

# Senate Bill No. 349

(By Senators Laird, Snyder, Nohe, Miller and Klempa)

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[Introduced January 31, 2011; referred to  
the Committee on the Judiciary.]

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A BILL 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; providing exceptions; and 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.

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(NOTE: The purpose of this bill is to require a bittering agent to be placed in certain engine coolants and antifreezes to prevent the personal injury or death of human beings and animals. Violation of this article is a misdemeanor.

This article is new; therefore, strike-throughs and underscoring have been omitted.)

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JUDICIARY COMMITTEE AMENDMENT

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill No. 349**—A Bill 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.