



NEWS RELEASE

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ADVOCATES FILE LEGAL ACTION AGAINST CONSUMER PRODUCT SAFETY COMMISSION

Walker and Abel Request judicial review of CPSC's failure to act

EUGENE -- Greg Abel of Advocates for Safe Glass, Inc. (AFSG) and Senator Vicki Walker (D-Eugene) announced they are preparing to file legal action against the Consumer Product Safety Commission (CPSC) for its failure to enforce federal regulations enacted in 1977 to protect the public against the dangers of wired glass.

The action will request judicial review of the CPSC's absence of discretion in failing to implement the federal ban on use of glazing in doors that does not meet the CPSC impact test standard, 16 CFR 1201. The action will be filed as a writ of mandamus under the Administrative Procedures Act.

Wired glass does not meet impact standards adopted by CSPC in 1977, and is in fact more dangerous than regular window glass because when broken, razor-sharp wires are exposed that increase the severity of the injury. Because there were no other fire-rated glazing products available at that time, wired glass, required for use in fire doors by state and local fire codes, was granted a temporary exemption from the safety compliance standard.

The CPSC explained in a letter to the International Code Council on May 12, 2004, that the wired glass exemption is very narrow and only applies when its use is required by fire codes and ordinances. Despite the fact that wired glass is no longer required by building codes enforced by state and local jurisdictions, the CPSC has not stepped forward to exercise its jurisdiction over wired glass and stop its use at a national level.

"The CPSC has admitted it has jurisdiction over this dangerous product. They have the ability to immediately issue safety advisories and a national recall to remove it from locations where it has been used illegally for over a decade, and yet they choose to do nothing," said Senator Walker.

Their announcement is the latest in a series of steps taken by AFSG and Senator Walker to advance the use of safe glazing products in lieu of wired glass in schools, athletic facilities, and public buildings where it has caused serious injuries. As a result of their efforts, the states of Oregon and Washington have changed their building codes to eliminate the use of wired glass in new construction. AFSG was also successful in changing the 2006 International Building Code (IBC), to ban the use of wired glass that doesn't meet the CPSC standard.

As Abel, Chair of AFSG, explained, “We were pleased the ICC agreed the model building code needed to be changed, but the adoption of the IBC by state and local governments can take years, unless states take emergency rulemaking actions, as the state of Washington recently did. The CPSC, on the other hand, is able to take immediate action to stop the use of this product in every state.”

Walker and Abel met with the CPSC in October of 2003, providing a very detailed and comprehensive presentation on the hazards of wired glass and why the CPSC should take action on this matter. Frustrated by the slow response and historical failure of CPSC to take action after that meeting, Sen. Walker and Mr. Abel traveled to Washington D.C. in May 2004 to meet with members of the House Committee on Energy and Commerce; the Subcommittee on Commerce, Trade and Consumer Protection; and the Subcommittee on Oversight and Investigations. The committees have direct oversight over the CPSC.

In response to Congressional pressure generated from that meeting, CPSC promised to issue safety advisories immediately, and to initiate recall actions to remove existing applications of wired glass installed in violation of 16 CFR 1201. According to Walker and Abel, those promises were made over a year ago, and nothing has been done.

“We are left with no choice but to force the CPSC into court to explain why it has not done what Congress charged it to do—protecting the American public from dangerous consumer products,” said Walker and Abel. “This is not something the CPSC has the discretion to avoid,” said Walker.

Abel emphasized that had the CPSC done its job years ago, as mandated by Congress, it would have saved his own son from being injured in 2001. Abel formed the nonprofit organization, Advocates for Safe Glass, Inc., shortly after his son, Jarred, was injured when his hand impacted wired glass in a fire door at the University of Oregon.

“Mr. Abel and I have gone to CPSC and provided injury studies based on its own injury data, showing that over 2,000 school children are injured a year as a result of the misuse of this product,” said Walker. As the court has previously recognized, “There is no requirement in the CPSA [Consumer Product Safety Act of 1972] that before promulgating a safety rule the commission ‘develop a precise body count of actual injuries’ caused or likely to be caused by a product under consideration.” [*Forester v. Consumer Product Safety Commission*, 182 U.S. App. D.C. 153, 559 F.2d 774, 788 (D.C. Cir 1977)].

Abel noted that several state court actions are now pending across the country brought by individuals injured by wired glass.

For more information, go to www.safeglass.org

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