

Oregon Sues 5-Hour Energy Over False Ad Claims

STEVEN DUBOIS, Associated Press

PORTLAND, Ore. (AP) — Oregon's attorney general has sued the companies responsible for the popular 5-Hour Energy drink, alleging they engaged in deceptive advertising.

The lawsuit filed Thursday in Portland contends 5-Hour Energy falsely claims customers get extra energy and focus from a unique blend of ingredients, when the boost actually comes from a concentrated dose of caffeine.

The suit also targets claims that users don't experience a crash when the effects subside and that the product is OK for adolescents.

Oregon has been part of a group leading a 33-state investigation into the accuracy of the product's claims. Other states are expected to file similar lawsuits, said Kristina Edmunson, a spokeswoman for the Oregon Department of Justice.

The suit names Living Essentials LLC and Innovation Ventures LLC as defendants.

5-Hour Energy spokeswoman Melissa Skabich said Oregon Attorney General Ellen Rosenblum is grasping at straws and the company will defend itself against what Skabich called civil intimidation.

"When companies are being bullied by someone in a position of power, these companies roll over, pay the ransom, and move on," Skabich said in a statement. "We're not doing that."

Rosenblum said the company violated the Oregon Unlawful Trade Practices Act. The lawsuit seeks monetary penalties as well as refunds to all Oregon buyers of the decaffeinated version of the product, which, according to the lawsuit, provides no extra energy or alertness.

"Plainly and simply, in Oregon you cannot promote a product as being effective if you don't have sufficient evidence to back up your advertising claims," Rosenblum said.

She and 5-Hour Energy have been in a tug-of-war over that evidence for more than a year, with her department seeking unredacted information showing how the formula for 5-Hour Energy provides its asserted benefits.

The heavily advertised energy drink was introduced a decade ago, and the lawsuit estimates it is sold at more than 100,000 retail locations in the United States.

The state officials investigating 5-Hour Energy say they are concerned about safety. The Food and Drug Administration said in November 2012 that it had received more

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than 90 reports over four years about illnesses, hospitalizations and deaths after the consumption of 5-Hour Energy.

The FDA said, however, that the reports did not prove that the energy drink caused the problems.

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