1989

Session Law 89-004

Florida Senate & House of Representatives

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H 1416 GENERAL BILL by Regulatory Reform; Brown (Similar S 242)

Antifreeze/Regulations: (SUNSET) assigns administration of Antifreeze Act of 1978 to Standards Div. of Agriculture & Consumer Services Dept.; provides for enforcement of certain provisions of said sections by division; deletes authority of Consumer Services Div. of said dept. to prosecute violations of said act; provides for future review & repeal. Amends 501.911, 570.46,.544; revives/readopts 501.91-.923. Effective Date: 10/01/89.

03/24/89 HOUSE Prefiled
03/28/89 HOUSE Placed on Calendar
04/04/89 HOUSE Introduced, placed on Calendar –HJ 135
04/06/89 HOUSE Placed on Special Order Calendar; Read second time –HJ 165
04/11/89 HOUSE Read third time; Passed; YEAS 117 NAYS 0 –HJ 195
04/12/89 SENATE In Messages
04/19/89 SENATE Received, referred to Agriculture; Appropriations –SJ 193
04/25/89 SENATE Withdrawn from Agriculture; Appropriations; Substituted for SB 242; Passed; YEAS 40 NAYS 0 –SJ 205
04/27/89 Ordered enrolled
05/03/89 Signed by Officers and presented to Governor –HJ 371
05/09/89 Approved by Governor; Chapter No. 89-4 –HJ 417

NOTES: Above bill history from Division of Legislative Information's FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.
I. SUMMARY:

The bill gives the Division of Standards enforcement authority of sections 501.91-501.923, Florida Statutes, relating to registration of antifreeze in the State of Florida and would save from repeal and provide for a future review and repeal of the Antifreeze Act of 1978.

A. PRESENT SITUATION:

Sections 501.91-501.923, Florida Statutes enact the Antifreeze Act of 1978. Sections 501.91-501.23 were enacted in 1978 to provide safeguards and assurances to the purchaser that the purchaser was in fact purchasing antifreeze that would function effectively during both winter and summer in automotive vehicle cooling systems to provide protection against freezing, boiling and corrosion.

In 1978 numerous complaints were made to the Department of Agriculture and Consumer Services by consumers who purchased antifreeze that was later found to be chemically harmful to automotive vehicle cooling systems and was not sufficient to prevent freeze damage according to the label. As a result of complaints, the state began to test antifreeze coolants and register dealers with the Department of Agriculture.

When the department finds any antifreeze being distributed in violation of the statutes, it must issue and enforce a written "stop sale" order, warning the distributor not to dispose of any of the lot of antifreeze in any manner until written permission is given by the department or the court. When a violation is found, the violator is subject to suspension or revocation of his certificate of registration. Such suspension or revocation must
be for not less than 15 days or more than 90 days. For each such violation, the department may levy a fine which cannot exceed $5,000 per violation.

The standards, definitions, and test procedures used by the department for antifreeze are the same as those specified by the American Society for Testing and Material in its "Standard Specification for Ethylene Glycol Base Engine Coolant" and designated as D 3306.

Section 570.46, Florida Statutes relating to the powers and duties of the Division of Standards, is silent on enforcement authority. Section 570.544, Florida Statutes which relates to the powers of the Division of Consumer Services, provides authority to the Division of Consumer Services to bring legal action for violations of the state's consumer protection laws under chapter 501, Florida Statutes, in conjunction with the Department of Legal Affairs and appropriate state attorney.

B. EFFECT OF PROPOSED CHANGES:

Provides for enforcement authority under the Division of Standards of sections 501.91-501.923, Florida Statutes relating to the registration of antifreeze or coolant sold in the State.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:
   None.

2. Recurring or Annualized Continuation Effects:

   Program costs are estimated by the Department at $18,000 per year. The approximate annual collection of registration fees is $18,720. The cost is offsetted through annual license fees.

3. Long Run Effects Other Than Normal Growth:
   None.

4. Appropriations Consequences:
   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:
   None.
2. Recurring or Annualized Continuation Effects:
   None.

3. Long Run Effects Other Than Normal Growth:
   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:
   None.

2. Direct Private Sector Benefits:
   None.

3. Effects on Competition, Private Enterprise, and Employment Markets:
   None.

D. FISCAL COMMENTS:
   None.

III. LONG RANGE CONSEQUENCES:
   None.

IV. COMMENTS:

HB 1416 reflects the findings and recommendations of the Sunset review of the Antifreeze Act of 1978 created pursuant to sections 501.91-501.923, Florida Statutes.

The repealing of the Antifreeze Act of 1978 would have an adverse effect on the welfare of the public purchasing antifreeze in the state. The department believes that the wide spread sale of inferior antifreeze has been curtailed since the enactment of the Antifreeze Act.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Staff Director:

David Henderson
I. SUMMARY:

A. Present Situation:

Section 11.61, Florida Statutes, provides for the periodic legislative sunset review of the need for, and public benefits derived from, a program or function that licenses or regulates the initial entry into and practice of a profession, occupation, business, industry, or other endeavor and for the termination, modification, or reestablishment of such programs and functions. Section 2 of chapter 81-318, Laws of Florida, repeals the Antifreeze Act of 1978 on October 1, 1989, unless the Legislature revives and readopts it in the public interest.

Sections 501.91 - 501.923, Florida Statutes, creates the Antifreeze Act of 1978. The intent of the Legislature in creating ss. 501.91 - 501.923 in 1978 was to provide safeguards and assurances to the purchaser that the purchaser was in fact purchasing antifreeze that would function effectively during both winter and summer in automotive vehicle cooling systems to provide protection against freezing, boiling and corrosion.

In 1978 numerous complaints were made to the Department of Agriculture and Consumer Services by consumers who purchased antifreeze that was later found to be chemically harmful to automotive vehicle cooling systems and was not sufficient to prevent freeze damage according to the label. There are over one hundred different brands of antifreeze/coolant which are tested and registered each year with the Division of Standards' Bureau of Petroleum Inspection. The registration fee for each brand is $200. Bureau inspectors routinely sample the products from service stations and department stores as they make their official visits. Each year they find and stopsale a few unregistered or substandard brands. When the department finds any antifreeze being distributed in violation of the statutes, it must issue and enforce a written "stop-sale" order, warning the distributor not to dispose of any of the lot of antifreeze in any manner until written permission is given by the department or the court. When a violation is found, the violator is subject to suspension or revocation of his certificate of registration. Such suspension or revocation must be for not less than 15 days or more than 90 days. For each such violation, the department may levy a fine which cannot exceed $5,000 per violation. The standards, definitions, and test procedures used by the department for antifreeze are the same as those specified by the American Society for Testing and Materials in its "Standard Specification for Ethylene Glycol Base Engine Coolant" and designated as D 3306. Section 570.46, relating to the powers and duties of the Division of Standards, is silent on enforcement authority. Section 570.544, which relates to the powers of the Division of Consumer Services, provides authority to the Division of Consumer Services to bring legal action for
violations of the state's consumer protection laws under chapter 501 in conjunction with the Department of Legal Affairs and appropriate state attorney.

B. Effect of Proposed Changes:

Provides directory and advisory language giving the Division of Standards authority in s. 570.46, which lists the Division's duties, to enforce this act. Provides an exemption for ss. 501.91 - 501.923, relating to the Antifreeze act, from s. 570.544 which relates to the powers of the Division of Consumer Services.

Saves from repeal and provides for a future review and repeal of the Antifreeze Act of 1978.

I: ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Persons purchasing antifreeze will be assured that the antifreeze will function effectively during both winter and summer in automotive vehicle cooling systems to provide protection against freezing, boiling and corrosion. There is no change in the current $200 annual license fee which is paid by parties regulated by the act.

B. Government:

The Bureau of Petroleum Inspection has automated much of its laboratory work, enabling rapid analyses of antifreezes. The annual count of registrations has not increased significantly in recent years. Apparently registration has curtailed "outlaw" brands, since the makers of these products know their deficiencies will be exposed through laboratory testing. The registration program enables field personnel to "spot" suspected products not included on the list of antifreezes approved for sale in Florida. The Bureau undertook the program in 1978 with existing manpower and reports they can continue to maintain a proper inspection level with current resources.

III. COMMENTS:

If the Antifreeze Act of 1978 were repealed, its absence would have an adverse affect on the welfare of the public purchasing antifreeze in the state. The department believes that the widespread sale of inferior antifreeze has been curtailed since the enactment of the antifreeze act. They also believe that this practice would recur without proper regulatory controls -- especially since there is a worldwide shortage of ethylene glycol. Ethylene glycol is a natural-gas derivative that is the active ingredient in antifreeze.

IV. AMENDMENTS:

None.