



**AUTOMOTIVE
OIL CHANGE
ASSOCIATION**
SINCE 1987

AAIA
**Automotive Aftermarket
Industry Association**

SSDA
**SERVICE STATION DEALERS OF AMERICA
AND ALLIED TRADES**

TIA
**TIRE INDUSTRY
ASSOCIATION**

May 7, 2012

Ms. Lois Greisman
Associate Director, Division of Marketing Practices
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Kia aftermarket oil filter ban violates Magnuson Moss Warranty Act

Dear Ms. Greisman:

Last fall, the organizations listed below wrote the Federal Trade Commission regarding a release from Honda and Acura that attempted to mislead consumers as to the quality of non-original equipment replacement parts and the possibility that use of these parts could void their new car warranties. We further contended that this release was a violation of the Magnuson Moss Warranty Act (MMWA) which prohibits the conditioning of warranties based on the use of a non-original equipment part. While the Commission chose not to take any action against Honda or Acura based on that release, we appreciated the official consumer alert issued in 2011 to inform consumers about their rights under federal warranty law. Our prediction that lack of enforcement action would encourage further egregious behavior, however, came to pass and we submitted another complaint against Mazda for misleading consumers regarding the use of aftermarket parts and services.

While we await the Commission's consideration of the pending Mazda complaint, our groups must urge the Commission to take action against yet another automaker: Kia Motors. Apparently, Kia did not read the section of FTC's consumer alert that reads: "Simply using an aftermarket part does not void your warranty." In Technical Service Bulletin #114 dated February 2012 with the subject heading "AFTERMARKET OIL FILTERS" (see attached), Kia states the following:

Kia does not test or approve any aftermarket filters and only recommends the use of Kia genuine parts that are designed to operate at the specifications set forth during engine lubrication design and testing. If the engine oil has been changed recently and a noise condition has developed, perform an inspection of the oil filter and or Customer oil change maintenance records to help you in determining if an aftermarket filter or the wrong oil viscosity was used. If the vehicle is equipped with an aftermarket oil filter, perform an oil change and filter using the correct oil grade / viscosity and a replacement genuine Kia oil filter at the customer's expense." (emphasis added)

There are three obvious problems with that part of the bulletin. First, it specifies use of "an aftermarket oil filter" as reason alone to replace the filter at the customer's expense. In other words, simply using an aftermarket part *can* void your warranty if you own a 2012 Kia.

Second, Kia's bulletin doesn't even contemplate diagnostic work to determine the source of any "noise condition" developed, but rather directs technicians to assume an aftermarket oil filter is to blame. Despite a complete lack of evidence, Kia eliminates all aftermarket oil filter options as if none could possibly work. In fact, manufacturers are currently producing aftermarket oil filters in compliance with Kia's specifications and quality requirements, and these filters are used every day without incident.

The third obvious problem with Kia's bulletin is Kia's directive that technicians automatically charge customers to replace aftermarket oil filters with Kia oil filters regardless of whether the aftermarket filter actually caused a problem. This sounds remarkably similar to a warranty-voiding clause combined with a directive to ignore the manufacturer's burden of proof under MMWA. To be perfectly clear that this is the case, Kia goes on to state the following:

"Note: Customer concerns as a result of incorrect oil viscosity or use of aftermarket oil filter should not be treated as a warranty repair and any related damage is not warrantable, nor is changing the engine oil and filter to isolate this condition." (bold in original)

If the technician changes the aftermarket filter and the problem turns out to be caused by something else, warranty coverage for the service is nevertheless denied; i.e., every Kia customer using an aftermarket oil filter will lose warranty coverage for at least the parts and services associated with the Kia-directed automatic oil and filter change as well as damages for other engine problems Kia alleges to be "related" to oil filter function.

The MMWA manufacturer's burden of proof is not that it need merely show an aftermarket part "relates" to damage, but that it "caused" any alleged damage. As the FTC states in its consumer alert: "The Magnuson-Moss Warranty Act makes it illegal for companies to void your warranty or deny coverage under the warranty simply because you used an aftermarket or recycled part." The alert goes on to say that if there is a problem with use of an aftermarket part or how it was installed, the manufacturer or dealer may deny a warranty claim. However, the manufacturer must first "show that the aftermarket or recycled part caused the need for repairs before denying warranty coverage." Kia's directives circumvent this process entirely: the mere presence of an aftermarket oil filter automatically voids warranty coverage for the oil change parts and services as well as any damage Kia says "relates" to oil filter function.

Does FTC know how many engine problems arguably "relate" to oil filter function but aren't necessarily caused by any problem with the oil filter part itself? Specifically, oil filter ballooning and gasket popping can be caused by a malfunctioning engine check valve, while the filter leaking oil around the gasket can be caused by the oil filter face plate—an engine part—not being completely flat. Basic lack of engine coolant causes many problems as well—camshaft damage, valve damage, crank damage, and head gasket damage—yet Kia could rationally argue they're all "related" to oil filter

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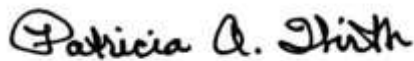
function. Oil starvation is another classic problem Kia could claim “relates” to oil filter function, but it is also caused by oil pump malfunction as well as gunk build-up from prolonged drain intervals. So long as they don’t have to prove causation, Kia has a veritable smorgasbord of engine problems available to wrongfully blame on the use of aftermarket oil filters and the average layperson consumer will never know the difference.

AOCA, AAIA, and TIA/SSDA request that the Commission take immediate action to require Kia to withdraw the bulletin and issue a correction: that use of non-Kia oil filters is permissible, and that it would be Kia’s burden of proof to prove a non-Kia part caused any alleged damage before denying warranty coverage.

Ms. Greisman, it appears that the absence of action as we requested by the Commission on the Honda release is leading more and more car companies to not only engage in similar misleading tactics regarding the use of non-original equipment parts by consumers, but also to ratchet up the unlawful rhetoric and service directives. Immediate action is needed to both protect consumers from Kia in the short term, and to stop other automakers from jumping on this anti-consumer bandwagon.

Thank you for your immediate attention. We look forward to the Commission’s response to this urgent request.

Sincerely,



Patricia Wirth
President
Automotive Oil Change Association



Aaron M. Lowe
Vice President, Government Affairs
Automotive Aftermarket Industry Association



Roy Littlefield
Executive Vice President
Tire Industry Association &
Service Station Dealers of America

Enclosure

cc: Svetlana Gans; sgans@ftc.gov