



February 11, 2011

Chair Fred Upton
Subcommittee Chair Mary Bono Mack
U.S. House of Representatives
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Ranking Member Henry Waxman
Subcommittee Ranking Member G.K. Butterfield
U.S. House Representatives
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Representatives:

On behalf of the Motorcycle Industry Council (MIC), its nearly 300 vehicle manufacturer and aftermarket members, their thousands of dealers, and the millions of Americans who safely and responsibly ride their off-highway vehicles (OHVs) with their families, thank you for holding the hearing "A Review of CPSIA and CPSC Resources" on February 17, 2011. I am writing to urge you to amend the Consumer Product Safety Improvement Act to stop the ban on youth ATVs and motorcycles.

The CPSIA was intended to protect children from ingesting lead from toys. However, the lead content provision has had unintended consequences and I am providing testimony about one of them. The CPSIA has effectively banned the sale of age-appropriate youth ATVs and motorcycles because of the lead content of certain metal parts. As a result of its broad reach, the Act has inadvertently crippled an industry unrelated to the toy manufacturers that were the intended target of the lead provision. In addition, the ban has resulted in unsafe situations for youth OHV riders.

It is estimated that over 13 million Americans enjoy riding off-highway motorcycles and over 35 million enjoy riding ATVs. Safety of our riders – particularly our youngest riders – is a top priority of the powersports industry. Vehicles, helmets and other gear and accessories are specially designed for youth riders to allow them to safely enjoy this family-friendly form of outdoor recreation.

In February 2009, however, ATVs and motorcycles designed and primarily intended for youth riders aged 6 to 12 became banned hazardous products under the CPSIA because small amounts of lead – that pose no risk to youth – are imbedded in metal parts of the vehicles to enhance the functionality of those components.

As you know, the CPSC concluded that the language of the CPSIA prevented it from making common-sense decisions and resulted in the CPSC denying the powersports industry's petitions for exclusion from the lead content provision. The exclusion was denied despite the fact that the CPSC's own staff acknowledged that there was no measurable risk to children resulting from lead exposure from these products.

The CPSC tried to temporarily address the ban by issuing a stay of enforcement of the CPSIA's lead content limits. Unfortunately, the stay of enforcement has proven unworkable. Due to the risks of selling under the stay, many manufacturers and dealers have stopped selling youth model OHVs, and there is now a limited availability of these products for consumers. In 2011, less than 25% of the major manufacturers are even producing the smallest youth ATVs.

The CPSC has explained that the ban on youth OHVs creates a compelling safety issue because it likely will result in children 12 years of age and younger riding larger and faster adult-size vehicles. For example, CPSC studies show almost 90% of youth injuries and fatalities occur on adult-size ATVs. Again, the CPSC's staff scientists acknowledge that the presence of lead in metal alloys in these youth models – needed for functionality, durability and other reasons that are safety critical to the components – does not present a health hazard to children. The Commission also notes that children riding these vehicles only interact with a limited number of metal component parts that might contain small amounts of lead, like brake and clutch levers, throttle controls, and tire valve stems.

For over two years, MIC, its members, their dealers and many of the millions of Americans who safely and responsibly ride their off-highway motorcycles and ATVs with their children have urged Congress to amend the CPSIA to stop this unintended ban on youth motorized recreational vehicles. Off-highway vehicle stakeholders have sent over one million electronic messages and thousands of hand signed letters and made numerous calls and personal visits to Capitol Hill to advocate for a legislative solution to the ban for three important reasons:

First, the lead content in metal parts of ATVs and motorcycles poses no risk to kids. Experts estimate that the lead intake from kids' interaction with metal parts is less than the lead intake from drinking a glass of water.

Second, everyone agrees that the key to keeping youth safe on ATVs and motorcycles is having them ride the right sized vehicle. The CPSIA has unintentionally put kids at risk because youth ATV and motorcycle availability is limited. Unavailability of youth models results in what CPSC has described as a "more serious and immediate risk of injury or death" than any risk from lead exposure from these products.

Finally, the CPSIA is unnecessarily hurting the economy and jobs when everyone is trying to grow the economy and create jobs. In 2009, MIC estimated that a complete ban on youth model vehicles would result in about \$1 billion in lost economic value in the retail marketplace every year.

As Representative Rehberg stated when introducing H.R. 412 to stop the ban on ATVs and motorcycles, "a law meant to improve children's safety is actually being enforced in a way that puts kids in more danger than ever, while destroying jobs to boot."

We believe that Congress never intended to ban youth model motorized recreational vehicles when it passed the CPSIA. We urge this Committee to stop the unintended ban by either lowering the age range of "children's products" to age 6 and under or granting a categorical exemption for youth ATVs and motorcycles, as provided in H.R. 412. In either case, we urge the Committee to leave CPSC with no doubt about Congress' intent to ensure the continued availability of these youth model motorized recreational vehicles.

Respectfully submitted,



Paul C. Vitrano
General Counsel