



March 18, 2009

Commissioner Nancy A Nord, Acting Chairman
Commissioner Thomas Moore
Consumer Product Safety Commission
4330 East West Highway
Bethesda, Maryland 20814

Dear Acting Chairman Nord and Commissioner Moore,

At the March 13, 2009, State of California Off-Highway Motor Vehicle Recreation (OHMVR) Commission meeting we received public comment regarding the recently enacted Consumer Product Safety Improvement Act (CPSIA). The OHMVR Commission, per statute, provides a venue for the public to comment on California's Off-Highway Motor Vehicle Recreation Program. A critical consideration and objective of the OHMVR Program in California is the safety of those individuals participating in off-highway vehicle (OHV) activity, particularly youth. Education, enforcement and other programs are devoted to safe and responsible riding. We are concerned that application of the CPSIA will adversely affect the safety of youth riders by eliminating the availability of ATVs, snowmobiles and dirt bikes that are built for the youth consumer. Therefore, after hearing the public comment and discussing CPSIA, the OHMVR Commission voted unanimously to support a technical amendment to CPSIA or an exemption that will make exclusions available for youth ATVs, dirt bikes, snowmobiles and related parts and accessories.

No one can argue with the primary purpose of CPSIA, which is protecting our children from lead, a well known health hazard. The OHMVR Commission fully supports this important legislation; however, the Consumer Product Safety Commission's interpretation of the exclusion provision is resulting in unintended consequences that pose potentially significant safety risks to children involved in recreational activities with these products. The many thousands of our children that ride on youth sized OHVs will now be more likely to use larger, faster vehicles once their existing ATVs, dirt bikes and snowmobiles need service or repair. As stewards of California's OHV Program, this concerns us greatly as this will lead to unsafe riding practices by these youth.

Additionally, our youth training programs throughout the State are now in jeopardy. These important programs have been instrumental in reducing injury by educating young riders in the safe operation of these machines. They also provided a venue to educate future generations of OHV enthusiasts to be conscientious participants in this recreation activity by being respectful of private property and the environment. CPSIA, as enacted, will effectively eliminate this important element of our program by eliminating our ability to secure and maintain size appropriate OHVs.

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When the new lead content standard took effect, all youth models of ATVs, dirt bikes and snowmobiles designed and intended primarily for children 6 to 12 years of age became classified as banned hazardous substances. Some components in youth model vehicles must be built containing small quantities of lead for these components to be functional and safe (e.g. valve stems on tires, brake components, plastic fenders, and battery terminals) The sad irony is that these youth models were created with the support of the CPSC and consumer advocates to give children a safer alternative to larger and faster adult size models. These long-term efforts to promote safer alternatives for children are now seriously jeopardized.

Based upon the expert testimony we heard and our further research, we understand that industry has submitted scientific evidence demonstrating that small amounts of lead contained in these vehicles do not pose any health risk to children. We urge you to act upon the pending petition regarding the exclusion provision of the CPSIA. The safety of the thousands of children that participate in off-highway vehicle recreation depend on it.

Sincerely,



Gary R. Willard
Chairman
Off-Highway Motor Vehicle Recreation Commission

cc: Mark McMillin, Vice Chair, OHMVR Commission
Brad Franklin, Member, OHMVR Commission
Eric Lueder, Member, OHMVR Commission
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Senator Kay Bailey Hutchinson (R-TX)
Representative Joe Barton (R-TX, 6)