

SANTA FE COUNTY

Ordinance No. 2004 - 6

**AN ORDINANCE REQUIRING THAT TOXIC
ANTIFREEZE AND ENGINE COOLANT CONTAIN
A BITTERING AGENT THAT MAKES IT UNPALATABLE**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF SANTA FE AS FOLLOWS:**

SECTION 1: SHORT TITLE.

This Ordinance shall be known and cited as the "Antifreeze Safety Ordinance."

SECTION 2: FINDINGS AND INTENT.

- (A) Antifreeze and engine coolant contain ethylene glycol, an extremely toxic yet sweet tasting substance that injures many children and kills thousands of animals every year in the United States.**
- (B) The National Safety Council, the American Medical Association, and the American Association of Poison Control Centers have noted that the addition of nontoxic bittering agents to toxic household products can make such products so unpalatable that many children reject the projects upon, or shortly after, tasting them.**
- (C) Organizations that support the health and safety of animals favor the passage of legislation that requires a bittering agent to be added to antifreeze and engine coolant.**
- (D) When added in sufficient quantities, the nontoxic bittering agent denatonium benzoate has been shown to effectively render antifreeze and engine coolant unpalatable.**
- (E) The cost of adding denatonium benzoate to antifreeze and engine coolant is approximately 2 cents per gallon. By law, antifreeze manufacturers are already required to add this bittering agent to antifreeze and engine coolants sold in Oregon and California.**

SECTION 3: BITTERING AGENT REQUIRED IN ANTIFREEZE AND ENGINE COOLANT; EXEMPTIONS.

- (A) Beginning January 1, 2005, it shall be unlawful for any retail merchant, including automotive repair and similar businesses, to sell, offer for sale, or use in conjunction with automotive repair or maintenance any engine coolant or antifreeze that contains more than 10 percent ethylene glycol, unless such engine coolant or antifreeze also contains (i) a minimum of 30 parts per million of denatonium benzoate or (ii) another nontoxic bittering**

SFC CLERK RECORDED 11/09/2004

agent in amounts that have been scientifically demonstrated to render engine coolant and antifreeze as unpalatable as that containing 30 parts per million of denatonium benzoate.

(B) Beginning January 1, 2005, every retail merchant, including automotive repair and similar businesses, that sells, offers for sale, or uses in conjunction with automotive repair or maintenance any engine coolant or antifreeze must possess documentation from the product manufacturer or packager that sets forth (i) the minimum percentage amount of ethylene glycol contained in each container of engine coolant or antifreeze in the retail merchant's possession and (ii), if a nontoxic bittering agent is required under Section 3(A), the minimum amount and trade or scientific name of the nontoxic bittering agent each container of the product contains. This documentation shall be furnished to any person authorized to enforce this ordinance or other member of the public upon request. If the retail merchant, manufacturer, or packager places the information required by this subsection on the product container or label, however, the retail merchant need not possess any further documentation that also contains the required information for such labeled product.

(C) Manufacturers and packagers of engine coolant and antifreeze that must contain a nontoxic bittering agent pursuant to Section 3(A) shall maintain records of their compliance with that section, including the trade name, scientific name, and ingredients of any bittering agent it has used, which records shall be furnished to any person authorized to enforce this ordinance or other member of the public upon request.

(D) The following are exempt from the requirements of Sections 3(A)-(C):

- (1) The sale of a motor vehicle that contains engine coolant or antifreeze.
- (2) The sale, offering for sale, or use in conjunction with automotive repair or maintenance of antifreeze or engine coolant that was in the possession of a retail merchant prior to the effective date of this Ordinance. The exemption in this subsection shall expire on June 30, 2005; provided, however, that the Santa Fe County Sheriff may, in his discretion, extend this exemption at the request of a retail merchant who (i) had in its possession one or more wholesale container of 55 gallons or more of antifreeze or engine coolant prior to the effective date of this Ordinance and (ii) can demonstrate that allowing the exemption to expire would impose an unreasonable economic burden.

SECTION 4. PENALTIES.

Each sale, offer for sale, or use in conjunction with automotive repair or maintenance of antifreeze or engine coolant in violation of Sections 3(A) and 3(B) shall be a separate offense punishable pursuant to and in accordance with NMSA 1975, § 4-37-3 (1993).

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SECTION 5. SEVERABILITY.

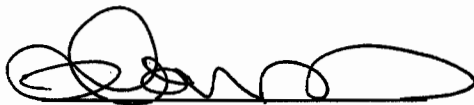
If any section, paragraph, word or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the rest of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this Ordinance and each section, paragraph, sentence, clause, word, or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 6. EFFECTIVE DATE.

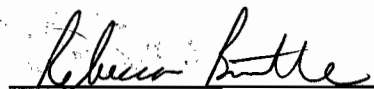
This Ordinance shall become effective on January 1, 2005.

PASSED, APPROVED, AND ADOPTED THIS 26 DAY OF OCTOBER 2004 BY A VOTE OF 5 FOR AND _____ AGAINST.

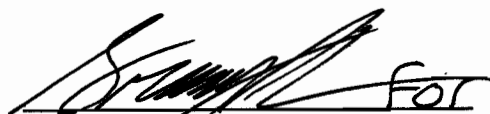
BOARD OF COUNTY COMMISSIONERS


Paul Campos, Chairman

ATTEST:

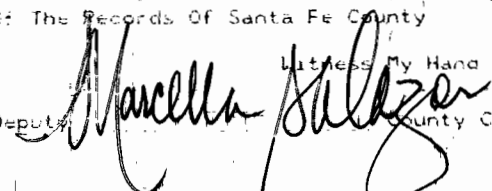

Rebecca Bustamante
County Clerk

APPROVED AS TO FORM:


Stephen C. Ross
County Attorney



COUNTY OF SANTA FE)	BCC ORDINANCE
STATE OF NEW MEXICO) ss	PAGES 3
I Hereby Certify That This Instrument Was Filed for Record On The 9TH Day Of November, A.D., 2004 at 15:01 And Was Duly Recorded as Instrument # <u>1354149</u> Of The Records Of Santa Fe County	
Witness My Hand And Seal Of Office Rebecca Bustamante Deputy County Clerk, Santa Fe, NM	



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