



ALAN M. ARAKAWA  
MAYOR

OUR REFERENCE  
YOUR REFERENCE

# POLICE DEPARTMENT

## COUNTY OF MAUI

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February 4, 2011



GARY A. YABUTA  
CHIEF OF POLICE

CLAYTON N.Y.W. TOM  
DEPUTY CHIEF OF POLICE

The Honorable Joseph M. Souki, Chair  
and Members of the Committee on Transportation  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

RE: House Bill No. 18, Relating to All Terrain Vehicles

Dear Chair Souki and Members of the Committee:

The Maui Police Department supports H.B. No. 18. This bill prohibits minors from operating, riding, or otherwise being propelled on all-terrain vehicles. To underscore the importance of compliance, I recommend that the fine be increased substantially.

The Maui Police Department asks for your support on H.B. No. 18.

Thank you for the opportunity to testify.

Sincerely,

*Enc.* GARY A. YABUTA  
Chief of Police





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

shall meet or exceed the requirements of the nationally recognized All-Terrain Vehicle Safety Institute's ("ASI") ATV RiderCourse.

(b) The Commissioner may authorize persons, clubs, associations, municipalities, or other political subdivisions of the state to conduct classes and issue all-terrain vehicle safety certificates (referenced in paragraph (a)) in the Commissioner's name. Any authorized person, club, association, municipality, or political subdivision may charge a reasonable fee for providing an approved training course and issuing ATV certificates, subject to approval by the Commissioner.

**Section 202. Safety Certificate.**

(a) Except as provided in paragraph (d) of this section, all operators seeking a safety certificate must receive training as required by Section 201.

(b) The training program shall be offered to anyone who may lawfully operate an ATV under Section 301.

(c) By the effective date of this Act [or later date determined by the state as appropriate] any person operating an ATV on public land shall have a safety certificate issued pursuant to this act or issued by another state or Canadian province, unless operating in the state temporarily for a period not to exceed [\_\_\_\_\_] days.

(d) The Commissioner may issue an "exceptional" safety certificate to any adult applicant (18 years of age or older) upon a satisfactory showing by the applicant of at least [\_\_\_\_\_] year(s) of ATV operating experience.

**Section 203. Safety Instructors.**

(a) The Commissioner shall establish a program to certify or license all-terrain vehicle safety instructors, clubs, associations, municipalities or political subdivisions thereof to conduct a training program and to issue safety certificates in the Commissioner's name.

(b) All-terrain vehicle safety instructors at a minimum shall meet the following requirements to become and remain certified:

(1) possess a current all-terrain vehicle safety instructor credential that meets or exceeds the requirements for an Instructor license issued by the All-Terrain Vehicle Safety Institute ("ASI");

(2) be at least 18 years of age;

(3) have no convictions relating to or as a result of the use of alcohol or drugs during the immediately preceding two (2) years; and

(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.

(d) All-terrain vehicles participating in certain competitive events may be exempted from all or any part or parts of Section 302 at the discretion of the Commissioner.

#### **Chapter 4 Prohibited Acts**

##### **Section 401. Prohibited Acts by Owner and Operator.**

The following acts are prohibited when an all-terrain vehicle is operated on public land.

(a) No person shall operate an all-terrain vehicle without having been issued an all-terrain vehicle safety certificate if such certificate is required by Section 202.

(b) No person shall operate an all-terrain vehicle in a careless or reckless manner so as to endanger or to cause injury or damage to any person or property.

(c) An all-terrain vehicle shall not be driven or operated on any public street, road, or highway of this state unless such street, road, or highway is part of a designated trail system permitting such operation or except for purposes of crossing if:

(1) the crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(2) the vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;

(3) the operator yields the right of way to all oncoming traffic that constitutes an immediate potential hazard;

(4) if equipped, both the headlight and tail light are on when the crossing is made.

(d) The crossing on any interstate or limited access highway is not permitted.

(e) No person shall operate an all-terrain vehicle during hours of darkness without displaying a lighted headlamp and tail lamp. These lights must be in operation during the period of from one-half hour after sunset to one-half hour before sunrise and at any time when visibility is reduced due to insufficient light or unfavorable atmospheric conditions, unless use of lights is prohibited by other applicable state laws such as a prohibition on use of lamps when hunting at night.

(f) No person shall operate an all-terrain vehicle unless the person wears eye protection and an approved safety helmet.

(g) No operator of an all-terrain vehicle shall carry a passenger, except the operator of an ATV intended by the manufacturer for use by an operator and a passenger may carry one passenger.

(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 \_\_\_\_\_.



## ichiyama3 - Cu Ri

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**From:** Judy Barrett [JudyB@JudyBarrett.com]  
**Sent:** Sunday, February 06, 2011 10:50 AM  
**To:** TRNtestimony  
**Subject:** RE: HB 18

I urge you to support HB 18, regulating all-terrain vehicles. These are not Barbie Fun Cars, they are powerful motor vehicles. Sadly, some parents seem to miss the distinction. The January crash in Kohala that killed teen and seriously injured two others, ages 11 and 4, is a glaring example. I have been horrified to see children who could not have been more than 6 or 7, maybe 50 pounds soaking wet, wearing nothing but board shorts, driving ATVs on Kalaniana'ole Highway in Waimanalo. PLEASE pass this bill to help protect our keiki!

ALOHA!

Judy Barrett  
REALTOR  
527 Paopua Place  
Kailua, HI 96734  
808-263-0250 - voice





To: House Committee on Transportation  
Rep. Joseph Souki, Chair  
Rep. Linda Ichiyama, Vice Chair

Date: Feb. 8, 2011

RE: HB 18 - **RELATING TO ALL-TERRAIN VEHICLES**

I strongly support the intent of HB18

Chairs and Committee Members,

I strongly support the intent of this bill which prohibits minors from operating, riding, or otherwise being propelled on all-terrain vehicles.

- As a Respiratory Therapist working in a major Hawaii Trauma Medical Center I have unfortunately seen first hand the devastating results of accidents involving minors secondary to their operating or riding all-terrain vehicles.
- Despite the life-saving medical attention they receive, many of these young patients die of their injuries or will never recover their full physical and mental capacities and in many cases do not return to adequate cognitive brain function, requiring institutionalization for the rest of their lives.

Mahalo for allowing me to testify.



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Diane Brenessel, BS, D.Ed., RRT, AE-C  
Clinical Educator for Respiratory Care Services  
Queen's Medical Center, Trauma Center for the South Pacific  
Honolulu, Hawaii 96813

