

As Introduced

**127th General Assembly
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H. B. No. 38

Representative Skindell

**Cosponsors: Representatives Stewart, D., Fessler, Foley, Williams, B.,
Koziura, McGregor, J., DeGeeter, Collier, Stewart, J., DeBose, Dodd,
Garrison, Stebelton, Hughes, Hagan, R., Okey, Webster, Bolon, Sayre, Brady,
Beatty**

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A B I L L

To amend section 901.99 and to enact section 901.90 1
of the Revised Code to require the inclusion of a 2
bittering agent in engine coolant and antifreeze. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 901.99 be amended and section 901.90 4
of the Revised Code be enacted to read as follows: 5

Sec. 901.90. (A) Except as provided in division (E) of this 6
section, beginning July 1, 2007, engine coolant or antifreeze sold 7
in this state that contains more than ten per cent ethylene glycol 8
and that is manufactured after December 1, 2006, shall include a 9
bittering agent to render the engine coolant or antifreeze 10
unpalatable. The bittering agent shall consist of denatonium 11
benzoate in a concentration of not less than thirty parts per 12
million and not more than fifty parts per million. 13

This section applies to manufacturers, packagers, 14
distributors, recyclers, and sellers of engine coolant or 15
antifreeze. 16

(B) A manufacturer or packager of engine coolant or antifreeze that is subject to division (A) of this section shall maintain a record of the trade name, scientific name, and active ingredients of the bittering agent included in the engine coolant or antifreeze and, upon request, shall furnish a member of the public with the information contained in the record. 17
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(C)(1) No manufacturer, packager, distributor, recycler, or seller of engine coolant or antifreeze shall fail to comply with division (A) of this section by offering or distributing for sale in this state engine coolant or antifreeze that does not include denatonium benzoate as required by this section. 23
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(2) No manufacturer or packager shall fail to comply with division (B) of this section. 28
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(D) A manufacturer, packager, distributor, recycler, or seller that is subject to division (A) of this section is not liable for any bodily injury, death, or damage to property or the environment that results from the inclusion of denatonium benzoate in engine coolant or antifreeze in the concentration required by this section unless the bodily injury, death, or damage to property or the environment results from the willful or wanton misconduct of the manufacturer, packager, distributor, recycler, or seller, as applicable. 30
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(E) This section does not apply to either of the following: 39

(1) The sale of a motor vehicle that contains engine coolant or antifreeze; 40
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(2) A wholesale container of engine coolant or antifreeze containing fifty-five or more gallons of antifreeze. 42
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(F) The director of agriculture may conduct investigations and inspections and take other actions necessary to enforce this section. 44
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Sec. 901.99. (A) Whoever violates section 901.51 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section 901.75 or division (C) of section 901.73 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (A) of section 901.76 of the Revised Code is guilty of a felony of the fifth degree on a first offense and of a felony of the fourth degree on each subsequent offense.

(D) Whoever violates division (B) of section 901.76 of the Revised Code is guilty of a felony of the fourth degree.

(E) Whoever violates division (B) of section 901.511 of the Revised Code is guilty on a first offense of a misdemeanor or a felony that is one degree higher than the penalty for the most serious underlying specified offense that is involved in the violation. However, if on such an initial violation the penalty for the most serious underlying specified offense is a felony of the first degree, the violator is guilty of a felony of the first degree.

On each subsequent violation of division (B) of that section, the violator is guilty of a misdemeanor or a felony that is two degrees higher than the penalty for the most serious underlying specified offense that is involved in the subsequent violation. However, if on such a subsequent violation the penalty for the most serious underlying specified offense is a felony of the first or second degree, the violator is guilty of a felony of the first degree.

As used in this division, "specified offense" has the same meaning as in section 901.511 of the Revised Code, and "most serious underlying specified offense" refers to the underlying

specified offense that carries the highest maximum penalty. 77

(F) Whoever violates division (C) of section 901.511 of the Revised Code is guilty of a felony of the third degree. 78
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(G) Whoever violates section 901.90 of the Revised Code is 80
guilty of a misdemeanor and shall be fined not more than one 81
thousand dollars. 82

Section 2. That existing section 901.99 of the Revised Code 83
is hereby repealed. 84