

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.

- 1 For the purposes of this article:
- 2 (1) “Bittering agent” means an aversive agent that renders
3 engine coolant or antifreeze unpalatable; and
- 4 (2) “Engine coolant” or “antifreeze” means:
 - 5 (A) A substance or preparation, regardless of its origin
6 used as the cooling medium in the cooling system of an
7 internal combustion engine to provide protection against
8 freezing, overheating and corrosion of the cooling system;
9 and

10 (B) A product that is labeled to indicate or imply that it
11 will prevent freezing or overheating of the cooling system of
12 an internal combustion engine.

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

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

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

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

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

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

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

28 (d) Any person who violates any provision of this section is
29 guilty of a misdemeanor and shall be fined not more than
30 \$100. Each day of violation is a separate offense.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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Acting President of the Senate

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Speaker of the House of Delegates

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Day of, 2011.

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Governor