



**LATE TESTIMONY**

**HOUSE OF REPRESENTATIVES**

STATE OF HAWAII  
STATE CAPITOL  
HONOLULU, HAWAII 96813

February 16, 2011

Honorable Gilbert Keith-Agaran  
Chair, House Judiciary Committee  
State Capitol Rm 302

Honorable Joe Souki  
Chair, House Transportation Committee  
State Capitol Rm 433

Dear Gilbert and Joe:  
Re: HB 18 Relating to All Terrain Vehicles

The Specialty Vehicle Industry of America (SIVA) submitted testimony in opposition to HB 18 at the hearing of the House Transportation Committee on February 9, 2011. Even if the SIVA opposed the prohibition against minors operating ATV's, they proffered a suggestion that Hawaii could adopt model legislation for ATV's.

I request that the House Judiciary Committee hear HB 18 and consider amending the bill with features from the model bill. After all, Hawaii is only one of three states without *any* safety regulations for ATV's. The model legislation would be a very good start for Hawaii. The only problem I have with the suggested language is that it prohibit anyone under the age of 6 to operate an ATV. Horrors! Please consider under 18, under 16, or under 13. The Education and Training program can be administered by those selling or renting ATV's. I would add a provision regarding the number and age of passengers allowed.

Mahalo for your consideration. I remain,

At your service,

A handwritten signature in black ink, appearing to read "Barbara Marumoto".

Barbara Marumoto

Encl: SIVA testimony, ATV Statistics

**Representative Barbara Marumoto**  
State Capitol Room 304, Honolulu HI 96813  
Phone: (808) 586-6310, Fax: (808) 586-6311  
Email: [repmarumoto@capitol.hawaii.gov](mailto:repmarumoto@capitol.hawaii.gov)  
Website: [www.timeforbarbaramarumoto.com](http://www.timeforbarbaramarumoto.com)



LATE TESTIMONY

February 4, 2011

The Honorable Barbara C. Marumoto  
304 State Capitol  
Honolulu, HI 96813

Dear Representative Marumoto:

The Specialty Vehicle Institute of America (SVIA) is the national nonprofit trade association representing manufacturers and distributors of all-terrain vehicles (ATVs) in the United States. SVIA's principal goal is to promote the safe and responsible use of ATVs.

I am writing in regard to HB 18, which prohibits a minor (under age 18) from operating an all-terrain vehicle. SVIA strongly supports state ATV safety legislation and Hawaii is one of only a handful of states that has absolutely no ATV operator safety requirements. However, we cannot support the prohibition on the operation of any ATV by anyone under 18. Persons younger than age 18 are permitted to drive motor vehicles on highways. No other state has imposed such an unrealistic and stringent age limitation on ATV operation and one which we believe would be detrimental to improving ATV safety.

SVIA believes that rider education and supervision for children under age 16 are the most effective means of enhancing ATV rider safety. We do not feel that a prohibition on operation under age 18 is appropriate and in fact believe that this provision could actually result in an increase in injuries to young operators.

The U.S. Consumer Product Safety Commission (CPSC), which has studied ATV safety extensively, has not found use of appropriately-sized youth model ATVs to pose a safety problem. The vast majority of injuries to children are not occurring when children are riding appropriately-sized ATVs. CPSC statistics show that 95% of children under age 16 injured by ATVs were riding ATVs larger than recommended for their age group. Our goal is to try to ensure that children under age 16 do not ride adult-size ATVs.

There are several categories of youth model ATVs available. The SVIA/American National Standards Institute ATV standard (July 2007) requires that youth models have a speed limiting device (to be set by the parent/supervisor and requiring tools to adjust) as follows:

*Category Y (Youth Model) ATV.* An ATV of appropriate size intended for recreational use under adult supervision by an operator under age 16. Youth model ATVs can further be categorized as follows:  
-Y-6 Models (for 6 years and older): 10 mph maximum speed as set; 15 mph maximum with speed limiting device removed)  
-Y-10 Models (for 10 years and older): 15 mph maximum speed as set; 30 mph maximum with speed limiting device removed)

*Category T (Transition Model) ATV.* A Category T ATV is a transitional model ATV of appropriate size that is intended for recreational use by an operator age 14 or older under adult supervision, or by an operator age 16 or older (limited speeds of 20 mph and 30 mph with 38 mph maximum with speed limiting device removed)

Enacting a minimum age of 18 would effectively prohibit the use of these youth and transitional model ATVs in Hawaii. Enacting a law to ban the use of ATVs by anyone under age 18 would make youth model ATVs unavailable, leading young operators to use the larger adult-sized models which are less safe for them. It would also prohibit children under 18 from receiving valuable safety training.

The CPSC study also found that inexperience on the part of any ATV operator was a significant risk factor. The relative risk for operators with less than one month of experience was found to be 13 times greater than the average risk. The CPSC concluded that hands-on training would be a very important remedy to reduce this risk for inexperienced operators. An effective system to offer that training is currently provided throughout the nation by the ATV Safety Institute (ASI). ASI uses only appropriately sized youth model ATVs to provide training to operators under age 16. Enacting an 18 year minimum age would make it unlawful for young ATV operators to receive the training which is the most effective safety remedy.

We do not believe a bill that effectively prohibits young operators from receiving important safety training is a bill that will enhance ATV safety.

Although new ATVs are clearly labeled, all accompanying safety materials contain age recommendations, and adult-size ATVs are not to be sold for use by children under age 16, the vast majority of injuries to children occur on adult-size ATVs. This reveals that safety warnings and recommendations are being ignored. If a state passes a law prohibiting anyone under 18 from riding ATVs, the sad fact is that this will probably be ignored by some segment of the public as well. However, as a result of the law, appropriately-sized youth models and important safety training will be unavailable to them and more children will be riding inappropriately sized ATVs, putting them at a far greater risk.

The safety of our customers is of paramount importance to the ATV Industry and the Industry is committed to continuing to take appropriate actions to ensure that its products are being used in a safe and proper manner. We believe that reducing injuries associated with ATVs requires a three-pronged approach. State ATV safety legislation, in combination with rider education and parental involvement and supervision when children are riding ATVs, will serve to accomplish our goal of decreasing ATV accident rates.

One of these essential components in strengthening ATV safety is enactment of state legislation regulating ATV use. To provide states with assistance, SVIA has developed *Model State ATV Legislation*. The majority of ATV-related accidents and fatalities involve behaviors that the Industry warns against in its rider education programs and in all literature and on vehicle labels. These behaviors include riding inappropriately sized ATVs, operating on paved roads, operating without proper safety gear, and operating under the influence of alcohol, and are prohibited by the SVIA Model Law. Enactment and enforcement of the ATV safety measures in this Model will be a much more effective way to achieve further reductions in the number of injuries and fatalities involving children.

We encourage you to review the enclosed *Model State ATV Legislation* that very comprehensively addresses ATV safety and urge that you consider amending HB 18 to delete the minimum 18 year rider age provision and instead incorporate provisions from this Model.

Thank you for your consideration of these comments.

Sincerely,



Kathy R. Van Kleeck  
Sr. Vice President, Government Relations

Enc.



## SVIA MODEL STATE ATV LEGISLATION

### Summary of Provisions

#### Education and Training

Provides for state implementation of a comprehensive ATV safety education and training program. The program shall provide for the hands-on training of ATV operators. All persons operating an ATV on public land shall have a safety certificate. Except as provided, all operators seeking a safety certificate must receive training. Provides for certification of safety instructors. Fees collected for training and certificates shall be retained in a dedicated fund to support the ATV safety training and education program.

#### Age Restrictions

- (a) No person under age 6 may operate an ATV.
- (b) No person shall operate an ATV bearing a Certification Label conforming to ANSI/SVIA 1 – 2007 in violation of the Age Recommendation Warning Label affixed by the manufacturer.
- (c) No person shall operate an ATV not bearing a Certification Label conforming to ANSI/SVIA 1 – 2007 except as follows:
  - (1) ATVs with engine capacity 70 cc up to and including 90 cc shall be operated only by those aged 12 and older.
  - (2) ATVs with engine capacity greater than 90 cc shall be operated only by those aged 16 and older.
- (d) Persons under age 16 shall be under direct adult supervision while operating an ATV.

#### ATV Equipment Requirements

ATVs shall comply with the American National Standard for Four Wheel All-Terrain Vehicles, ANSI/SVIA 1-2007, or later revision, or be equipped with:

- (a) Brake system maintained in good operating condition;
- (b) Effective muffler system in good working condition;
- (c) Effective spark arrester in good working condition.

#### ATV Operator Prohibitions on Public Land

- (a) Operation in a careless or reckless manner so as to endanger or to cause injury or damage to any person or property.
- (b) Operation on any public street, road, or highway of this state except for purposes of crossing or as part of a designated trail system, as specified.
- (c) Operation during hours of darkness without displaying a lighted headlamp and tail lamp.
- (d) Operation unless wearing eye protection and an approved safety helmet.
- (e) Carrying of a passenger, unless designed by manufacturer to carry one passenger.
- (f) Operation while under the influence of alcohol or any controlled substance, or under the influence of a prescription or non-prescription drug that impairs vision or motor coordination.

#### ATV Retailer Prohibitions

(a) No person shall knowingly sell or offer to sell an ATV bearing a Certification Label conforming to ANSI/SVIA 1–2007 in violation of the Age Recommendation Warning Label affixed by the manufacturer.

(b) For ATVs not bearing a Certification Label conforming to ANSI/SVIA 1–2007 no person shall knowingly sell or offer to sell at retail:

- (1) an ATV for use by a person under 6 years of age.
- (2) an ATV for use by those age 6 – 11 with engine capacity of 70 cubic centimeter displacement or greater.
- (3) an all terrain vehicle for use by those age 12 -15 with engine capacity greater than 90 cc.

#### Provides penalties for violations



## MODEL STATE ALL-TERRAIN VEHICLE LEGISLATION

### Chapter 1. Definitions

**Section 101. Definitions.** As used in this Act:

(a) "All-Terrain Vehicle" or "ATV" means a motorized off-highway vehicle designed to travel on 3 or 4 low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control and intended by the manufacturer for use by a single operator or an operator and no more than one passenger. ATVs intended by the manufacturer for use by an operator and a passenger shall be equipped with a designated seating position behind the operator designed to be straddled by no more than one passenger.

(b) "Commissioner" means the commissioner of \_\_\_\_\_.

(c) "Dealer" means any person engaged in the business of selling, leasing, or renting all-terrain vehicles at retail, at a regular place of business.

(d) "Department" means the Department of \_\_\_\_\_.

(e) "Owner" means any person, other than a person with a security interest, having a property interest or title to an all-terrain vehicle and entitled to the use and possession of the vehicle.

(f) "Person" means every natural person, firm, co-partnership, association, or corporation.

(g) "Public street," "road," or "highway" [the state will define these terms to correspond to other legislation and its road system, but it is not intended that this definition cover such public thoroughfares as logging roads, woodland trails or other unimproved ways.]

### Chapter 2. Education and Training Program

**Section 201. Establishment of Program.**

(a) The Commissioner shall establish or adopt standards for and shall implement a comprehensive all-terrain vehicle safety education and training program. The program shall provide for the hands-on training of all-terrain vehicle operators, and for the issuance of all-terrain vehicle safety certificates to operators who successfully complete the training. Courses

(4) have no previous felony convictions.

**Section 204. Certification Fees.**

The Commissioner may authorize collection of a fee, not to exceed \$\_\_\_, from each applicant for a safety certificate. Fees collected shall be retained in a dedicated fund to support the ATV safety training and education program.

**Chapter 3. Operation**

**Section 301. Age Restrictions.**

(a) No person under age 6 may operate an ATV.

(b) No person shall operate an all-terrain vehicle bearing a Certification Label conforming to ANSI/SVIA 1 – 2007 in violation of the Age Recommendation Warning Label affixed by the manufacturer.

(c) No person shall operate an all-terrain vehicle not bearing a Certification Label conforming to ANSI/SVIA 1 – 2007 except as follows:

(1) All terrain vehicles with engine capacity less than 70 cubic centimeter displacement shall be operated only by those aged 6 and older.

(2) All terrain vehicles with engine capacity 70 cubic centimeter displacement (“cc”) up to and including 90 cc shall be operated only by those aged 12 and older.

(3) All-terrain vehicles with engine capacity greater than 90 cc shall be operated only by those aged 16 and older.

(d) A person under 16 years of age may only operate an ATV under the direct supervision of an adult age 18 or older.

**Section 302. Equipment Requirements.**

Any all-terrain vehicle operated in this state shall comply with the American National Standard for Four Wheel All-Terrain Vehicles, ANSI/SVIA 1-2007, or later revision, or meet the following requirements:

(a) Every all-terrain vehicle must be equipped with a brake system maintained in good operating condition.

(b) Every all-terrain vehicle must be equipped with an effective muffler system in good working condition.

(c) Every all-terrain vehicle must be equipped with an effective spark arrester in good working condition.

(h) No person shall operate an all-terrain vehicle while under the influence of alcohol or any controlled substance, or under the influence of a prescription or non-prescription drug that impairs vision, motor coordination or judgment.

(i) No person shall operate an all-terrain vehicle in a manner inconsistent with the age restrictions of Section 301 or the equipment requirements of Section 302.

(j) No owner shall authorize an all-terrain vehicle to be operated contrary to this Act.

**Section 402. Prohibited Acts by Seller.**

(a) No person shall knowingly sell or offer to sell an all-terrain vehicle bearing a Certification Label conforming to ANSI/SVIA 1 – 2007 in violation of the Age Recommendation Warning Label affixed by the manufacturer.

(b) For all-terrain vehicles not bearing a Certification Label conforming to ANSI/SVIA 1 – 2007 no person shall knowingly sell or offer to sell at retail:

(1) An all-terrain vehicle for use by a person under 6 years of age.

(2) An all-terrain vehicle for use by those age 6 – 11 with engine capacity of 70 cubic centimeter displacement or greater.

(3) An all terrain vehicle for use by those age 12 -15 with engine capacity greater than 90 cc.

**Chapter 5 Miscellaneous Provisions**

**Section 501. Powers of the Commissioner.**

The Commissioner may promulgate rules and regulations as may be deemed necessary to carry out and enforce the provisions of this Act.

**Section 502. Penalties.**

Any person who violates any of the provisions in Chapter 4 of this Act shall be subject to a fine of not less than \$\_\_ or more than \$\_\_\_. However, for offenses committed with intent to defraud or mislead, or for second and subsequent offenses, a fine of not less and \$\_\_ or more than \$\_\_ shall be imposed.

**Section 503. Effective Date.**

This Act shall take effect on \_\_\_\_\_.

**Testimony for HB18 on 2/24/2011 2:15:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Thursday, February 24, 2011 10:11 AM

**To:** JUDtestimony

**Cc:** morrisonm002@hawaii.rr.com

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Testimony for JUD 2/24/2011 2:15:00 PM HB18

Conference room: 325

Testifier position: oppose

Testifier will be present: No

Submitted by: Mark Morrison

Organization: Hi, Motorcycle Dealers Assoc.

Address:

Phone:

E-mail: morrisonm002@hawaii.rr.com

Submitted on: 2/24/2011

**LATE TESTIMONY**

**Comments:**

The majority of fatal accidents with minors on ATV's, in Hawaii, have occurred when the ATV's were used on roads, which is already against the laws. ATV use by minors needs to be regulated, not prohibited. You wouldn't prohibit football for minors, due to injuries, instead you control and regulate it.



Testimony for JUD 2/24/2011 2:15:00 PM HB18

Conference room: 325

Testifier position: oppose

Testifier will be present: Yes

Submitted by: Jay Hamocon

Organization: Individual

Address:

Phone:

E-mail: offtheliphawaii@hotmail.com

Submitted on: 2/24/2011

Comments:

I oppose HB 18 regulating all-terrain vehicles under the age of 18. Most of these accidents that are happening are on public streets that are already illegal and needs to be regulated not banned. The issue is with teaching the safety of operating the vehicle itself. This issue only brings up the fact that we need more regulated legal land to operate all-terrain and off road vehicles. We need to implement a safety certification program that requires the purchaser(parent) and the rider(child) to take and pass a safety program before operating the ATV. I also found an article that Marumoto is referencing a story 15 years ago that involved a relative that was snowboarding on Mauna Kea. Should we ban snowboards too? I agree with a helmet law for the kids but not a ban on riding the vehicles that were designed for that particular size of child.

**LATE TESTIMONY**