

7/7/2010

## **Sorrell suit shows future of product safety claims, former AG writes**

by John O'Brien

WASHINGTON (Legal Newsline) - An action against retail chain Dollar Tree might show how state attorneys general will enforce product safety laws, former New Mexico Attorney General Hal Stratton recently wrote.



Sorrell

No state attorney general has yet brought an action against a company under the Consumer Product Safety Improvement Act, which gave AGs the power to enforce federal product safety laws, wrote Hal Stratton. Stratton also served as chairman of the U.S. Consumer Product Safety Commission from 2002-06.

No AG has done so, Stratton says, because he or she could not seek monetary penalties. Vermont Attorney General William Sorrell's claim against Dollar Tree, which had to recall children's toys that contained cadmium and lead, was that it violated a state law concerning unfair and deceptive trade practices.

"(U)nlike the attorney generals' power under the CPSIA, the Vermont Attorney General, once an unfair or deceptive act such as selling an unsafe product has been determined, has the authority to seek a civil penalty..." Stratton wrote in a piece published by the **Washington Legal Foundation**.

"Under this provision, Dollar Tree agreed to pay the state of Vermont a civil penalty of \$100,000 for all violations."

Every state has a similar law that will allow its AG to seek monetary damages, Stratton says.

He adds that the federal law will likely lead to litigation regarding preemption.

"(I)n granting enforcement powers to the state attorneys general under the CPSIA, Congress has effectively put the state attorneys general on par with the CPSC regarding the injunction of the sale of consumer products exhibiting a substantial product hazard," Stratton wrote.

"CPSIA further allows state attorneys general to enforce federally promulgated regulations and federally administrated recalls. The issue of preemption in the field of consumer product safety will undoubtedly be the subject of additional litigation in the future."

Sorrell's action against Dollar Tree may provide a preview of how more states will get involved in product safety issues, Stratton said.

He predicts states seeking monetary damages from stakeholders and those involved in the product supply chain for violations of state laws when the CPSC does not, as was the case with the Dollar Tree issue.

He also feels states may team up for multistate actions.

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