WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2011

ENROLLED

Senate Bill No. 349
(BY SENATORS LAIRD, SNYDER, NOHE, MILLER AND KLEMPA)

[Passed March 9, 2011; in effect ninety days from passage.]
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-43-1 and §16-43-2, all relating to requiring the inclusion of a bittering agent in coolant and antifreeze; limiting liability; providing exceptions; and providing a criminal penalty.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-43-1 and §16-43-2, all to read as follows:

ARTICLE 43. ENGINE COOLANT AND ANTIFREEZE.

§16-43-1. Definitions.

For the purposes of this article:

(1) “Bittering agent” means an aversive agent that renders engine coolant or antifreeze unpalatable; and

(2) “Engine coolant” or “antifreeze” means:

(A) A substance or preparation, regardless of its origin used as the cooling medium in the cooling system of an internal combustion engine to provide protection against freezing, overheating and corrosion of the cooling system; and
(B) A product that is labeled to indicate or imply that it will prevent freezing or overheating of the cooling system of an internal combustion engine.

§16-43-2. Engine coolant and antifreeze; bittering agent required; penalty; exceptions.

(a) Any engine coolant or antifreeze manufactured in this state after January 1, 2012, or sold after that date within West Virginia that contains more than ten percent ethylene glycol shall include not less than thirty parts per million and not more than fifty parts per million denatonium benzoate as a bittering agent in order to render the coolant or antifreeze unpalatable.

(b) A manufacturer, processor, distributor, recycler or seller of an engine coolant or antifreeze that is required to contain the bittering agent set forth in subsection (a) of this section is not liable to any person for any personal injury, death, property damage, damage to the environment or economic loss that results from the inclusion of denatonium benzoate in any engine coolant or antifreeze, if the inclusion of denatonium benzoate is present in concentrations as mandated by subsection (a) of this section. The limitation on liability does not apply to a particular liability to the extent that the cause of the liability is unrelated to the inclusion of denatonium benzoate in any engine coolant or antifreeze.

(c) The provisions of this section do not apply to:

(1) The sale of a motor vehicle that contains engine coolant or antifreeze;

(2) A wholesale container of engine coolant or antifreeze designed to contain fifty-five gallons or more of engine coolant or antifreeze; and

(3) Engine coolant or antifreeze reformulated through on site recycling.

(d) Any person who violates any provision of this section is guilty of a misdemeanor and shall be fined not more than $100. Each day of violation is a separate offense.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

Acting President of the Senate

Speaker of the House of Delegates

The within is approved this the 18th Day of March, 2011.

Governor
PRESENTED TO THE GOVERNOR

MARCH 18, 2011

Time 9:45AM