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2003

(LOS ANGELES) – Attorney General Bill Lockyer today announced a settlement with three major candy manufacturers that will substantially reduce the levels of lead found in “Mexican style” candies, spicy treats that are becoming increasingly popular with children, who are particularly vulnerable to brain damage and other health effects caused by exposure to lead.

2002

2001

2000

“Today’s settlement is a tremendous advancement in protecting our children from one of the most dangerous substances in the environment,” said Lockyer. “These companies deserve credit for stepping up to comply with the law in a way that will dramatically reduce the lead levels in these candies by spurring industry-wide reforms of manufacturing practices.”

1999

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Lockyer today filed the settlement jointly in Los Angeles County Superior Court with Los Angeles City Attorney Rocky Delgadillo and Alameda County District Attorney Tom Orloff.

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“The implications of this settlement, which requires the makers of Mexican-style candies to stop selling lead-tainted candy, cannot be understated,” said Delgadillo. “What we have accomplished through this litigation is nothing less than a fundamental shift in the way this candy is produced -- a shift that will give untold hundreds of thousands of children a chance at a better life.”

“The successful resolution of this case is a testament to the cooperation and hard work by

a variety of environmental law enforcement agencies, both public and private,” said Orloff. “By working together on what turned out to be a very complicated investigation, prosecution and negotiation, we were successfully able to pool resources and expertise in a way that would have been virtually impossible for any one agency to achieve.”

The settling companies are: Effem Mexico y Compania SNC de C.D. and Masterfoods U.S.A., both subsidiaries of Mars, Inc.; Grupo Lorena, S.A. de C.V., a subsidiary of the Hershey Company; and Dulces Vero, S.A. de C.V.

The settling candy makers were among more than two dozen manufacturers named as defendants in a 2004 lawsuit brought by the prosecutors, who alleged the companies violated Proposition 65 by failing to warn consumers about the lead in their products. Proposition 65 – the landmark environmental and public health

protection initiative enacted by voters in 1986 – requires businesses to provide clear and reasonable warnings when consumers are exposed to substances known by the state to cause cancer or reproductive harm. The 2004 lawsuit will proceed against the non-settling defendants.

The settlement requires defendants to use new manufacturing processes to substantially reduce lead in the candies and packaging materials, to conduct independent audits within six months to ensure the processes are curbing lead contamination, and to purchase only from suppliers that wash and clean their chilies. Lockyer's office will make public a list of companies that meet these requirements, including manufacturers who agree to join the settlement and abide by its stringent terms.

The three settling defendants will pay a combined total of \$954,000. The payment includes: \$100,000 in civil penalties; \$379,000 to fund programs to educate consumers about issues related to lead poisoning, provide lead testing services and environmental audits for candy manufacturers, and help implement the settlement; and \$475,000 for fees and costs.

Also joining the settlement were the Center for Environmental Health (CEH) and the Environmental Health Coalition (EHC). Lockyer and the two local prosecutors filed the lawsuit with CEH and EHC in 2004 after the two groups notified Lockyer they intended to file a Proposition 65 action against candy manufacturers. Before private parties can file Proposition 65 lawsuits, they must provide prosecutors 60 days notice. In that 60-day period, prosecutors can review and investigate the case. If prosecutors decide to file a lawsuit, the private parties can continue as co-plaintiffs, but cannot bring their own action.

An investigative series published by the Orange County Register in 2004 concluded that much of the contamination in Mexican-made candies result from poor manufacturing and agricultural practices, which allow lead-tainted dirt from dried chili peppers to get into the candies.


Lockyer's office, along with the California Department of Health Services, conducted extensive testing of the products and found high levels of lead in the candies targeted in the case. Levels were as high as 0.3 ppm in some chili-candy products, and as high as 1.1 ppm in some salt-based products. The amounts were well above the level that triggers the requirement to provide a Proposition 65 warning to consumers.

In addition, the plaintiffs hired an independent food processing auditor who, with cooperation from the defendants, investigated Mexican production facilities to identify the source of the lead contamination and ways to solve the problem. The auditor concluded that a nearly 10-fold reduction in lead coming from chili powder could be achieved through processing improvements, such as using washed chilies.

Lead has been listed under Proposition 65 since 1987 as a chemical that can cause reproductive harm and birth defects, and has been on the list of chemicals known to cause cancer since 1992. Exposure to lead occurs chiefly from ingestion, such as eating or putting objects into the mouth, putting young children particularly at risk. Children exposed to lead can suffer severe adverse health effects, including brain damage, kidney damage, hearing loss and impaired growth.

Lockyer said the lead-exposure reduction achieved in the candy case helps show why Congress should defeat a proposal that would undercut Proposition 65 and similar food safety laws in other states. H.R. 4167 would preempt Proposition 65's requirement to warn consumers about carcinogens and reproductive toxins in their food. In order to keep Proposition 65 and similar laws alive, California and other states would have to obtain permission from the federal government to enforce their statutes, even when federal agencies decline to act on pressing environmental health issues.

Attachments for this Release

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