

CHANGES IN REQUIREMENTS OF MAGNUSON-MOSS WARRANTY ACT: OPTION TO PROVIDE WARRANTY TERMS ONLINE PURSUANT TO E-WARRANTY ACT OF 2015

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Product Liability Alert

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Manufacturers of consumer products sold in the United States should be aware that recent changes in the federal statute governing consumer product warranties allow for more flexibility in how manufacturers can satisfy their responsibilities with regard to the provision of warranty information to consumers. On September 24, 2015, President Obama signed into law the E-Warranty Act of 2015, which amends § 2302(b) of the Magnuson-Moss Warranty Act of 1975 to allow manufacturers and distributors to make their warranties available online as an alternative to the requirement that hard copy warranty terms be included on or within the packaging for consumer goods. The Federal Trade Commission is charged with enforcement of the Magnuson-Moss and E-Warranty Act requirements and has until September 24, 2016 to revise its current regulations regarding the availability of written warranties on consumer products to conform to the changes in the E-Warranty Act. In passing the E-Warranty Act, Congress cited the necessity of modernizing warranty notification rules to promote global competition by U.S. manufacturers and the increased consumer access that may result from these changes. Congress further noted that allowing manufacturers to provide consumer information online is environmentally-friendly and allows some flexibility to manufacturers in how they meet their labeling and warranty requirements.

Warrantors subject to the Magnuson-Moss Warranty Act are now able to comply with its requirement that warranty terms and conditions be made available to consumers by directing consumers to their websites, but there are specific requirements for how the warranty information must be presented on the website and for how consumers must be notified of its availability. Specifically:

- Warranty terms must be available in an accessible digital format on the website of the manufacturer in a clear and conspicuous manner;
- Information regarding how to access the online warranty terms must be provided to the consumer on either the product or the product packaging or in the product manual and must include the website where the warranty terms can be found as well as another non-Internet based means of contacting the manufacturer to obtain the terms of the warranty, such as a mailing address or phone number; and
- For certain transactions where provision of warranty terms is required prior to sale of the product, such as when a consumer product is offered for sale in a retail location, by catalog, or through door-to-door sales, sellers must ensure availability of warranty terms, whether by electronic means or otherwise, at the

location of sale, even if the warranty availability requirements are to be satisfied by reference to the online terms.

Further regulations *may* be promulgated by the Federal Trade Commission until the September 24, 2016 anniversary of the enactment of the law, which may clarify or offer guidance regarding some of the newly proposed changes. Thus, manufacturers are cautioned against instituting any changes in their warranty policies or procedures until those regulations are final. With the exception of the new online presentation option discussed above, the remainder of the requirements of the Magnuson-Moss Warranty Act remains the same. K&L Gates will continue to update you on the developments in this area as they occur in the near future.

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