



CONSUMER NEWS

SAN DIEGO CITY ATTORNEY'S OFFICE

WARRANTIES: WHAT ARE MY RIGHTS UNDER STATE LAW?

September 2014

Last month we brought you useful information about how warranties may impact your purchases under federal law ([Newsletter](#).) This month we are focusing on your rights, as a purchaser, under *state* warranty laws. When purchasing a car, an extended warranty on electronics, or relying on an advertised warranty, it is important to know what you are really getting. What you may be expecting from a warranty and what you are getting may be different.

GOVERNING LAWS

The California Commercial Code and the Song-Beverly Consumer Warranty Act both provide protections to California consumers for breach of warranty actions.

California Commercial Code

The UCC (Uniform Commercial Code), as discussed in last month's newsletter, was created in 1952 to provide uniformity among the states in the realm of consumer and merchant transactions. Since California's adoption of the UCC, many of the provisions have been codified into law as the California Commercial Code sections 2312-2317 ([Cal. Comm. Code 2308-2328](#)) govern the warranties of goods in California.

Song-Beverly Consumer Warranty Act

The Song-Beverly Consumer Warranty Act was enacted by California State legislature in 1971. Song-Beverly is more commonly known as California's state "lemon law," affecting purchases of new cars. Song-Beverly was enacted to provide additional relief to consumers. Warranty provisions of the Song-Beverly Act are primarily codified in California Civil Code sections 1792-1795.8, under Title 1.7: Consumer Warranties, as referred to [here](#).

WARRANTED GOODS

Electronics & Appliances

We, as consumers, buy new electronic products every day, driving the market to provide us with new innovations and dependable products. Consumers impulsively make pricey purchases to keep up with the hottest new technological trends. When purchasing products, whether it is for convenience, necessity, or luxury, some kind of warranty is always associated with the product in California. There are exceptions when an item is sold "as is", as discussed in our previous newsletter. First & foremost, it is necessary to inquire about the coverage of any warranties associated with the product.

Service Contracts Involving Electronics and Appliances

In addition to the federal laws governing manufacturer's warranties, the Bureau of Electronic & Appliance Repair, Home Furnishings, and Thermal Installation (<http://www.bear.ca.gov/industry/>) governs service contracts sold to California consumers involving the following products:

- Furniture,
- Small kitchen appliances & tools,
- Major appliances,
- Entertainment & home electronics,
- Lawn equipment,
- Home health care products,
- Phone equipment, and
- Fitness equipment.

Service contracts are sold separately to cover repairs and maintenance not covered by the general warranties. See, more information [here](#).

The California Department of Consumer Affairs suggests these three tips in order to "Shop Wisely":

- (1) Ask to see a copy of the service contract before making a purchase,
- (2) Compare the manufacturer's warranty (included with the purchase price) with the service contract to make sure you are not

purchasing unnecessary coverage, and (3) Keep a copy of the service contract, receipts, and any other paperwork associated with the purchase in a secure place.

Additionally, the Bureau acts as an enforcement agency by ensuring that service contractors provide the services they promise. The Department of Consumer Affairs also suggests confirming that the service provider is valid. To look up whether a service contractor is licensed, you may search here: [licensing](#).

Manufacturer's Warranties Involved With Electronics and Appliances

Manufacturers are required to abide by the following guidelines as a part of offering express warranties, as discussed in the California Civil Code section 1793.2:

Manufacturers must maintain repair facilities within California or provide independent facilities in all areas where the products are sold and must generally repair defects within thirty days, unless otherwise stated. Additionally, a buyer must notify the manufacturer of a problem and give the manufacturer an opportunity to repair or replace, before taking further action to sue the manufacturer.

Automobiles

The Song-Beverly Act includes California's codified version of the state's "lemon law." The "lemon law" applies to new automobiles purchased in California from a manufacturer or dealer, ensuring that the purchase of a new car is protected by certain mechanical guarantees. In some cases, when buyers experience serious and repetitive warranted defects, a manufacturer or dealer may be required to replace the vehicle or provide a refund for the defective car. A car manufacturer is given a

"reasonable" number of attempts to repair the car before being obligated to replace or refund. Reasonable has not been specifically defined. To determine what is "reasonable," the circumstances of the defect must be evaluated. Generally, there is a presumption that the replace or refund entitlement triggers if certain circumstances occur. The presumption is just a guideline and is not a law. The presumption guidelines evaluate the seriousness of the defect and the threat to safety of the car owner or lessee.

A person that has not been successful in getting the new car's defects fixed may choose to sue the manufacturer directly. Under current California case law, a person that wishes to sue under the Song-Beverly Act for new car defects has the burden of proving that (1) the product had a defect covered by an express warranty, (2) the product was given to an authorized representative of the manufacturer for repair, and (3) the manufacturer or representative did not repair the product within a "reasonable" number or repair attempts. *Fleetwood v. Travel Trailers of California, Inc.*, 144 Cal. App. 4th 785, 798 (2006)

In the alternative, some manufacturers offer arbitration programs that are regulated by the Arbitration Certification Program. For more information, refer to the Department of Consumer Affairs "Lemon Law" website at <http://www.dca.ca.gov/acp/index.shtml>.

"Lifetime Warranties"

When we purchase products based on their "lifetime warranty", whose lifetime are manufacturers referring to? Your lifetime? Probably not! Surprisingly, lifetime warranties are not defined in California! A lifetime may actually mean a much

shorter period of time, depending on the manufacturer's definition. Section 1797.93 of the California Civil Code requires that any warranty that makes a representation of having a "lifetime" or "life" warranty must be defined more clearly by the seller or manufacturer, such that the buyer clearly understands. The important thing to note here is to *always read the fine print carefully*. Do not assume that a "lifetime" really means a lifetime. More information about California's lemon law can be found on the California Attorney General's website at <http://oag.ca.gov/consumers/general/lemon>.

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The information provided in this newsletter is intended to convey general information and is not intended to be relied upon as legal advice.

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The San Diego City Attorney's Consumer & Environmental Protection Unit prosecutes criminal and civil violations of California's unfair competition and other consumer laws committed in the City of San Diego. The Unit maintains a Phone Hotline for consumers to report possible violations. You can reach the Hotline at **(619) 533-5600**.