

§ 75-56-1. Short title.

Mississippi Statutes

Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS

Chapter 56. ANTIFREEZE AND SUMMER COOLANTS

Current through 3/27/2018

§ 75-56-1. Short title

This chapter shall be known as the "Mississippi Antifreeze Law of 1978."

Cite as Miss. Code § 75-56-1

Source: Laws, 1978, ch. 359, § 1, eff. 7/1/1978.

§ 75-56-3. Definitions.

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§ 75-56-3. Definitions

The following words and phrases have the following meanings respectively ascribed to them in this section, unless the context clearly describes and indicates a different meaning:

- (a) "Commissioner" means the Commissioner of the Mississippi Department of Agriculture and Commerce, his agents or employees.
- (b) "State Chemist" means the Director of the Mississippi State Chemical Laboratory or his agents and employees.
- (c) "Antifreeze" or "engine coolant" means any substance or preparation intended to be diluted before use as the cooling medium in the cooling system of an automotive internal combustion engine to provide protection against freezing, overheating and corrosion of the

cooling system, or any product intended to be diluted before use which is labeled to indicate or imply that it will prevent freezing or overheating of the cooling system of an automotive internal combustion engine. Unless otherwise stated, these terms include the terms "antifreeze-coolant," "antifreeze and summer coolant" and "summer coolant."

- (d) "Prediluted antifreeze" or "prediluted engine coolant" means any substance or preparation intended for use full strength as a cooling medium in the cooling system of an automotive internal combustion engine to provide protection against freezing, overheating and corrosion of the cooling system or any substance or preparation intended for use full strength which is labeled to indicate or imply that it will prevent overheating or freezing of the cooling system of an automotive internal combustion engine.
- (e) "Person" means any individual, partnership, association, firm, company or corporation.
- (f) "Distribute" means to hold with intent to sell, offer for sale, to sell, barter or otherwise supply to the consumer.
- (g) "Package" means a sealed retail package, drum or other container designed for the sale of antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant directly to the consumer, or a container from which the antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant may be installed directly by the seller into the cooling system, but does not include shipping containers containing properly labeled inner containers.
- (h) "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 of any product referred to in this chapter. Any display required on a container by this chapter shall be legible with conspicuous type upon a contrasting background.
- (i) "Labeling" means the labels and any other written, printed or graphic matter accompanying a package of any product referred to in this chapter.

Cite as Miss. Code § 75-56-3

Source: Laws, 1978, ch. 359, § 3; Laws, 1998, ch. 488, §1, eff. 7/1/1998.

§ 75-56-5. Administration of chapter.

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§ 75-56-5. Administration of chapter

This chapter shall be administered by the State Chemist and the commissioner. The State Chemist or his designated employees shall establish specifications for antifreezes and engine coolants and prediluted antifreezes and prediluted engine coolants sold or offered for sale in the state as described in Section 75-56-17 and shall register antifreezes and engine coolants and prediluted antifreezes and prediluted engine coolants sold or offered for sale in the state as described in Section 75-56-9. The commissioner or his designated employees shall inspect and sample antifreezes and engine coolants and prediluted antifreezes and prediluted engine coolants sold or offered for sale in the state and the State Chemist or his designated employees shall analyze antifreezes and engine coolants and prediluted antifreezes and prediluted engine coolants sold or offered for sale in the state as described in Section 75-56-15. The commissioner or his designated employees shall enforce Section 75-56-21 and Section 75-56-23 as described in those sections.

Cite as Miss. Code § 75-56-5

Source: Laws, 1978, ch. 359, § 2; Laws, 1986, ch. 395, § 18; Laws, 1988, ch. 482, § 8; Laws, 1998, ch. 488, §2, eff. 7/1/1998.

§ 75-56-7. Administration of chapter; specifications; inspections; enforcement.

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§ 75-56-7. Administration of chapter; specifications; inspections; enforcement

- (1) The State Chemist and the commissioner, following the terms of the Mississippi Administrative Procedures Act, may make and adopt such reasonable rules, regulations and standards of antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant strength, properties and nomenclature as may be necessary in order to secure the efficient administration of this chapter.
- (2) It is desirable that there should be uniformity between the requirements of the several

states. Therefore, the State Chemist and the commissioner are directed, consistent with the purposes of this chapter, to so enforce this chapter as to achieve such uniformity and are also authorized and empowered to cooperate with and enter into agreements with any other agency of this state, or any other state regulating antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant, for the purpose of carrying out the provisions of this chapter and securing uniformity of regulations in conformity to the primary standards established by this chapter.

Cite as Miss. Code § 75-56-7

Source: Laws, 1978, ch. 359, § 7; Laws, 1986, ch. 395, § 19; Laws, 1988, ch. 482, § 9; Laws, 1998, ch. 488, §3, eff. 7/1/1998.

§ 75-56-9. Registration; specimens; documentation of claims; certificate of registration; cancellation; hearing.

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§ 75-56-9. Registration; specimens; documentation of claims; certificate of registration; cancellation; hearing

On or before the first day of July of each year, and before any antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant, may be distributed, for the permit year beginning July 1, the manufacturer, packager or person whose name appears on the label shall make application to the State Chemist on forms provided by the latter for registration for each brand of antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant, which he desires to distribute. The application shall be accompanied by specimens or facsimiles of labeling for all container sizes of each brand to be distributed, and by a properly labeled sample of the product. The State Chemist or his designated employees shall inspect, test or analyze the product and review the labeling. Upon request of the State Chemist or his designated employees, any registrant or his representative shall provide documentation of any claim made upon the label or labeling for any of his products regulated by this chapter and sold or offered for sale in the state. If the product is not adulterated or misbranded, if it meets the standards established by this chapter and if the product is not in violation of this chapter, the State Chemist or his designated

employees shall issue a certificate of registration authorizing the distribution of such product in this state for the permit year. If the product is adulterated or misbranded, if it fails to meet the standards established by this chapter or if it is in violation of this chapter, the State Chemist or his designated employees shall refuse to register the product and shall return the application to the applicant stating how the product or labeling is not in conformity. If the State Chemist or his designated employees shall, at a later date, find that a properly registered antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant has been materially altered or adulterated, or a change has been made in the name, brand or trademark under which the product is sold, or that it violates the provisions of this chapter, he shall notify the applicant that the license authorizing sale of the product is canceled. No antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant license shall be canceled unless the registrant shall have been given an opportunity for a hearing before the State Chemist to modify his application in order to comply with the requirements of this chapter.

Cite as Miss. Code § 75-56-9

Source: Laws, 1978, ch. 359, § 4; Laws, 1986, ch. 395, § 20; Laws, 1988, ch. 482, § 10; Laws, 1998, ch. 488, §4, eff. 7/1/1998.

§ 75-56-11. Adulteration.

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§ 75-56-11. Adulteration

Antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant 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.

Cite as Miss. Code § 75-56-11

Source: Laws, 1978, ch. 359, § 5; Laws, 1998, ch. 488, §5, eff. 7/1/1998.

§ 75-56-13. Misbranding.

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§ 75-56-13. Misbranding

Antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant shall be deemed to be misbranded:

- (a) If it does not bear a label which:
 - (i) Specifies the brand name of the product, the principal ingredient and the intended use of the product;
 - (ii) States the name and place of business of the registrant or person for whom registered;
 - (iii) States the net quantity of contents (in terms of liquid measure) separately and accurately in a uniform location upon the principal display panel; and
 - (iv) Contains a statement warning of any hazard of substantial injury to human beings which may result from the intended use or reasonable foreseeable misuse of the product as provided by applicable federal and state product safety laws.
- (b) If the label on an undiluted product in a container of less than five (5) gallons, or the labeling for a container of five (5) gallons or more, does not contain a statement or chart showing the appropriate amount, percentage, proportion or concentration of the product to be used to provide (i) claimed protection from freezing at a specified degree or degrees of temperature, (ii) claimed protection from corrosion, or (iii) claimed increase of boiling point or protection from overheating.
- (c) If the principal ingredient is propylene glycol and the container does not bear a statement on the label not to use a conventional coolant hydrometer for propylene glycol coolants.
- (d) If its labeling contains any claim that it has been approved or recommended by the State

Chemist.

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

Cite as Miss. Code § 75-56-13

Source: Laws, 1978, ch. 359, § 6; Laws, 1986, ch. 395, § 21; Laws, 1998, ch. 488, §6, eff. 7/1/1998.

§ 75-56-15. Examination of samples; access to manufacturing and distribution facilities; report of results.

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§ 75-56-15. Examination of samples; access to manufacturing and distribution facilities; report of results

The commissioner or his designated employees shall have access at reasonable hours, and upon reasonable notice, to all places and property where antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant is manufactured, stored, transported, distributed, offered or intended to be offered for sale, including the right to inspect and examine all antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant there found and to take reasonable samples of such antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant for analysis together with specimens of labeling. All samples so taken shall be properly sealed and sent to the State Chemist for examination, together with all labeling appertaining thereto. It shall be the duty of the State Chemist or his designated employees to examine promptly all samples received in connection with the administration and enforcement of this chapter and to report the results of such examination to the commissioner or his designated employees.

Cite as Miss. Code § 75-56-15

Source: Laws, 1978, ch. 359, § 8(1); Laws, 1986, ch. 395, § 22; Laws, 1998, ch. 488, §7, eff. 7/1/1998.

§ 75-56-17. Specifications.

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§ 75-56-17. Specifications

Antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant shall not contain visually identifiable suspended matter or sediment after mixing with the proper amount of water for use in an automotive internal combustion engine. The specifications for antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant shall not fall below the minimum specifications, if any, established by the American Society for Testing and Materials as described in the following for the type:

- (a) Ethylene glycol base antifreeze or engine coolant for automobiles and light duty service shall meet specifications in the current version of American Society for Testing and Materials D 3306, Standard Specification for Ethylene Glycol Base Engine Coolant for Automobile and Light Duty Service.
- (b) Propylene glycol base antifreeze or engine coolant for automobile and light duty service shall meet the specifications in the current version of American Society for Testing and Materials D 5216, Standard Specification for Propylene Glycol Base Engine Coolant for Automobile and Light Duty Service.
- (c) Low silicate ethylene glycol base antifreeze or engine coolant for heavy duty automotive engines requiring an initial charge of supplemental coolant additive (SCA) shall meet the specifications in the current version of the American Society for the Testing and Materials D 4985, Low Silicate Ethylene Glycol Base Engine Coolant for Heavy Duty Engines Requiring an Initial Charge of Supplemental Coolant Additive (SCA).
- (d) Prediluted antifreeze or prediluted engine coolant shall meet the specifications in the current version of the American Society for Testing and Materials D 4656, "Prediluted Ethylene Glycol Base Engine Coolant for automobiles and Light Duty Service."
- (e) The intent of this chapter is that requirements shall be kept current with subsequent amendments and editions of ASTM D 3306, D 5216, and D 4985 and D 4656.
- (f) Other antifreeze or engine coolant including, but not limited to, prediluted antifreeze or engine coolant for automobiles and light duty service, recycled antifreeze or engine coolant for automobiles and light duty service, and recycled antifreeze of engine coolant for heavy duty automotive engines requiring an initial charge of supplemental coolant additive may be approved for registration by the State Chemist or his designated

employees following submission of the label or labeling and a sample of the product as described in Section 75-56-9. These products shall meet the specifications in the current version of the applicable ASTM standard specifications, if any.

- (g) Materials such as methyl, ethyl or isopropyl alcohols, chemical salts, hydrocarbon-based compounds and sugars shall not be sold or offered for sale as antifreezes or engine coolants or prediluted antifreezes or prediluted engine coolants for automotive engines.

Cite as Miss. Code § 75-56-17

Source: Laws, 1978, ch. 359, § 8(2), (3), (4); Laws, 1986, ch. 395, § 23; Laws, 1988, ch. 482, § 11, eff. 7/1/1988; Laws, 1992, ch. 396 § 6; Laws, 1998, ch. 488, §8, eff. 7/1/1998.

§ 75-56-19. Prohibited acts.

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§ 75-56-19. Prohibited acts

It shall be unlawful to:

- (a) Distribute any antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant which has not been registered in accordance with Section 75-56-9 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 or engine coolant or prediluted antifreeze or prediluted engine coolant not adulterated or otherwise misbranded, which were properly registered in the immediately preceding registration period.
- (b) Distribute any antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant which is adulterated or misbranded.
- (c) Refuse to permit entry, inspection or the acquisition of a sample of the antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant as authorized by Section 75-56-15.
- (d) Dispose of any antifreeze or engine coolant or prediluted antifreeze or prediluted engine

coolant that is under "withdrawal from distribution" order in accordance with Section 75-56-21.

- (e) Distribute any antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant 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 (5) gallons, or the labeling of such package if five (5) gallons or more, does not bear the information required by Section 75-56-13 ; provided, that the Commissioner of Agriculture and Commerce and the State Chemist may by regulation establish labeling and other reasonable requirements for the sale of a properly registered antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant from a bulk container into a container supplied by or for the purchaser.
- (f) Refill any container bearing a registered label, other than a customer's container, without first obtaining permission from the registrant.
- (g) Refuse, when requested, to permit a purchaser to see the container from which antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant is drawn for installation into the purchaser's vehicle.
- (h) Distribute any antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant not in compliance with the Federal Hazardous Substances Act and Poison Prevention Packaging Act and their respective regulations.

Cite as Miss. Code § 75-56-19

Source: Laws, 1978, ch. 359, § 9; Laws, 1986, ch. 395, § 24; Laws, 1988, ch. 482, § 12; Laws, 1998, ch. 488, §9, eff. 7/1/1998.

§ 75-56-21. "Stop sale" and "withdrawal from distribution" orders; condemnation and confiscation; evidentiary use of analysis; request for distribution data.

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§ 75-56-21. "Stop sale" and "withdrawal from distribution" orders; condemnation and

confiscation; evidentiary use of analysis; request for distribution data

- (1) When the Commissioner of Agriculture and Commerce finds any antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant being distributed in violation of Section 75-56-19 of this chapter, or of any of the rules and prescribed regulations duly promulgated and adopted under this chapter, 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 or engine coolant or prediluted antifreeze or prediluted engine coolant 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 or engine coolant or prediluted antifreeze or prediluted engine coolant. The commissioner shall release for distribution the lot of antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant so withdrawn when said Section 75-56-19 and applicable rules and regulations have been complied with. If compliance is not obtained within thirty (30) days, the commissioner may begin proceedings for condemnation.
- (2) Any lot of antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant not in compliance with such provisions and regulations shall be subject to seizure upon complaint of the commissioner to the district court in the county in which the product is located. In the event the court finds the product to be in violation of this chapter, it may then order the condemnation of the product and the product shall be disposed of in any manner consistent with the rules and regulations of the Department of Agriculture and Commerce and the laws and regulations of the federal and state governments at the expense of the claimants thereof; however, in no instance shall the disposition of the product be ordered by the court without first giving thirty (30) days' notice, by registered mail at his last known address, to the owner of same, if he is known to the commissioner and to the registrant, if the product 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 the product or for permission to process or relabel the product so as to bring it into compliance with this chapter.
- (3) A copy of the analysis made by the Mississippi State Chemical Laboratory of any antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant certified by the State Chemist shall be administered as evidence in any court of the state on trial of any issue involving the merits of antifreeze or engine coolant as defined and covered by this chapter.
- (4) When the commissioner finds any antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant being distributed in violation of any of the provisions of this chapter, he may request, and the person who is primarily responsible for the product must promptly supply to him, the distribution data for such product in this state, so as to assure

that violative products are not further distributed herein and that an orderly withdrawal from distribution may be attained where necessary to protect the public interest.

Cite as Miss. Code § 75-56-21

Source: Laws, 1978, ch. 359, § 10(1), (2); Laws, 1986, ch. 395, § 25; Laws, 1988, ch. 482, § 13; Laws, 1998, ch. 488, §10, eff. 7/1/1998.

§ 75-56-23. When enforcement not required.

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§ 75-56-23. When enforcement not required

Nothing in this chapter shall be construed as requiring the commissioner to report for prosecution or for institution of libel proceedings, minor violations of the chapter 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 on the label.

Cite as Miss. Code § 75-56-23

Source: Laws, 1978, ch. 359, § 10(3); Laws, 1986, ch. 395, § 26; Laws, 1998, ch. 488, §11, eff. 7/1/1998.

§ 75-56-25. Furnishing statement of formulae or other suitable evidence; confidentiality requirements.

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§ 75-56-25. Furnishing statement of formulae or other suitable evidence; confidentiality requirements

The State Chemist may, if required for the analysis of antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant for the purposes of registration, require the applicant to furnish a statement of the formula of such product, unless the applicant can furnish other satisfactory evidence that such product is not adulterated or misbranded. Such statement shall state the content of inhibitor ingredients in generic terms if such inhibitor ingredients total less than five percent (5%) by weight of the antifreeze or engine coolant or prediluted antifreeze or prediluted engine coolant. In lieu of a detailed product description, the State Chemist may allow the registrant to furnish other evidence which satisfactorily meets his requirements. 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, firm, association or corporation other than the enforcement agency. No such statement shall be subject to subpoena nor shall the same be exhibited or disclosed before any administrative or judicial tribunal by virtue of any order or subpoena of such tribunal unless with the consent of the applicant furnishing such statement to the State Chemist. The disclosure of any such information, except as provided in this section, shall constitute a misdemeanor.

Cite as Miss. Code § 75-56-25

Source: Laws, 1978, ch. 359, § 11; Laws, 1986, ch. 395, § 27; Laws, 1998, ch. 488, §12, eff. 7/1/1998.

§ 75-56-27. Penalties.

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§ 75-56-27. Penalties

Any person found by the commissioner or the State Chemist to be in violation of any provision of this chapter may be assessed a penalty as provided in Section 75-55-37. In addition to or in lieu of such penalties, the commissioner may suspend or revoke the permit or license of such person issued under terms of this chapter. The commissioner shall notify such person of such action in writing delivered by first class United States Mail. Such person shall have fifteen (15) days after

the notice is mailed within which to request in writing a hearing before the commissioner or his designee for the purpose of deciding whether or not the penalty imposed should be allowed to stand. The commissioner may issue subpoenas to compel the attendance of witnesses or the production of documents or physical evidence, administer oaths and hear testimony.

If such person does not deliver the written request for a hearing within such time to the commissioner, the commissioner's original decision shall be final. An appeal, if taken, must be perfected within thirty (30) days after the decision of the commissioner with the circuit court of the county of the residence of the accused. If such person is a nonresident of the State of Mississippi, the case shall be appealed to the Circuit Court of the First Judicial District of Hinds County, Mississippi. If any penalty imposed by the commissioner is not paid within thirty (30) days of becoming final, the commissioner may take appropriate legal action to collect such penalty and the court shall award the commissioner reasonable attorney's fees and court costs to collect the penalty. The commissioner may adopt such rules and regulations as may be necessary or desirable to carry out the provisions of this chapter.

Cite as Miss. Code § 75-56-27

Source: Laws, 1978, ch. 359, § 12; Laws, 1998, ch. 488, §13, eff. 7/1/1998.