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CHAPTER 51

Anti‑Freeze

**SECTION 39‑51‑10.** Short title.

 This chapter shall be known as the “South Carolina Antifreeze Law of 1975”.

HISTORY: 1975 (59) 567.

**SECTION 39‑51‑20.** Definitions.

 As used in this chapter.

 (a)(1) “Antifreeze” means any substance or preparation sold, distributed or intended for use as the cooling liquid, or to be added to the cooling liquid, in the cooling system of internal combustion engines of motor vehicles to prevent freezing of the cooling liquid or to lower its freezing point.

 (2) “Antifreeze‑coolant” or “antifreeze and summer coolant” or “summer coolant” means any substance as defined in (a) (1) above which also is sold, distributed or intended for raising the boiling point of water or for the prevention of engine overheating whether or not used as a year‑round cooling system fluid. Unless otherwise stated, the term “antifreeze” includes “antifreeze”, “antifreeze‑coolant”, “antifreeze and summer coolant”, and “summer coolant”.

 (b) “Person” means any individual, partnership, association, firm, or corporation.

 (c) “Distribute” means to hold with intent to sell, offer for sale, to sell, barter or otherwise supply to the consumer.

 (d) “Package” means (1) a sealed retail package, drum or other container designed for the sale of antifreeze directly to the consumer or (2) a container from which the antifreeze may be installed directly by the seller into the cooling system, but does not include shipping containers containing properly labeled inner containers.

 (e) “Label” means any display of written, printed, or graphic matter on, or attached to, a package, or to the outside individual container or wrapper of the package.

 (f) “Labeling means (1) the labels and (2) any other written, printed or graphic matter accompanying a package.

HISTORY: 1975 (59) 567.

**SECTION 39‑51‑30.** Commissioner of Agriculture shall administer chapter.

 This chapter shall be administered by the Commissioner of Agriculture of South Carolina hereinafter referred to as the “Commissioner”.

HISTORY: 1975 (59) 567.

**SECTION 39‑51‑40.** Application for registration for anti‑freeze; issuance of or refusal to issue certificate of registration.

 On or before the first day of January of each year, and before any antifreeze may be distributed, the manufacturer, packager, or person whose name appears on the label shall make application to the Commissioner on forms provided by him for registration for each brand of antifreeze which he desires to distribute. The application shall be accompanied by specimens or facsimiles of its labeling, an inspection fee of fifty dollars for each product, and a properly labeled sample of the antifreeze. The Commissioner may inspect, test, or analyze the antifreeze and review the labeling. If the antifreeze is not adulterated or misbranded the Commissioner shall issue a certificate of registration, authorizing the distribution of such antifreeze in this State for the permit year. If the antifreeze is adulterated or misbranded, the Commission shall refuse to register the antifreeze, and he shall return the application to the applicant, stating how the antifreeze or labeling is not in conformity. All inspection fees received by the Commissioner shall be remitted to the general funds of the State.

HISTORY: 1975 (59) 567.

**SECTION 39‑51‑50.** Anti‑freeze deemed adulterated.

 Antifreeze shall be deemed to be adulterated:

 (a) If, in the form in which it is sold and directed to be used, it would be injurious to the cooling system in which it is installed, or if, when used in such cooling system, it would make the operation of the engine dangerous to the user.

 (b) If its strength, quality, or purity falls below the standard of strength, quality, or purity under which it is sold or offered for sale.

HISTORY: 1975 (59) 567.

**SECTION 39‑51‑60.** Anti‑freeze deemed misbranded.

 Antifreeze shall be deemed to be misbranded:

 (a) If it does not bear a label which, (1) specifies the identity of the product, (2) states the name and place of business of the registrant, (3) states the net quantity of contents, in terms of liquid measure, separately and accurately in a uniform location upon the principal display panel, and (4) contains a statement warning of any hazard of substantial injury to human beings which may result from the intended use or reasonably foreseeable misuse of the antifreeze.

 (b) If the product is to be diluted with another substance for use and the label on a container of less than five gallons, or the labeling for a container of five gallons or more, does not contain a statement or chart showing the appropriate amount, percentage, proportion or concentration of the antifreeze to be used to provide (1) claimed protection from freezing at a specified degree of temperature, (2) claimed protection from corrosion, or (3) claimed increase of boiling point or protection from overheating.

 (c) If its labeling contains any claim that it has been approved or recommended by the Commissioner.

 (d) If its labeling is false, deceptive, or misleading.

HISTORY: 1975 (59) 567.

**SECTION 39‑51‑70.** Promulgation of rules and regulations; cooperation with agencies of this State and with other states.

 (a) The Commissioner, after due notice to interested persons, is authorized to promulgate such rules, regulations, and standards of antifreeze strength and nomenclature as may be necessary to administer this chapter. Notice of the proposed regulation shall give interested parties adequate notice and opportunity to be heard.

 (b) The Commissioner is directed, consistent with the purposes of this chapter, to so enforce this chapter so as to achieve as much uniformity as possible with the requirements of the several states and to cooperate with and enter into agreements with any other agency of this State, or any other state regulating antifreeze.

HISTORY: 1975 (59) 567.

**SECTION 39‑51‑80.** Inspection; analysis of antifreeze.

 The Commissioner, or his authorized agent, shall have the right to have access at reasonable hours to all places and property where antifreeze is stored, or distributed, or offered, or intended to be offered for sale, including the right to inspect and examine all antifreeze there found, and to take reasonable samples of such antifreeze for analysis together with specimens of labeling. All samples so taken shall be properly sealed and sent to the laboratory of the State Department of Agriculture for examination together with all labeling appertaining thereto. It shall be the duty of the Commissioner to examine promptly all samples received and report the results of such examination to the owner and registrant of the antifreeze.

HISTORY: 1975 (59) 567.

**SECTION 39‑51‑90.** Unlawful acts.

 It shall be unlawful to:

 (a) Distribute any antifreeze which has not been registered in accordance with Section 39‑51‑40 or whose labeling is different from that accepted for registration; provided, that registration is not required for the orderly disposal within a reasonable period of stocks of discontinued brands of antifreeze not adulterated or otherwise misbranded which were properly registered in the immediately preceding registration period.

 (b) Distribute any antifreeze which is adulterated or misbranded.

 (c) Refuse to permit entry or inspection or to permit the acquisition of a sample of the antifreeze as authorized by Section 39‑51‑80.

 (d) Dispose of any antifreeze that is under “withdrawal from distribution” order in accordance with Section 39‑51‑100.

 (e) Distribute any antifreeze unless it is in the registrant’s or manufacturer’s unbroken package or is installed by the seller in the cooling system of the purchaser’s vehicle directly from the registrant’s or manufacturer’s package and the label on such package if less than five gallons, or the labeling of such package if five gallons or more, does not bear the information required by Section 39‑51‑60 (a), (b), (c) and (d); provided, that the Commissioner may by regulation establish labeling and other reasonable requirements for the sale of a properly registered antifreeze from a bulk container into a container supplied by or for the purchaser.

 (f) Use the term “ethylene glycol” in connection with the name of a product which contains other glycols unless it is qualified by the word “base”, “type”, or some such word, and unless the product meets the following requirements:

 (1) Contains a minimum ethylene glycol content of seventy‑five percent by regulation weight.

 (2) Contains a minimum total glycol content of ninety‑three percent by weight.

 (3) Specific gravity is corrected to give reliable freezing point readings on a commercial ethylene glycol type hydrometer.

 (4) The freezing points of mixtures containing equal volumes of the antifreeze and water shall not be above ‑32°F.

 (g) Refill any container bearing a registered label other than a customer’s container, without first obtaining permission from the registrant.

 (h) Refuse, when requested, to permit a purchaser to see the container from which antifreeze is drawn for installation into the purchaser’s vehicle.

HISTORY: 1975 (59) 567.

**SECTION 39‑51‑100.** Issuance of stop sale or withdrawal from distribution order; release of antifreeze upon compliance with chapter; procedure for condemnation.

 (a) When the Commissioner finds any antifreeze being distributed in violation of Section 39‑51‑90 or any rule of the Department of Agriculture, he may issue and enforce a written or printed “stop sale” or “withdrawal from distribution” order, warning the distributor not to dispose of any of the lot of antifreeze in any manner until written permission is given by the Commissioner or the court. Copies of such orders shall also be sent by registered mail to the registrant and to the person whose name and address appears on the labeling of the antifreeze. The Commissioner shall release for distribution the lot of antifreeze so withdrawn when the provisions of Section 39‑51‑90 and applicable rules are complied with. If compliance is not obtained within thirty days, the Commissioner may begin proceedings for condemnation.

 (b) Any lot of antifreeze not in compliance with such provisions and regulations shall be subject to seizure upon complaint of the Commissioner, or any of his agents, to the circuit court in the county in which such antifreeze is located. In the event the court finds the antifreeze to be in violation of this chapter, it may then order the condemnation of such antifreeze and it shall be disposed of in any manner consistent with the rules and regulations of the Commissioner and the laws of the State; provided , however, that in no instance shall the disposition of such antifreeze be ordered by the court without first giving twenty days’ notice, by registered mail at his last known address, to the owner, if he is known to the Commissioner and to the registrant, if the antifreeze is registered, at the address shown on the label or on the registration certificate, so that such persons may apply to the court for the release of such antifreeze or for permission to process or relabel such antifreeze so as to bring it into compliance with this chapter.

 (c) Nothing in this chapter shall be construed as requiring the Commissioner to institute legal proceedings whenever he believes that the public interest will be best served by a suitable notice of warning in writing to the registrant or the person whose name and address appears in the label.

HISTORY: 1975 (59) 567.

**SECTION 39‑51‑110.** Commissioner may require disclosure of formula of antifreeze.

 The Commissioner may, if required for the analysis of antifreeze for the purposes of registration, require the applicant to furnish a statement of the formula of such antifreeze, unless the applicant can furnish other satisfactory evidence that such antifreeze is not adulterated or misbranded. Such statement need not include inhibitor or other minor ingredients which total less than five percent by weight of the antifreeze, and if over five percent, the composition of the inhibitor and such other ingredients may be given in generic terms. All statements, pertaining to the formula furnished under this section, shall be privileged and confidential and shall not be made public or open to the inspection of any person other than the Commissioner. No such statement shall be subject to subpoena nor shall the same be exhibited or disclosed before any agency or court by virtue of any order or subpoena of an agency or court unless with the consent of the applicant furnishing such statement to the Commissioner. Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed fifty dollars for a first offense and in an amount not to exceed one hundred dollars for each subsequent offense.

HISTORY: 1975 (59) 567.

**SECTION 39‑51‑120.** Penalties.

 Except where otherwise provided by this chapter, any person who violates the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment for thirty days, or both. For a second or subsequent violation such person shall be subject to imprisonment for not more than sixty days, or a fine of not more than two hundred dollars, or both.

HISTORY: 1975 (59) 567.