

Department of Legislative Services
 Maryland General Assembly
 2011 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 897

(Delegate Murphy, *et al.*)

Environmental Matters

Finance and Judicial Proceedings

Engine Coolant and Antifreeze Bittering Agent Act

This bill prohibits a person from selling or offering to sell any engine coolant or antifreeze that contains more than 10% ethylene glycol unless the coolant or antifreeze contains between 30 and 50 parts per million denatonium benzoate (specified exceptions apply).

The bill takes effect January 1, 2012.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues beginning in FY 2012 due to the bill’s penalty provision. General fund expenditures increase by \$35,300 in FY 2012 for the Department of Health and Mental Hygiene (DHMH) to hire one full-time sanitarian to handle enforcement. Future year expenditures reflect annualization and inflation.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	35,300	72,100	75,400	78,900	82,700
Net Effect	(\$35,300)	(\$72,100)	(\$75,400)	(\$78,900)	(\$82,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential minimal increase in expenditures to the extent that local health departments assist with enforcement.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill does not apply to the sale of engine coolant or antifreeze that is (1) in a motor vehicle at the time of sale; (2) in a wholesale container that is designed to contain 55 gallons or more of fluid; (3) reformulated through on-site recycling; or (4) purchased in accordance with military specifications.

A violator is guilty of a misdemeanor and on conviction is subject to a fine of up to \$100. Each day that a violation continues constitutes a separate offense.

However, if any federal or State agency determines that denatonium benzoate is unsuitable for use due to a danger that it poses to persons, property, or the environment, the bill is abrogated. DHMH must notify Legislative Services within five days after receiving notice of any such determination.

Current Law: Maryland law does not regulate the addition of bittering agents such as denatonium benzoate to engine coolant or antifreeze.

Background: Ethylene glycol is an odorless, sweet-tasting liquid commonly used in engine coolant or antifreeze. It is highly toxic and, if ingested, potentially lethal.

Denatonium benzoate is a chemical compound, known for its extremely bitter taste, that is sold as an aversive agent for application in toxic products to prevent children and animals from consuming the products. Fifteen states (Arizona, California, Illinois, Maine, Massachusetts, New Jersey, New Mexico, Ohio, Oregon, Tennessee, Utah, Virginia, Vermont, Washington, and Wisconsin) have enacted laws requiring the inclusion of aversive agents such as denatonium benzoate in engine coolant or antifreeze. However, efforts to enact similar legislation at the federal level have failed in recent years.

The Maryland Department of the Environment (MDE) advises that the addition of denatonium benzoate to engine coolant or antifreeze will not impact vehicle operations or emissions or hazardous waste requirements. It is estimated that the addition of a bittering agent would add several cents to the cost of producing one gallon of coolant.

State Fiscal Effect: Potential minimal increase in general fund revenues beginning in fiscal 2012 under the bill's monetary penalty provision for those cases heard in District Court.

DHMH advises that one full-time scientist and one full-time sanitarian are needed to perform testing, develop regulations, and handle enforcement. Nonetheless, because the

bill does not specifically require DHMH to perform any testing, Legislative Services assumes that the bill does not necessitate the hiring of a full-time scientist.

However, with regard to enforcement, Legislative Services concurs that one full-time sanitarian is needed to implement the bill. (It is assumed, for purposes of this estimate, that enforcement is complaint based.) Nationally, an estimated 1,400 children and 10,000 pets accidentally ingest engine coolant or antifreeze each year. Based on these numbers, it is assumed that DHMH will receive a sufficient number of complaints annually to require the hiring of one full-time sanitarian to handle enforcement. It is also assumed, given that enforcement will not begin until after January 1, 2012, that DHMH can adopt any necessary regulations with existing resources and the assistance of the sanitarian. Thus, general fund expenditures increase by \$35,348 in fiscal 2012 to hire one full-time sanitarian. The estimate accounts for the bill's January 1, 2012 effective date and includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses (including significant anticipated travel expenses).

Position	1
Salary and Fringe Benefits	\$30,088
Operating Expenses	1,235
One-time Start-up Costs	<u>4,025</u>
Total FY 2012 State Expenditures	\$35,348

Future year expenditures reflect a full salary with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

Legislative Services notes that, to the extent unbittered engine coolant or antifreeze is phased out in coming years, the need for this position could be eliminated. However, MDE advises that it is currently unaware of any plan to phase out such products. Legislative Services further notes that the need for this position will be eliminated if denatonium benzoate is determined to be unsuitable for use and the bill is consequently abrogated.

Local Fiscal Effect: It is not expected that the number of complaints under the bill will be sufficient in any given county to necessitate the hiring of additional staff at the local level. However, local expenditures may increase to the extent that local health departments assist DHMH with enforcement.

Small Business Effect: Small retailers will not be allowed to sell unbittered engine coolant or antifreeze remaining in their existing stock on or after the bill's January 1, 2012 effective date. The bill does not allow for any phasing out of stock. It is

unclear whether the prohibition extends to automotive technicians who use these products to service vehicles and charge the customer for the product.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Humane Society, Maryland Association of County Health Officers, Maryland Department of the Environment, Department of Health and Mental Hygiene, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2011
ncs/mwc Revised - House Third Reader/Clarification - March 31, 2011
Revised - Enrolled Bill/Clarification - April 27, 2011

Analysis by: Jennifer A. Ellick

Direct Inquiries to:
(410) 946-5510
(301) 970-5510