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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

1 as the cooling medium in the cooling system of an internal
2 combustion engine to provide protection against freezing,
3 overheating and corrosion of the cooling system; and

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

7 **§16-43-2. Engine coolant and antifreeze; bittering agent required;**
8 **penalty; exceptions.**

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

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

1 antifreeze.

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

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

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

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

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