal Law?

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*This is the second installment of the three-part series discussing warranties. **Part 1** addressed implied warranties that could apply to your products whether you offer them or not. In Part 2, we address the impact of federal law on warranties you specifically offer your customers.*

If your business sells consumer products with written warranties, those warranties must comply with the Magnusson-Moss Warranty Act (the "Act"). Magnusson-Moss is a federal law that governs the content of written warranties. This article covers three questions: (1) Does the Act apply to you? (2) What does the Act require? (3) What does the Act prohibit?

Does Magnusson-Moss Apply to You?

The Magnusson-Moss Warranty Act applies only to businesses selling consumer goods with written warranties. Accordingly, the following situations are not subject to its requirements:

- The Act does not require businesses to offer a written warranty. Accordingly, if you do not offer a written warranty on your product, federal law does not apply (although the implied warranties discussed in Part 1 may).
- The Act only applies to *written warranties*. Therefore, any oral warranties you make in connection with the sale of your product is not subject to federal law.
- The Act only applies to *products*. This means that the Act does not apply to any services you provide that come with a warranty. You have to be careful if you offer a warranty in connection with your services because if your warranty covers both the parts used and services provided, the Act applies to you.

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- The Act only applies to *consumer products*. Consumer products are generally used for personal, family, or household purposes. Accordingly, if you provide a written warranty for products that will be resold or are used for commercial purposes, the Act does not apply to you.

What Does Magnusson-Moss Require?

If you determine you offer warranties covered by the Act, then you must ensure your warranties comply with its requirements. The Act provides three general rules:

- First, your warranties must be titled as either “full” or “limited” warranties. Part 3 of this series will discuss the requirements necessary to call your warranty a “full” warranty. Anything else is a “limited” warranty.
- Second, you must provide certain information in a single document that is easy to read. Required information includes (1) what the warranty covers, (2) the period of coverage, (3) how you will fix problems, (4) how the customer gets warranty service, and (5) if state law provides the customer with additional rights.
- Third, the warranty must be available at the time of purchase. The Act requires that customers have an opportunity to read the warranty before making a purchase.

What Does Magnusson-Moss Prohibit?

The Act not only provides certain requirements that apply to every warranty, but also prohibits businesses from taking certain actions. Generally, there are three things you should avoid when offering warranties on your products:

- First, you cannot disclaim or modify implied warranties. These are the warranties discussed in Part 1. You may be able to limit your exposure somewhat if you offer a “limited” warranty or if you do not offer a warranty, but the product comes with a warranty from the manufacturer.
- Second, you cannot require the customer to purchase additional products to keep their warranty coverage. This practice is referred to as a tie-in sale provision and is strictly prohibited by the Act.
- Third, you cannot offer deceptive warranty terms. Common deceptive practices include offering warranties on items unrelated to the product being sold. For example, if you sell hammers, it would be unlawful to provide a warranty with that hammer that only covers electronic components.

It is important to comply with the Magnusson-Moss Warranty Act because the Act allows customers to recover court costs and attorneys’ fees against a breaching seller. If you have questions about whether your warranties are covered by the Act, please contact one of Foster Swift’s Business and Tax attorneys.