

HB2277, HD 1

RELATING TO ALL-TERRAIN VEHICLES.

Addresses the conditions under which a minor may operate an all-terrain vehicle. Establishes requirements and prohibited acts for owners, operators, and sellers of all-terrain vehicles. Effective January 7, 2059. (HB2277 HD1)

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

WRITTEN ONLY

LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

In reply, please refer to:
File:

Senate Committee on Transportation and International Affairs

HB 2277 HD-1, RELATING TO ALL TERRAIN VEHICLES

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

Wednesday, March 14, 2012, 1:15PM

1 **Department's Position:** The Department of Health supports HB2277 HD-1.

2 **Fiscal Implications:** None.

3 **Purpose and Justification:** The Department of Health supports this measure to protect operators of
4 ATVs from injuring themselves and their passengers by not following manufacture's recommendations
5 for ATV use and operating these vehicles without helmets. There is statewide data that supports the
6 need to regulate the use of ATVs by minors and to mandate the use of helmets. In Hawaii, there has
7 been an increase over time in fatal and non-fatal injuries to ATV riders, including minors. A majority of
8 the ATV riders under the age of 19 who were injured were not wearing a helmet at the time of the crash.

9 The Department of Health supports the changes to this measure, which are written in HB 2277-
10 HD-1.

11 We commend the legislature for being concerned about this issue.

12 Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR



DWIGHT TAKAMINE
DIRECTOR

AUDREY HIDANO
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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March 12, 2012

The Honorable J. Kalani English, Chair
Committee on Transportation and
International Affairs
The State Senate
State Capitol, Room 205
Honolulu, Hawaii 96813

Dear Chair English:

Subject: H.B. 2277, H.D. 1 Relating to All-Terrain Vehicles (ATV)

I am Kenneth G. Silva, Chair of the State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support H.B. 2277, H.D. 1, which establishes requirements and prohibited acts for ATV owners, operators, and vendors.

We support proposed exemptions of governmental personnel in the performance of their duties or capacity of authorized operations. The HFD owns and operates ATVs, which are utilized at wildland-type fire incidents to quickly transport personnel, equipment, and supplies to mountainous, uneven, or unpaved locations.

The SFC and the HFD urge your committee's support on the passage of H.B. 2277, H.D. 1.

Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or sbratakos@honolulu.gov.

Sincerely,

KENNETH G. SILVA
Chair

KGS/LR:cn



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
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Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development, and Tourism

before the

SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

Wednesday, March 14, 2012

1:16p.m.

State Capitol, Conference Room 224

in consideration of

HB 2277 HD1

RELATING TO ALL-TERRAIN VEHICLES.

Chair English, Vice Chair Espero and members of the committee. The Department of Business, Economic Development and Tourism (DBEDT) is in support of HB2277 HD1 and appreciates the exemption for film productions. The described All-Terrain Vehicles (ATV) are often used by film productions for filming with a talent, as a camera platform or for equipment transportation. This exemption is necessary to ensure that film productions are not inadvertently impacted by certain restrictions proposed in this measure.

The exemption does ensure that productions would be required to obtain a state, county or federal permit. For those productions that shoot on private property, productions would be certified by DBEDT's Hawaii Film Office to ensure that it is in compliance and a legitimate production. The certification process would include, but not be limited to, providing the following information to the Hawaii Film Office: script w/ the scene involving talent riding an ATV, description of the use of the ATV if not being used in a scene, list of above-the-line crew, location of scene being shot, copy of private property agreement, shoot dates/times, proof of insurance in an amount acceptable to DBEDT, DCCA registration or similar documentation for out-of-state productions.

Thank you for the opportunity to testify on this measure.

William P. Kenoi
Mayor



Darren J. Rosario
Fire Chief

Renwick J. Victorino
Deputy Fire Chief

County of Hawai'i
HAWAII FIRE DEPARTMENT
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March 12, 2012

The Honorable J. Kalani English, Chair
Committee on Transportation and International Affairs
The State Senate
State Capitol, Room 205
Honolulu, Hawaii 96813

Dear Chair English:

Subject: H.B. 2277 Relating to All-Terrain Vehicles

I am **Darren J. Rosario**, Member of the **State Fire Council (SFC)** and **Fire Chief of the Hawaii Fire Department** from the **County of Hawaii (HCFD)**. The SFC supports H.B. 2277, H.D 1, which would prohibit minors from using all-terrain vehicles (ATV), use on public roadways and passengers from riding. It would also prohibit use between sunset and sundown and require operators to wear helmets. The fire departments would recommend an exemption to the proposed bill.

Fire departments use ATV's normally for large scale wildland fire operations and during mountainous rescue missions to transport small equipment or personnel in off-road locations. During the course of these operations there may instances of crossing public roadways, use after daylight hours and passengers on board.

Should you have any questions, please contact Battalion Chief Socrates Bratakos of our Fire Prevention Bureau at 723-7151 or sbratakos@honolulu.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren J. Rosario".

Darren J. Rosario
Fire Chief



William P. Kenoi
Mayor



Harry S. Kubojiri
Police Chief

Paul K. Ferreira
Deputy Police Chief

County of Hawai`i

POLICE DEPARTMENT

349 Kapi'olani Street • Hilo, Hawai'i 96720-3998
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March 12, 2012

Senator J. Kalani English
Chairperson and Committee Members
Committee on Transportation and International Affairs
415 South Beretania Street, Room 224
Honolulu, HI 96813

Re: House Bill 2277, HD 1, Relating to All-Terrain Vehicles

Dear Chair English and Members of the Committee:

The Hawai'i Police Department supports the passage of House Bill 2277, HD 1, Relating to All-Terrain Vehicles that seeks to enhance the health and safety of all-terrain vehicle riders, especially those under the age of sixteen, by establishing regulations for the operation of all-terrain vehicles.

We are in agreement that the regulation of all-terrain vehicles is a matter of public safety that is long overdue. The amendments to the measure, as outlined in HD 1, address issues in the original draft of the measure that was of concern within our jurisdiction, specifically involving the exemption of the restrictions for law enforcement agencies, emergency services personnel, and persons engaged in agricultural activities.

For these reasons, we urge this committee to approve this legislation. Thank you for allowing the Hawai'i Police Department to provide comments relating to House Bill 2277, HD 1.

Sincerely,


HARRY S. KUBOJIRI
POLICE CHIEF

ALAN M. ARAKAWA
MAYOR



JEFFREY A. MURRAY
CHIEF

ROBERT M. SHIMADA
DEPUTY CHIEF

COUNTY OF MAUI
DEPARTMENT OF FIRE AND PUBLIC SAFETY

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EMAIL: fire.dept@mauicounty.gov

March 12, 2012

The Honorable J. Kalani English, Chair
Committee on Transportation and International Affairs
The State Senate
State Capitol, Room 205
Honolulu, Hawaii 96813

Dear Chair English:

Subject: H.B. 2277 Relating to All-Terrain Vehicles

I am Jeffrey A. Murray, Fire Chief of the County of Maui, Department of Fire & Public Safety (MFD) and a member of the State Fire Council (SFC). The MFD and SFC supports H.B. 2277, H.D 1, which would prohibit minors from using all-terrain vehicles (ATV), use on public roadways and passengers from riding. It would also prohibit use between sunset and sundown and require a operators to wear helmets. The fire departments would recommend an exemption to the proposed bill.

Fire departments use ATV's normally for large scale wildland fire operations to transport small equipment or personnel in off-road locations. During the course of these operations there may instances of crossing public roadways, use after daylight hours and passengers on board.

Should you have any questions, please contact Battalion Chief Socrates Bratakos of Honolulu Fire Department's Fire Prevention Bureau at 723-7151 or sbratakos@honolulu.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Murray", is written over the typed name.

JEFFREY A. MURRAY
Fire Chief



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

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GARY A. YABUTA
CHIEF OF POLICE

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

March 12, 2012

The Honorable J. Kalani English, Chair
And Members of the Committee on Transportation
and International Affairs
The Senate
Hawaii State Capitol
Honolulu, HI 96813

RE: HB No. 2277, HD1, RELATING TO ALL-TERRAIN VEHICLES

Dear Chair English and Members of the Committee:

The Maui Police Department supports the passage of HB No. 2277, HD1, with amendments. The passage of this bill which addresses the conditions under which a minor may operate an all-terrain vehicle, establishes requirements and prohibited acts for owners, operators, and sellers of all-terrain vehicles, is long overdue, and that the Maui Police Department is willing to support with amendments.

The recent draft amendments to this bill have addressed several of the issues brought up during our previously submitted testimony. Our current concern with this bill is the need to clarify the section which would allow all-terrain operators the ability to cross a public roadway anywhere. In allowing this section to be passed in this version will likely cause confusion and contradict the primary purpose to prohibit all-terrain vehicles from being on public roadways in the first place.

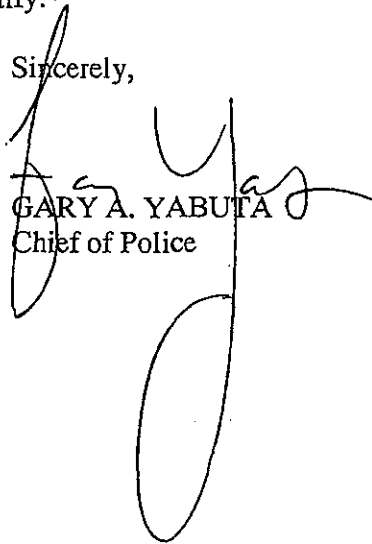
We strongly recommend that this bill restrict all-terrain vehicles from travelling on any public roadway, to include crossing. We thank you for developing this issue, which is designated to improve roadway safety, to include all-terrain vehicle operators.

The Honorable J. Kalani English, Chair
Committee on Transportation and
International Affairs
March 12, 2012
Page 2

The Maui Police Department asks that you support in the passage of HB No. 2277, HD1, with the stated amendments.

Thank you for the opportunity to testify.

Sincerely,



GARY A. YABUTA
Chief of Police

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
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PETER B. CARLISLE
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. MCCAULEY
DEPUTY CHIEFS

OUR REFERENCE DI-LC

March 14, 2012

The Honorable J. Kalani English, Chair
and Members
Committee on Transportation and
International Affairs
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Kalani English and Members:

Subject: House Bill No. 2277, H.D. 1, Relating to All-Terrain Vehicles

I am Darren Izumo, Captain of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports the passage of House Bill No. 2277, H.D. 1, but ask that an amendment be made to remove certain provisions of the bill.

Lines 15 through 22 on page 4 and lines 1 through 9 on page 5 prohibit the operation of an All Terrain Vehicle (ATV) on a public street, road, or highway except for certain circumstances. An ATV is an unlicensed vehicle, and its operators are not required to obtain a license prior to operation. ATVs are not registered, nor are they subject to a safety inspection. By allowing an ATV to operate on a public street, road, or highway even in a limited scope would directly conflict with many other existing laws. The HPD would recommend that this section be removed from the bill.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren Izumo".

DARREN IZUMO, Captain
Traffic Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoaha".
LOUIS M. KEALOHA
Chief of Police



Hawaii Partners

- *Rehabilitation Hospital of the Pacific
- *The Queen's Medical Center Neuroscience Institute and Trauma Program
- *City and County of Honolulu Ocean Safety
- *KIPC/SAFE KIDS Hawaii
- *IPCP, Hawaii Department of Health
- *Hawaii Department of Education
- *Neurotrauma Supports, Hawaii Department of Health
- *City and County of Honolulu EMS
- *Honolulu Police Department
- *Hawaiian Lifeguard Association

March 14, 2012

Subject: Support for HB 2277 HD1

Dear Committee on Transportation and International Affairs,

ThinkFirst Hawaii strongly supports HB2277 HD1 providing restrictions and regulations for operating an ATV. ThinkFirst especially supports the requirement that all ATV riders wear protective eye equipment and an approved safety helmet to prevent injury.

ThinkFirst is a nationally recognized injury prevention program whose mission is to lead injury prevention through education, research and policy. The program curriculum is specifically designed for children and youth to foster safe behaviors, such as properly fitted helmets and protective gear for sports and recreation, to prevent brain and spinal cord injury. As you know, there is no cure for brain and spinal cord injury, just prevention.

ThinkFirst Hawaii Chapter with its collaboration of community partners will continue to educate and advocate for injury prevention efforts statewide.

Thank you for your support for injury prevention and the opportunity to testify on this measure.

Sincerely,

Elzadia Kaina
Chapter Director
ThinkFirst Hawaii

Concerned Families for ATV Safety

United to prevent child ATV death and injury

March 13, 2012

Committee of Transportation and International Affairs
Senator J. Kalani English Chairman
Senator Will Espero Vice Chairman
Committee Members

RE: HB 2277

I am writing to you today in **Support of HB 2277** with the engine sizes in place.

I am a cofounder of **Concerned Families for ATV Safety**, a national organization made up of parents who have lost or had a child severely injured from an ATV crash. I say "crash" because these deaths are very preventable if the right laws were in effect. As parents we look to lawmakers to help guide us in the right direction to protecting ourselves and our children. We have laws for seat belts, car seats, smoking, drinking alcohol and driving automobiles just to name a few. However there are virtually no laws against children under the age of 16 riding or driving All Terrain Vehicles, ATV's.

Our organization stands with the American Academy of Pediatrics when they state that "No Child Under The Age of 16 Should Ever Be On Any ATV." Sadly that part of the bill was amended, but there is still a good segment of HB 2277 left that would very much help save the lives of children under the age of 16 and that is the engine sizes.

While the ATV Industry used to stand by their "golden rules" that stated no child under 6 on an ATV, children ages 6-12 on nothing bigger than a 70cc and children 12-15 on nothing bigger than a 90cc, they have since changed those national standards to something called "Best Fit." It seems that the new "Best Fit" standard benefits the industry much more than the child.

Thousands of children have died or become severely injured from ATV crashes in the last 20 years. The Consumer Product Safety Commission states that approximately 95 percent of children that die or are seriously injured in ATV crashes are from the machines rolling over. While helmets, training and supervision all sound good, in most cases they won't save that child when the machine lands on top of them.

The industries new "youth" models are what they use to call "adult size" ATV's. These machines are heavy and can still go fast if the speed governing device is removed making them just as bad as bigger models. Keeping the engine sizes for children in this bill is crucial for saving the lives of our children.

It's time to make decisions based on death and injury statistics and not on money. ATV driving has the highest risk of hospitalization of 33 sports and activities in which children routinely participate in including football.

Injuries to children from ATV accidents cost society OVER 3 BILLION DOLLARS annually in medical and economic costs.

It's time lawmakers stand up to the big business and make laws that will help protect children. Although it may not be the popular vote to make, it is the right vote knowing you will be helping to save the lives of many other children from becoming a statistic like ours have become.

Thank you,

Sue DeLoretto-Rabe

Cofounder

Concerned Families for ATV Safety

www.atvsafetynet.org



Consumer Federation of America

March 13, 2012

Committee of Transportation and International Affairs
Senator J. Kalani English Chairman
Senator Will Espero Vice Chairman
Committee Members

RE: HB 2277

Dear Chairman Kalani:

Consumer Federation of America (“CFA”) is a CFA is a non-profit association of nearly 300 consumer groups that was founded in 1968 to advance the consumer’s interest through advocacy and education.

CFA has been deeply concerned about the safety of all-terrain vehicles (ATVs) for many years. In fact, CFA has been involved in ATV safety issues since the 1980s when three-wheel ATVs dominated the market. We opposed the consent decree between CPSC and ATV manufacturers in 1988 because we felt that it did not adequately protect consumers. CFA petitioned CPSC in the 1990s and again in 2002, and legally challenged CPSC’s abandonment of their ATV rulemaking in the 1990s. While the Commission denied our most recent petition, CP-02-4/ HP-02-1,¹ which requested that the U.S. Consumer Product Safety Commission ban the sale of adult-size four wheel all-terrain vehicles “ATVs” sold for use by children under sixteen years of age, the Commission continues to work on an ATV mandatory standard.

We are writing to you today in support of HB 2277. Strong state legislation is critical to keeping children off of ATVs that are too large and too powerful for them to safely operate. We support HB 2277’s provision in section 286-B(c) that defines youth model ATVs as those with engine capacities of less than seventy cubic centimeters displacement. Further we support the provision stating that ATVs with an engine capacity of seventy cubic centimeters up to and including an engine capacity of ninety cubic centimeters shall be operated by a person at least twelve years old; and that ATVs with an engine capacity greater than ninety cubic centimeters shall be operated by a

¹ Consumer Federation of America filed the petition on August 20, 2002 along with the American Academy of Pediatrics, American College of Emergency Physicians, Bluewater Network, Danny Foundation for Crib & Child Product Safety; Kids in Danger, National Association of Orthopaedic Nurses and the U.S. Public Interest Research Group.

person at least sixteen years old. CFA has long advocated that children under 16 should not operate ATVs with engine sizes over 90 cc's and we strongly support this aspect of HB 2277.

Sincerely,

A handwritten signature in black ink that reads "Rachel Weintraub". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Rachel Weintraub
Director of Product Safety and Senior Counsel
Consumer Federation of America



Event Medics Hawaii

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admin@eventmedicshawaii.com

March 13, 2012

Re: House Bill 2277

I would like to offer my testimony with regards to **House Bill 2277**.

I have briefed the Bill and offer the following:

As a 30 year paramedic, and as a father of three children, I support any change or advance, made to enhance the safety of a rider of a motorized vehicle, whether it is a car, motorcycle, ATV, or any other machine that propels the rider at speeds faster than walking or jogging. Having worked as a paramedic, both in Hawaii and Las Vegas, for 30 years, I can attest to the inherent dangers of being in or on any of the above mentioned vehicles. I've seen fatal injuries, too much to count, as well as near fatal and/or life crippling injuries. So there is always a risk, no matter how many precautions are taken and how much caution used.

In my career, not only have I witnessed first-hand, and treated, the end results of the unwanted disasters that oft times result from participation in such activities as: driving a car, riding a motorcycle/dirt bike/ATV, etc., I've also worked such events like, NASCAR, Ducati & Grand Prix Motorcycle Races, Drag Races, and AMA Supercrosses and World Championships. Here in Hawaii, for the past three years, we "Event Medics Hawaii" have worked for HMA, providing "On-site" medical & trauma care at the Kahuku Motocross Track, during "race-days." As one can expect, there are crashes and there are injuries. Some are minor injuries, some are serious injuries, and sometimes there are critical injuries. Although Event Medics Hawaii is there to treat any and all injuries, HMA has hired us more specifically to be there in case the unthinkable happens. Our medics are primarily Paramedics and Paramedic/RN, and can handle any injury, any scenario, even the unthinkable.

I would like to close with this . . . I have witnessed races at Kahuku track for 7 of the last 9 years. (We were contracted with the Track 9 years ago, for about 3 years, then did not renew from about 2006 to 2009). I must say that HMA, and all of their board members, have taken every possible precaution to ensure the safety of their participants (racers). The racers, and the parents of the racers (if racer under 18), have always complied with the safety requests and requirements of HMA. There are even "PeeWee" racers, who ride on the "PeeWee" track. These little ones are 5/6 years old and already learning how to be safe riders. Of all the times we've had to treat a PeeWee racer, none of the injuries were ever serious. And of course, we always monitor them even after our initial examinations & evaluations. The parents always listen to our advice as well, to ensure the child's safety. So while I generally favor what the Bill is intended, **I cannot support the Bill**, due to the "age requirement" of 8 years old. I would be in favor of an amendment to this Bill which would lower the age requirement to 6, or even 5. All other aspects of the Bill are fine. As a matter of fact, I thought this Bill was well thought out. The only arbitrary thought was the age requirement. The separation of age-groups, no doubt, concurs with the separation of responsible supervision. In other words, irresponsible riders and parents of riders are usually at the "home" setting. I've seen nothing but responsible riders, and responsible parents of riders, at the race track. At the very least, the amendment of Bill 2277 should include a stipulation which allows for the younger ATV-rider to be allowed at the "race" setting.

I thank you for your time and consideration.

Aloha!

D. Kimo T. Paramedic/RN
Trauma Team Coordinator
EVENT MEDICS HAWAII
94-366 Pupupani St. Suite 207
Waipahu, HI. 96797





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AmericanMotorcyclist.com

March 9, 2012

The Honorable J. Kalani English
Chairman
Senate Committee on Transportation
and International Affairs
Hawaii State Capitol, Room 205
Honolulu, HI 96813

The Honorable Will Espero
Vice Chairman
Senate Committee on Transportation
and International Affairs
Hawaii State Capitol, Room 231
Honolulu, HI 96813

Submitted via Email

Dear Chairman English and Vice Chairman Espero:

The American Motorcyclist Association (AMA) and its partner organization, the All-Terrain Vehicle Association (ATVA), oppose the minimum ATV rider age requirement in House Bill 2277.

The amended version of HB 2277 which was passed by the house is a significant improvement over the introduced version. However, the AMA continues to oppose the bill because of the minimum age provision.

The amended bill would prohibit youth ATV riding for riders under 8 years old but is otherwise consistent with industry guidelines and reasonable regulations that have been adopted in other states. Much of the amended version's language comes from model legislation developed by the manufacturers of ATVs. However, the bill departs from the model in the area of minimum age. The industry model recommends a minimum age of 6 but this bill would now make it illegal for anyone younger than 8 years to ride an ATV.

The manufacturers of ATVs design ATVs for riders as young as 6. Riders this age, and younger in some places, regularly participate in AMA-sanctioned events. Thus, the AMA opposes any general prohibition on ATV riding by persons who are at least 6 years.

If adopted in its current form, HB 2277 would deny our members and other riding enthusiasts the right to participate in their preferred family recreation. Families should be free to decide what to do in their spare time and parents must have discretion over the type of recreation in which their children participate.

Please take action to reduce the minimum rider age in HB 2277 from 8 to 6 years.

Thank you for your attention to this matter.

Sincerely,

Nicholas Haris
Western States Representative