

THE DUTIES PRESCRIBED IN §14-404 MAY NOT BE IMPOSED ON A GUARANTOR IF HE SHOWS THAT WHILE THE CONSUMER PRODUCT WAS IN THE POSSESSION OF ANY PERSON OTHER THAN THE GUARANTOR, DAMAGE OR UNREASONABLE USE, INCLUDING FAILURE TO PROVIDE ANY REASONABLE AND NECESSARY MAINTENANCE DISCLOSED UNDER §14-403 OF THIS SUBTITLE, CAUSED THE PRODUCT TO MALFUNCTION.

REVISOR'S NOTE: This section presently appears as Art. 83, §171.

Section 171 presently exempts a guarantor if the consumer's "failure to provide reasonable and necessary maintenance" caused the malfunction. However, as thus worded, this section makes no distinction as to whether or not the requisite "reasonable and necessary maintenance" was in fact ever disclosed to the person guaranteed, as required by §14-403(2). In light of the broad definition of the term in §14-401(g), it would appear unfair to exempt a guarantor simply because the consumer failed to provide any maintenance, the requirement and specifics for which the guarantor has himself failed to disclose. Such a result would appear at odds with the provisions of §14-404(b) and is apparently unintended. Therefore, the phrase "failure to provide any reasonable and necessary maintenance disclosed under §14-403" has been substituted. (This change would also appear to follow from the legislative dictate in §14-402 that this subtitle be "liberally construed and applied to promote its purposes and policies.")

The only other changes are in style.

14-406. ACTION BY ATTORNEY GENERAL

(A) ATTORNEY GENERAL MAY SEEK INJUNCTION.

IF A GUARANTOR VIOLATES ANY PROVISION OF THIS SUBTITLE, THE ATTORNEY GENERAL MAY OBTAIN A COURT ORDER PROHIBITING THE GUARANTOR FROM FURTHER VIOLATIONS.

(B) NOTICE.

AT LEAST SEVEN DAYS BEFORE THE FILING OF AN ACTION FOR THE ORDER, THE ATTORNEY GENERAL SHALL GIVE APPROPRIATE NOTICE TO THE GUARANTOR STATING GENERALLY THE RELIEF SOUGHT.

(C) COURT ORDER.