

All-Terrain Vehicles

Senate Democrats Offer Bill to Exempt Youth ATVs from CPSIA Lead Provisions

Senate Democrats March 28 offered an amendment to a small-business reauthorization bill that would exempt youth all-terrain vehicles and off-highway vehicles from the lead-content limits of the Consumer Product Safety Improvement Act.

Sens. Amy Klobuchar (D-Minn.) and Jon Tester (D-Mont.) proposed an amendment to SBIR/STTR Reauthorization Act of 2011 (S. 493). The legislation aims to stop the ban on youth-sized ATVs, according to Paul Vitrano, general counsel for the Motorcycle Industry Council.

The bill would address industry opposition to the application of lead-content limits in the CPSIA to youth ATVs and motorcycles. Industry experts have said the risks to children using adult ATVs are greater than the hazards potentially stemming from exposure to lead in the vehicles.

The CPSIA's lead provisions requires products primarily intended for children 12 years old and under to meet stringent lead limits. But it “unintentionally banned youth model ATVs and dirt bikes because certain components in the vehicles contain small amounts of lead even though the lead content poses no risk to kids,” MIC said in a statement. Even the CPSC has acknowledged that the real safety issue is that children are at risk because they are riding adult-sized ATVs in light of the decreased availability of youth ATVs and other off-road vehicles because of the lead ban, MIC said.

“Unlike the CPSIA itself, Senators Klobuchar's and Tester's amendment would leave no question that these youth-sized vehicles will be exempt from the onerous lead provisions that have resulted in many of these vehicles being pulled from the market,” Vitrano said in the statement.

The CPSC has stayed the enforcement of lead-content testing and certification requirements for children's products, including bicycles and motorized vehicles for young riders, until after the end of the year (39 PSLR 112, 1/31/11). The delay in enforcement allows the commission time to finalize its rule on whether and how products may be certified as compliant based on the testing of their component parts. Unless the CPSIA is changed, the sale of youth-model motorcycles and ATVs will effectively be banned.

Another industry interest—the National Association of Manufacturers—also voiced its support for the amendment. NAM said, however, “We also still believe a comprehensive reform of the CPSIA is necessary to restore common sense to the CPSC's regulations. Banning youth-model ATVs, bicycles, brass musical instruments, children's library books and ending the sale of children's products by Goodwill and other charities makes little sense. We will support attempts by Democrats, Republicans, and Independents to

correct these and other challenges, including letting the public database become an opportunity for trial lawyers to mislead consumers,” Rosario Palmieri, NAM's Vice president of Infrastructure, Legal and Regulatory Policy, told BNA in a March 31 e-mail.

Palmieri noted that while it is unclear what amendments to the SBIR/STTR bill will be made under agreements in the Senate, manufacturer stakeholders would support the Democratic bill. But, “The Senate Commerce Committee needs to move quickly to reform the CPSIA so safe products can continue to be sold,” Palmieri said.

The amendment defines the term “off-highway vehicle” as any motorized vehicle that is manufactured primarily for use off of public streets, roads, and highways; designed to travel on two or four wheels; and has either a seat designed to be straddled by the operator and handlebars for steering control, or a nonstraddle seat, steering wheel, seat belts, and rollover protective structure. Snowmobiles are included in this category.

By Lorraine Gilbert