

Union Calendar No. 433

109TH CONGRESS
2^D SESSION

H. R. 2567

[Report No. 109–730, Part I]

To amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent so as to render it unpalatable.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2005

Mr. ACKERMAN (for himself, Mr. ROHRABACHER, Mrs. WILSON of New Mexico, Mr. UPTON, Mrs. BONO, and Mr. TANNER) introduced the following bill; which was referred to the Committee on Energy and Commerce

DECEMBER 8, 2006

Additional sponsors: Mr. MORAN of Virginia, Mr. CASE, Mr. NADLER, Mr. DICKS, Mr. ABERCROMBIE, Mr. KILDEE, Mr. GALLEGLY, Mr. BILIRAKIS, Mr. OLVER, Mr. PLATTS, Mr. ETHERIDGE, Ms. DELAURO, Mr. KOLBE, Mr. DEFazio, Ms. BERKLEY, Mr. CUMMINGS, Mr. SESSIONS, Ms. HARMAN, Mr. MCGOVERN, Mr. CALVERT, Mr. MCNULTY, Mr. WHITFIELD, Mr. MCCOTTER, Mr. SANDERS, Mr. LARSEN of Washington, Mrs. MCCARTHY, Mr. DOYLE, Mr. SHAYS, Mr. WOLF, Mr. MOORE of Kansas, Mr. EVANS, Mr. PRICE of North Carolina, Mr. FRANK of Massachusetts, Mr. SIMMONS, Mr. FERGUSON, Mr. ENGLISH of Pennsylvania, Mr. LAHOOD, Mr. MCDERMOTT, Mr. SMITH of New Jersey, Mr. PASCRELL, Mr. EVERETT, Mr. GORDON, Mr. JACKSON of Illinois, Mr. BROWN of South Carolina, Mr. FRELINGHUYSEN, Mr. ROTHMAN, Mrs. DAVIS of California, Ms. JACKSON-LEE of Texas, Mr. HASTINGS of Florida, Mr. VAN HOLLEN, Mr. SULLIVAN, Mr. FOLEY, Mrs. NORTHUP, Mr. WELDON of Pennsylvania, Mr. WU, Mr. MURTHA, Mr. UDALL of Colorado, Mr. TOWNS, Mr. ROSS, Mr. KIRK, Mr. WYNN, Mr. GONZALEZ, Mr. ENGEL, Mr. SHADEGG, Mr. REICHERT, Mr. CAMPBELL of California, Mr. CASTLE, Mr. EHLERS, Mrs. LOWEY, Mrs. SCHMIDT, Mrs. MALONEY, Mr. KLINE, Mr. BAIRD, Mr. WELLER, and Mr. NEAL of Massachusetts

Deleted sponsors: Mr. GEORGE MILLER of California (added June 13, 2005; deleted July 27, 2005), Mr. FARR (added June 15, 2005; deleted June 23, 2005), Mr. GENE GREEN of Texas (added June 28, 2005; deleted September 13, 2005), Ms. SCHAKOWSKY (added June 28, 2005; deleted

1 **“SEC. 25. ADDITION OF BITTERING AGENT IN ANTIFREEZE**
2 **REQUIRED.**

3 “(a) *BITTERING AGENT.*—

4 “(1) *ENVIRONMENTAL EVALUATION REQUIRED.*—

5 “(A) *IN GENERAL.*—*Not later than 30 days*
6 *after the date of enactment of this section, the*
7 *Consumer Product Safety Commission shall com-*
8 *mence an evaluation, in cooperation with the*
9 *Environmental Protection Agency and appro-*
10 *priate State health and environmental officials*
11 *in those States that, as of the date of enactment*
12 *of this section, have enacted laws requiring a*
13 *bittering agent in engine coolant or antifreeze, to*
14 *determine whether there is evidence that the use*
15 *of the bittering agent denatonium benzoate in en-*
16 *gine coolant or antifreeze has an unreasonable*
17 *adverse effect on the environment.*

18 “(B) *CERTAIN TESTS PROHIBITED.*—*The*
19 *evaluation required under subparagraph (A)*
20 *may not include any new animal or human test-*
21 *ing.*

22 “(C) *REQUIRED DATE OF COMPLETION.*—
23 *The Commission shall complete the evaluation*
24 *within 180 days after the date of enactment of*
25 *this section and publish its findings in the Fed-*
26 *eral Register.*

1 “(2) *USE OF BITTERING AGENT.*—

2 “(A) *GENERAL REQUIREMENT.*—*Unless the*
3 *Commission, in its evaluation under paragraph*
4 *(1), finds there is evidence of an unreasonable*
5 *adverse effect on the environment, any engine*
6 *coolant or antifreeze that is manufactured on or*
7 *after the date that is 180 days after the date of*
8 *publication of the Commission’s finding in the*
9 *Federal Register pursuant to paragraph (1)(C),*
10 *and that contains more than 10 percent ethylene*
11 *glycol, shall include not less than 30 parts per*
12 *million, and not more than 50 parts per million,*
13 *denatonium benzoate as a bittering agent in*
14 *order to render the coolant or antifreeze*
15 *unpalatable.*

16 “(B) *ALTERNATIVE AGENT.*—*If the inclu-*
17 *sion of denatonium benzoate in engine coolant or*
18 *antifreeze is required under subparagraph (A)*
19 *and the Commission finds that—*

20 “(i) *an alternative bittering agent is as*
21 *effective as denatonium benzoate in ren-*
22 *dering coolant or antifreeze unpalatable in*
23 *terms of both its bittering capacity and its*
24 *compatibility with motor vehicle engine*
25 *coolant and antifreeze, and*

1 “(ii) in cooperation with the Environ-
2 mental Protection Agency, there is no evi-
3 dence that the use of the alternative
4 bittering agent has an unreasonable adverse
5 effect on the environment,

6 the Commission may initiate a rulemaking to
7 permit the use of the alternative bittering agent
8 in lieu of denatonium benzoate.

9 “(3) *UNREASONABLE ADVERSE EFFECT ON THE*
10 *ENVIRONMENT DEFINED.*—As used in this subsection,
11 the term ‘unreasonable adverse effect on the environ-
12 ment’ means an unreasonable risk to human health or
13 the environment, taking into account the economic,
14 social, and environmental costs and benefits.

15 “(4) *FAILURE TO COMPLY.*—Any engine coolant
16 or antifreeze that is required to contain a bittering
17 agent under paragraph (2) that is not in compliance
18 with that paragraph shall be considered to be a
19 banned hazardous substance within the meaning of
20 section 2(q) (15 U.S.C. 1261(q)), and shall be subject
21 to the penalties provided for in section 5 (15 U.S.C.
22 1264).

23 “(b) *RECORD KEEPING.*—

24 “(1) *NAME AND ACTIVE INGREDIENT.*—A manu-
25 facturer of an engine coolant or antifreeze that is re-

1 *quired to contain a bittering agent under subsection*
2 *(a) shall maintain a record of the trade name, sci-*
3 *entific name, and any active ingredients of a*
4 *bittering agent used in compliance with such sub-*
5 *section.*

6 *“(2) AVAILABILITY TO THE PUBLIC.—Any record*
7 *maintained under paragraph (1) shall be made avail-*
8 *able to the public on receipt by the manufacturer of*
9 *a request from any person.*

10 *“(c) LIMITATION OF LIABILITY.—*

11 *“(1) IN GENERAL.—Subject to paragraph (2), a*
12 *manufacturer, processor, distributor, recycler, or seller*
13 *of an engine coolant or antifreeze that is required to*
14 *contain a bittering agent under subsection (a) shall*
15 *not be liable to a person for any personal injury,*
16 *death, property damage, damage to the environment*
17 *(including natural resources), or economic loss that*
18 *results from the inclusion in the engine coolant or*
19 *antifreeze of the bittering agent, provided that the*
20 *bittering agent is present in concentrations mandated*
21 *by subsection (a)(2)(A) or permitted pursuant to a*
22 *rulemaking under subsection (a)(2)(B).*

23 *“(2) EXCEPTION.—Paragraph (1) shall not*
24 *apply in any case in which a cause of liability re-*
25 *ferred to in that paragraph is unrelated to the inclu-*

1 *sion in an engine coolant or antifreeze of the bittering*
2 *agent as required by subsection (a). Nothing in this*
3 *subsection shall be construed to exempt any manufac-*
4 *turer or distributor of denatonium benzoate, or an al-*
5 *ternative bittering agent the use of which is required*
6 *or permitted under subsection (a)(2), from any liabil-*
7 *ity related to denatonium benzoate or the alternative*
8 *bittering agent.*

9 *“(d) PREEMPTION.—No State or political subdivision*
10 *of a State shall establish or continue to enforce with respect*
11 *to retail containers containing less than 55 gallons of en-*
12 *gine coolant or antifreeze any prohibition, limitation,*
13 *standard or other requirement relating to the inclusion of*
14 *a bittering agent in engine coolant or antifreeze that is dif-*
15 *ferent from, or in addition to, the requirements of this sec-*
16 *tion.*

17 *“(e) EXEMPTION.—This section shall not be construed*
18 *to apply to—*

19 *“(1) the sale of a motor vehicle that contains en-*
20 *gine coolant or antifreeze; or*

21 *“(2) a wholesale container of engine coolant or*
22 *antifreeze that contains 55 gallons or more of engine*
23 *coolant or antifreeze.”.*

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A BILL

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DECEMBER 8, 2006

Committees on the Judiciary and Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed