Senate Bill 29 (as introduced 1-16-13)   *(Senate-passed version)*
Sponsor: Senator Steven Bieda
Committee: Economic Development

Date Completed: 2-20-13

CONTENT

The bill would create the "Engine Coolant Bittering Agent Act" to do the following:

-- **Prohibit the sale of engine coolant containing more than 10% ethylene glycol, unless it contained denatonium benzoate in specified concentrations.**
-- **Require a manufacturer or packager to maintain certain records for at least three years, and make them publicly available, in order to sell engine coolant in Michigan.**
-- **Grant limited immunity from liability to certain entities that complied with the Act.**
-- **Authorize the Attorney General or any person to bring a civil action for an injunction to enforce the Act, and for a civil fine if the Attorney General brought the action.**
-- **Allocate civil fine revenue to the General Fund.**

Sale of Engine Coolant

The bill would prohibit a person from selling engine coolant in Michigan on or after January 1, 2015, if the coolant were manufactured on or after that date and contained more than 10% ethylene glycol, unless the coolant contained denatonium benzoate in a concentration of 30 to 50 parts per million.

A manufacturer or packager could not sell engine coolant in Michigan unless it retained a record of the coolant's trade name and scientific name, the concentration of ethylene glycol, and the concentration of denatonium benzoate. The manufacturer or packager would have to keep the record for at least three years, and make it available to the public upon request.

"Engine coolant" would mean a substance that is used in the cooling system of an internal combustion engine to provide protection against freezing, overheating, or corrosion of the cooling system, or that is labeled or sold with the implication that it may be used for that purpose.

The proposed Act would not apply to the sale of a motor vehicle that contained engine coolant or to wholesale containers that contained 55 gallons or more of engine coolant.

Liability Protection

A manufacturer, processor, distributor, recycler, or seller of an engine coolant that complied with the proposed Act would not be liable to any person for any of the following that resulted from inclusion of denatonium benzoate in an engine coolant, if it were present in the concentrations described in the Act:

-- Personal injury.
-- Death.
-- Property damage.
-- Damage to the environment, including natural resources.
-- Economic loss.

The Act, however, would not relieve a person from liability in any of the following circumstances:

-- The injury was not primarily caused by the inclusion of denatonium benzoate in the engine coolant.
-- The injury was the result of the manufacturer's, processor's, distributor's, recycler's, or seller's willful or wanton misconduct or gross negligence.
-- The injury was related to the manufacture or distribution of denatonium benzoate.

Civil Action

The Attorney General or any other person could bring a civil action for, and a court could order, one or more of the following:

-- An injunction to enforce the proposed Act.
-- A civil fine of up to $500 for each day of sale in violation of the Act, if the Attorney General brought the action.
-- Attorney fees and costs, if the plaintiff prevailed.

Civil fine revenue in an action brought by the Attorney General would have to be submitted to the State Treasurer for deposit into the General Fund.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have minimal fiscal impact on the State. The Department of Attorney General would incur costs if it were necessary to bring a civil action under the bill. Any civil fine revenue received would be deposited in the General Fund.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

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