1	ENGINE COOLANT BITTERING AGENT ACT
2	2010 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: Michael G. Waddoups
5	House Sponsor: John G. Mathis
6	
7	LONG TITLE
8	General Description:
9	This bill modifies the Environmental Quality Code to require a bittering agent in engine
10	coolant and to address related issues.
11	Highlighted Provisions:
12	This bill:
13	enacts the Engine Coolant Bittering Agent Act including:
14	 defining terms;
15	 requiring engine coolant sold in the state to contain a bittering agent subject to
16	specific conditions;
17	 requires recordkeeping and public access to the records;
18	 prohibits regulation by political subdivisions;
19	 exempts certain persons from liability for various harms;
20	 provides a private right of action; and
21	 provides exemptions.
22	Monies Appropriated in this Bill:
23	None
24	Other Special Clauses:
25	None
26	Utah Code Sections Affected:
27	ENACTS:



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28	19-1-501 , Utah Code Annotated 1953
29	19-1-502 , Utah Code Annotated 1953
30	19-1-503 , Utah Code Annotated 1953
31	19-1-504 , Utah Code Annotated 1953
32	19-1-505 , Utah Code Annotated 1953
33	19-1-506 , Utah Code Annotated 1953
34	19-1-507 , Utah Code Annotated 1953
35	19-1-508 , Utah Code Annotated 1953
36	
37	Be it enacted by the Legislature of the state of Utah:
38	Section 1. Section 19-1-501 is enacted to read:
39	Part 5. Engine Coolant Bittering Agent Act
40	<u>19-1-501.</u> Title.
41	This part is known as the "Engine Coolant Bittering Agent Act."
42	Section 2. Section 19-1-502 is enacted to read:
43	<u>19-1-502.</u> Definitions.
44	(1) "Bittering agent" means an aversive agent that renders engine coolant unpalatable.
45	(2) "Engine coolant" means:
46	(a) a substance or preparation, regardless of its origin, used as the cooling medium in
47	the cooling system of an internal combustion engine to provide protection against freezing,
48	overheating, and corrosion of the cooling system; or
49	(b) a product that is labeled to indicate or imply that it will prevent freezing or
50	overheating of the cooling system of an internal combustion engine.
51	Section 3. Section 19-1-503 is enacted to read:
52	19-1-503. Requirements for engine coolant sold in state.
53	On or after January 1, 2011, a person may not sell engine coolant to a person in this
54	state that is manufactured on or after January 1, 2011, if the engine coolant:
55	(1) contains more than 10% ethylene glycol; and
56	(2) does not contain:
57	(a) denatonium benzoate within the following amounts:
58	(i) a minimum of 30 parts per million; and

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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:

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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	<u>19-1-506.</u> 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	<u>19-1-507.</u> 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	<u>19-1-508.</u> Exemptions.
119	This part does not apply to:
120	(1) the sale of a motor vehicle $\hat{\mathbf{H}} \rightarrow \mathbf{or} \ \mathbf{a} \ \mathbf{part} \ \mathbf{of} \ \mathbf{a} \ \mathbf{motor} \ \mathbf{vehicle} \leftarrow \hat{\mathbf{H}} \ \mathbf{that} \ \mathbf{contains} \ \mathbf{engine}$
120a	coolant; or

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(2) a wholesale container of engine coolant that contains 55 gallons or more of engine 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

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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.

2/23/2010, 12:37:01 PM, Lead Analyst: Bleazard, M./Attny: PO

Office of the Legislative Fiscal Analyst