

ENGINE COOLANT BITTERING AGENT ACT

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael G. Waddoups

House Sponsor: John G. Mathis

LONG TITLE

General Description:

This bill modifies the Environmental Quality Code to require a bittering agent in engine coolant and to address related issues.

Highlighted Provisions:

This bill:

▶ enacts the Engine Coolant Bittering Agent Act including:

- defining terms;
- requiring engine coolant sold in the state to contain a bittering agent subject to specific conditions;
- requires recordkeeping and public access to the records;
- prohibits regulation by political subdivisions;
- exempts certain persons from liability for various harms;
- provides a private right of action; and
- provides exemptions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



- 59 (ii) a maximum of 50 parts per million; or
- 60 (b) a similar bittering agent that renders the engine coolant unpalatable if it meets or
- 61 exceeds the degree of aversion as compared to denatonium benzoate at a concentration of 30
- 62 parts per million.

63 Section 4. Section **19-1-504** is enacted to read:

64 **19-1-504. Recordkeeping.**

65 (1) A manufacturer or packager of engine coolant that sells the engine coolant to a

66 person in this state shall maintain for at least three years a record of the following for a

67 bittering agent used in the engine coolant in accordance with Section 19-1-503:

- 68 (a) the trade name;
- 69 (b) the scientific name; and
- 70 (c) the active ingredients.

71 (2) A manufacturer or packager shall make the information described in Subsection (1)

72 available to the public upon request.

73 Section 5. Section **19-1-505** is enacted to read:

74 **19-1-505. Liability limitation.**

75 (1) (a) Subject to the other provisions of this section, a person may not be held liable as

76 described in Subsection (1)(b) if:

- 77 (i) the person is a manufacturer, processor, distributor, recycler, or seller of an engine
- 78 coolant; and
- 79 (ii) the engine coolant at issue contains denatonium benzoate in a concentration
- 80 described in Section 19-1-503.

81 (b) A person described in Subsection (1)(a) may not be held liable to any person for

82 any of the following that results from the inclusion of denatonium benzoate in an engine

83 coolant in the concentrations described in Section 19-1-503:

- 84 (i) personal injury;
- 85 (ii) death;
- 86 (iii) property damage;
- 87 (iv) damage to the environment, including natural resources; or
- 88 (v) economic loss.

89 (2) Subsection (1) does not apply to a liability to the extent that:

90 (a) the cause of the liability is unrelated to the inclusion of denatonium benzoate in an
91 engine coolant; or

92 (b) the injury described in Subsection (1)(b) is the result of will or wanton misconduct
93 or gross negligence by a manufacturer, processor, distributor, recycler, or seller of engine
94 coolant.

95 (3) Nothing in this section shall be construed to exempt any manufacturer or distributor
96 of denatonium benzoate from any liability related to denatonium benzoate.

97 Section 6. Section **19-1-506** is enacted to read:

98 **19-1-506. Preemption.**

99 With respect to a retail container containing less than 55 gallons of engine coolant, a
100 political subdivision of this state may not establish or enforce a prohibition, limitation,
101 standard, or other requirement relating to the inclusion of a bittering agent in an engine coolant
102 that differs from, or is in addition to, a requirement under this part.

103 Section 7. Section **19-1-507** is enacted to read:

104 **19-1-507. Civil action.**

105 (1) The attorney general or a person may bring a civil action in a court of competent
106 jurisdiction to seek:

107 (a) an injunction to enforce the part; and

108 (b) if the action is brought by the attorney general, a civil penalty not to exceed \$500
109 for each day the part is violated.

110 (2) In an action brought under this section, a court may:

111 (a) order injunctive relief;

112 (b) impose a civil penalty to the extent provided in Subsection (1);

113 (c) award attorney fees and costs to the attorney general or person who brings the civil
114 action, if the attorney general or person prevails; or

115 (d) take a combination of actions under this Subsection (2).

116 (3) A civil penalty imposed under this section shall be deposited into the General Fund.

117 Section 8. Section **19-1-508** is enacted to read:

118 **19-1-508. Exemptions.**

119 This part does not apply to:

120 (1) the sale of a motor vehicle ~~or~~ or a part of a motor vehicle ~~that~~ that contains engine
120a coolant; or

121 (2) a wholesale container of engine coolant that contains 55 gallons or more of engine
122 coolant if it contains a conspicuous label indicating whether or not it contains a bittering agent.

Legislative Review Note
as of 2-17-10 3:22 PM

Office of Legislative Research and General Counsel

S.B. 218 - Engine Coolant Bittering Agent Act

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Certain businesses may be impacted by requirements established in the bill.
