

## **Antifreeze: It's Better Bitter**

By Nancy DeMarco

Rarely do the animal welfare and chemical industries work together on legislative issues, but the Antifreeze Bittering Act has drawn support from these unlikely bedfellows, as well as bipartisan support in Congress. Industry supporters are optimistic that federal legislation requiring ethylene glycol antifreeze to contain a bittering agent, making it unpalatable to humans and pets, will become law in this session of Congress.

Nearly 5,600 cases of ethylene glycol poisoning were reported to poison control centers in 2004, the latest year for which data is available, according to the American Association of Poison Control Centers. Twelve percent of those exposed were children under six years old, and another 12 percent were six-to-19-year olds. The centers reported 23 deaths and 195 near-fatalities from ethylene glycol antifreeze poisoning that year.

While most of the exposures were unintentional, 751 were suicide attempts. More sensationally, a Georgia woman was convicted in May 2004 of fatally poisoning her husband in 1995 by feeding him sweet, odorless antifreeze. She was subsequently accused of killing a boyfriend the same way in 2001, and her trial for that murder-by-antifreeze is scheduled to begin next year.

Far more common are accidental poisonings. Puddles of antifreeze sitting in driveways, along curbsides and in parking lots may seem harmless, but they are a real danger to humans and pets, said Rep. Gary Ackerman (D-N.Y.), sponsor of the Antifreeze Bittering Act, in announcing its passage last month by a House committee. Children and adults can easily get the liquid on their hands, tools or toys. As little as an ounce of the bright-colored, sweet-tasting substance can result in agonizing kidney failure, respiratory arrest, comas and death.

Pets are particularly susceptible to antifreeze poisoning, Ackerman said. Dogs are eager to lap up the sweet-tasting puddles and have been known to chew the necks of antifreeze containers to get to the fluid inside.

The House Committee on Energy and Commerce passed the act (H.R. 2567) by a vote of 30 to 15 on July 12, referring the legislation to the House Judiciary Committee, where it awaits action. A hearing is expected early next month, and if the bill passes it will go to the House floor.

During a House subcommittee hearing on the act, Ackerman placed six cups with identical-looking liquids on the witness table while he testified. One of the cups contained antifreeze while the other five were filled with fruit juices and soft drinks. Ackerman challenged each member of the committee to pick up a safe cup to drink. None took him up on his offer.

A companion Senate bill (S. 1110) was approved in committee last November, and awaits action on the Senate floor.

"The antifreeze industry supports this, as well as animal welfare [organizations]," Philip Klein, senior vice president of legislative affairs at the Consumer Specialty Products Association in Washington, D.C., told Lube Report. "I think it has a very good chance of passing, better than 50-50."

Klein, whose association represents the antifreeze industry, noted that the Republican leadership wants to move the legislation, as do some Democrats. "The Democrats are split" over the bill, Klein said. "Some don't like the uniformity and preemption provisions, or the liability protection for antifreeze manufacturers."

Three states, California, Oregon and New Mexico, already have antifreeze bittering laws on their books, Klein noted, and eight additional states proposed legislation this year. "The antifreeze industry needs uniformity," he said.

Under the House bill, engine coolant and antifreeze containing more than 10 percent ethylene glycol will be required to include denatonium benzoate at a minimum of 30 and a maximum of 50 parts per million as a bittering agent to render the product unpalatable. The bill limits the liability of manufacturers, distributors, recyclers or sellers of engine coolant or antifreeze who comply with the act for personal and property loss or damage to the environment that results from the inclusion of the specified bittering agent. The House act does not apply to the sale of motor vehicles containing coolant or antifreeze, nor to wholesale containers containing more than 55 gallons of the product.

The Senate bill would require the Consumer Product Safety Commission to issue regulations requiring the use of a bittering agent in antifreeze and other engine coolants containing more than 10 percent ethylene glycol, to render it unpalatable to humans and animals. The bill would preempt state laws and establish a uniform federal standard, and would limit liability claims associated with the addition of bittering agents to antifreeze. The Senate version exempts antifreeze distributed to motor vehicle manufacturers and wholesale antifreeze sales to garages and others for purposes other than retail sales.

The Congressional Budget Office estimated that adding the bittering agent to ethylene glycol antifreeze would cost manufacturers less than 3 cents per gallon of antifreeze. In addition, storage of denatonium benzoate at manufacturing plants would require upgrades costing \$50,000 to \$70,000 per plant, the CBO estimated.

The bills do not apply to antifreeze based on propylene glycol, a less toxic substance that is "generally regarded as safe" by the U.S. Food and Drug Administration. Propylene glycol is reportedly not sweet-tasting, so the risk of accidental ingestion by children and animals is lower as well.

"Both House and Senate committees have passed [antifreeze bittering] bills," Gregory Scott of Kelley Drye Collier Shannon, noted, "and the issue has bipartisan support." Scott, based in Washington, D.C., is legal counsel for the Petroleum Packaging Council, an industry group that includes antifreeze packagers. "This could be approved by the time Congress adjourns in late September. It could be law of the land soon."