

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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development, and Tourism
before the

COMMITTEE ON JUDICIARY

Thursday, March 1, 2012

2:01p.m.

State Capitol, Conference Room 325

in consideration of

HB 2277

RELATING TO ALL-TERRAIN VEHICLES.

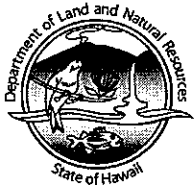
Chair Keith-Agaran, Vice Chair Rhoads and members of the committee. The Department of Business, Economic Development and Tourism (DBEDT) is in support of this measure and requests your amending this measure to ensure that film productions are not inadvertently impacted by certain restrictions proposed. We respectfully request to add the following paragraph:

"§291C- Exemption for film productions. The provisions of Part shall not apply to persons who operate, ride, or are otherwise propelled on an all-terrain vehicle as part of a production for which a state, county, or federal film permit has been issued, or as part of a production that has been certified by the department of business, economic development and tourism's film industry branch."

In order to use the exemption, productions would be required to obtain a state, county or federal film 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 a minor or talent riding an ATV, 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 your consideration of this amendment and the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committee on
JUDICIARY**

**Thursday, March 1, 2012
2:01 PM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 2277
RELATING TO ALL-TERRAIN VEHICLES**

House Bill 2277 proposes to: 1) Prohibit minors from using all-terrain vehicles; 2) Prohibit the use of all-terrain vehicles on public roadways; 3) Prohibit passengers from riding on all-terrain vehicles; 4) Prohibit the use of all-terrain vehicles between sunset and sunrise; and 4) Prohibit the use of all-terrain vehicles without a helmet. The Department of Land and Natural Resources (Department) supports this measure with amendments.

This measure is needed to regulate its use on public highways and to prohibit minors from using all-terrain vehicles. Current state and county law prohibits all-terrain vehicles (ATV) use on public highways. The Department allows public ATV use by permit only at Waiakea OHV Park, Mauna Kea Road, R-1, and Ainapo Road on the Big Island. As a condition to the permit, the Department recommends all ATV users (adults/minors) to wear appropriate (PPE) Personal Protective Equipment i.e. safety helmets and glasses, long-sleeved shirts, and gloves etc. along with adults signing waiver forms for minors using these recreation areas. Additionally, the Department is partners with the Kahuku Motor-cross (Hawaii Motorsports Association) and Sandbox track (Sand Island Off-Highway Vehicle Association) on Sand Island, Oahu, and the Puunene Motor-cross on Maui. Each venue is monitored closely by a representative of the facility and users are required and briefed on specific protocols i.e. equipment inspection, safety gear checks prior to use of the facility including signing waiver forms.

The Department supports controlled use of ATV for minors within these guidelines and recommends this measure be amended to exempt ATV use of minors within these controlled facilities.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

The Department has an inventory of ATVs for management or emergency wildfire support in the State of Hawaii. There are times when the Department briefly operates ATV for patrolling inaccessible areas, transport materials and equipment for work in wilderness areas, and wildland fire suppression work etc. which will require staff to operate on public roadway, or operate between sunset and sunrise as well as transporting multiple management and emergency staff during special circumstances. The Department staff follows its (PPE) Personal Protective Equipment guideline and policy for ATV use on Department's management areas. The Department requests that amended language is added to this measure to exempt management agencies from these restrictions in the course of official government duties.

The Department currently uses all-terrain vehicles to access non-permissible areas and coastlines during both routine and emergency operations to transport personnel and equipment. There may also be occasions when the Department must operate its all-terrain vehicles on public roadways to and from these areas. The Department respectfully requests that this bill be amended to allow law enforcement and public safety exemptions from the public roadway and hours of darkness provisions so that the Department can continue to provide for public safety and resource protection during these occasions.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE KK-LC

March 1, 2012

The Honorable Gilbert S.C. Keith-Agaran, Chair
and Members
Committee on Judiciary
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

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

I am Kurt Kendro, Major 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, Relating to All-Terrain Vehicles but would offer several amendments to this bill.

All of the proposed violations are designed to regulate All-Terrain Vehicles (ATVs) could only be enforced on public roadways or land. Chapter 291C of the Hawaii Revised Statutes would limit enforcement on private roadways and lands unless they were open to the public. We suggest that this information be added to all of the proposed sections.


There needs to be a section added into the proposed bill for an exemption for emergency responders. The HPD, Honolulu Fire Department, Ocean Safety Division, and State Department of Land and Natural Resources all use ATVs during the course of their duties. These ATVs are operated on public roadways during all hours of the day and at times without a helmet. As such, an exemption to these laws for emergency responders must be included in this bill.


The HPD would ask that you consider these amendments and pass this bill.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


LOUIS M. KEALOHA
Chief of Police


KURT KENDRO, Major
Traffic Division

Serving and Protecting With Aloha

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
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KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY



THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-sixth State Legislature
Regular Session of 2012
State of Hawai'i

March 1, 2012

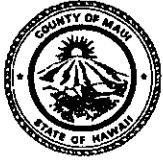
RE: H.B. 2277; RELATING TO ALL-TERRAIN VEHICLES.

Chair Keith-Agaran, Vice-Chair Rhoads and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following comments regarding House Bill 2277.

While the Department would defer to the Committee regarding policy issues surrounding H.B. 2277, there are some concerns regarding enforceability of this measure, as currently written. Moreover, we note that police officers, ocean safety officers and other agencies often use ATV's for law enforcement and/or public safety purposes, and we would recommend that appropriate exceptions be made to accommodate those officers' duties.

With regards to the current language of H.B. 2277, the definition of an all-terrain vehicle ("ATV") presents some difficulty, where the subject vehicle must be "designed for operation off of the highway" (page 1, line 8). In addition, the one exception to the minors' prohibition (page 2, lines 3-6) is unclear, without much direction as to what constitutes a "commercial production for which the minor receives payment." The bill also appears to hold a parent or guardian responsible for a minor's ATV violations, in lieu of holding the minor responsible (page 2, lines 7-9), which seems to be inconsistent with other traffic-type violations. As a final note, if ATV-use is limited to certain times of day, we would recommend using specific times, rather than the current limitation "between the hours of sunset and sunrise."

As stated above, we respectfully defer to the Committee regarding the various policy aspects of H.B. 2277, with the suggestion that appropriate exceptions be made for law enforcement. Thank you for the opportunity to testify on this matter.



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

February 29, 2012

The Honorable Gilbert S.C. Keith-Agaran, Chair
And Members of the Committee on Judiciary
House of Representative
State Capitol
Honolulu, HI 96813

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

Dear Chair Keith-Agaran and Members of the Committee:

The Maui Police Department supports the passage of HB No. 2277, with amendments.

The passage of this bill prohibiting minors from using all-terrain vehicles, prohibiting all-terrain vehicles on public roadways, prohibiting passengers from riding on all-terrain vehicles, prohibiting all-terrain vehicles between sunset and sunrise, and finally, prohibiting the use of all-terrain vehicles without a helmet, is a long overdue bill that the Maui Police Department is willing to support with amendments.

The first key amendment that would affect this entire bill would be law enforcement's access to private property. All-terrain vehicles (ATV) inherently are used on inaccessible or off-road areas away from public roadways. As we believe most of these types of violations would likely occur on private property, we request the ability to enforce the proposed sections in the law and have language drafted in this bill to access private property in order to enforce the intent of this law effectively.

Lacking this key amendment would hinder the ability of law enforcement to enforce this law in almost all cases unless the all-terrain vehicle operator was observed on a public roadway by a police officer. If this situation occurs where an officer was to observe this violation on a public roadway, established traffic laws are already in the statutes that can be applied on top of any sections in this bill that may be put into law in the future.

The second amendment that we are requesting deals with a law enforcement and emergency personnel exemption from this proposed law. The Maui Police Department

The Honorable Gilbert S.C. Keith-Agaran, Chair
Committee on Judiciary
February 29, 2012
Page 2

currently has in its inventory specialty vehicles (ATV's) for patrolling inaccessible areas of the island. There are times when these vehicles may briefly operate on a public roadway, or may operate between sunset and sunrise, along with conducting an emergency transport of passengers or equipment during special or emergency circumstances. We would respectfully request that this type of language be added to this bill to prevent any operational conflict for law enforcement and other emergency personnel that may utilize ATV's for a similar function.

The Maui Police Department would also like to comment on the last three sections of this proposed bill, specifically, "**Passengers prohibited, Hours of operation, and Safety helmet.**"

In the "**Passengers prohibited**" section of this bill we support the intent to restrict passenger usage for everyone except emergency personnel. It should be noted that as some all-terrain vehicles have been designed with side by side seating by some manufactures, will this section ban the use of these types of all-terrain vehicles? We feel clarification is needed in this section.

In the "**Hours of operation**" section of this bill we understand the intent to restrict the hours of usage of all-terrain vehicles, but as these vehicles are also used for purposes like farm and ranch custodianship and security on private property after sunset and before sunrise, will this section prevent this lawful usage on private property? We also feel clarification is needed in this section and the opportunity for entities with a vested interest in the usage of ATV's between the hours of sunset and sunrise be given the opportunity to provide their input.

Finally, in the "**Safety helmet**" section of the bill we support this safety oriented measure, with the understanding that this section and each one of the preceding sections can only be enforced on public roadways unless law enforcement is granted access in this legislation to private property where most of the usage of all-terrain vehicles occur.

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

Thank you for the opportunity to testify.

Sincerely,



GARY A. YABUTA
Chief of Police



6981 Kona Drive, Placerville, CA 95667
T: (530) 626-4250 F: (530) 626-4707

AmericanMotorcyclist.com

February 27, 2012

The Honorable Gilbert S.C. Keith-Agaran
Chairman
House Committee on Judiciary
Hawaii State Capitol, Room 302
Honolulu, HI 96813

Dear Chairman Keith-Agaran and Members of the House Committee on Judiciary:

The American Motorcyclist Association (AMA) and its partner organization, the All-Terrain Vehicle Association (ATVA), oppose House Bill 2277, relating to all-terrain vehicles (ATVs).

HB 2277 would make it illegal for anyone under the age of 16 to operate an ATV. Additionally, the bill would severely restrict the legal hours of use for adult ATV riders. If adopted, 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.

Rider education is the best approach to the long-term reduction of off-highway vehicle-related injuries and fatalities. Rider education promotes the use of safety equipment, safe riding techniques and improves rider skill. And families can be trained together. For example, the Utah State Parks' youth training program requires that parents participate in their child's safety training.

No one is more concerned about ATV safety than the enthusiast community. But, concerns regarding the safety of our sport can be addressed without making the participation of persons under the age of 16 a crime, or restricting hours of operation for all riders. We are not opposed to mandatory safety training and compulsory personal safety equipment usage for young riders.

We would be glad to work with the Legislature on ATV safety initiatives but we must oppose HB 2277.

Thank you for your attention to this matter. Should you have any questions or require additional information, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read 'Royce L. Wood', written over a large, stylized flourish.

Royce L. Wood
Government Affairs Manager

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Friday, February 24, 2012 12:28 PM

To: JUDtestimony

Cc: mgalimba@kuahiwiranch.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Michelle Galimba

Organization: Hawaii Cattlemen's Association

E-mail: mgalimba@kuahiwiranch.com

Submitted on: 2/24/2012

Comments:

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Friday, February 24, 2012 11:37 AM

To: JUDtestimony

Cc: kaimiunger@gmail.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Keith Unger

Organization: McCandless Ranch

E-mail: kaimiunger@gmail.com

Submitted on: 2/24/2012

Comments:

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Friday, February 24, 2012 2:48 PM

To: JUDtestimony

Cc: pono@ponoholo.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Harry M. von Holt

Organization: Ponoholo Ranch, Ltd.

E-mail: pono@ponoholo.com

Submitted on: 2/24/2012

Comments:



Hawaii Cattlemen's Council, Inc.

P O Box 437199 Kamuela HI 96743
Phone (808) 885-5599 • Fax (808) 887-1607
e-mail: HICattlemens@hawaii.rr.com

HOUSE JUDICIARY COMMITTEE

March 1, 2012 2:00pm Room 325

HB2277 RELATING TO ALL-TERRAIN VEHICLES

Prohibits minors from using all-terrain vehicles. Prohibits the use of all-terrain vehicles on public roadways. Prohibits passengers from riding on all-terrain vehicles. Prohibits the use of all-terrain vehicles between sunset and sunrise. Prohibits the use of all-terrain vehicles without a helmet.

Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee:

My name is Herbert M. "Tim" Richards III, DVM; known to most as "Tim". I am a rancher, livestock veterinarian, and President for the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% or 1 million acres of the State's total 4 million acres.

I am writing on behalf of our membership, land owners and land stewards involved in agriculture that use ATV's on their lands to help operate.

The Hawaii Cattlemen's Council **strongly opposes HB2277** as written.

Safety: A key component of this Bill revolves around safety and children. There is no argument from the agricultural sector that safety is paramount. Children have always been involved in agriculture and will continue to be; especially in family owned and operated businesses. Bringing those children up in an environment where they learn a work ethic with safety being a focus under the supervision of their family members teaches them proper techniques. In agriculture, the proper use of tools is important. Trucks, tractors, and ATV's are all very important and valuable in agriculture. Used correctly, invaluable. Used incorrectly, these tools are potentially destructive and dangerous. Agriculture has been deemed an important component of our sustainability in Hawaii. Food production and security are important based on your mandates. Having those family members working the agricultural enterprise is critical to its survivability and success. If the children do not embrace the work and lifestyle, the family farms and ranches will cease to exist. Recently the US Department of Labor had questioned children in the farm workplace and whether to disallow it as unsafe. An outcry from the agricultural sector pointed out that the family agricultural entity relies on the young for help and the future. On February 1, 2012, the U.S. Department of Labor announced the agency's intent to reconsider a portion of its proposed rule related to on-farm child labor.

Categorically outlawing the use of ATV's for minors while not acknowledging that training and supervision alleviates the concern is misdirected; we believe this is a parental concern not a legislative issue. Responsible parents and children should not be penalized for those that are not.

Some questions this discussion raises that need clarification;

Helmet use is also a point. No one would argue that helmet use is a good idea. A point that needs clarification is why you would pass a law to mandate helmet use on private lands, yet a greater risk for injury are motorcycle riders on public roads that are not required to use helmets?

Packing or riding double on an ATV is another issue. This again is no different than two people on a motorcycle. Some ATV's are actually built with a second seat to accommodate passengers. How would legislation affect this?

Use of ATV's on public roads; though not licensed for this, there are jurisdictions that do allow this. Some countries actually license ATV's for use on highways. The use of ATV's in rural America on farms and ranches is commonplace. Instead of running a truck to get to a field or pasture, an ATV; more fuel efficient and thus more environmentally friendly, can be used instead. Our use of ATV's in agriculture affords us the ability to cut down the number of trucks we would otherwise need. Good for everyone. Rather than looking at legislating away any use of ATV's on public roads, I would offer we should consider how to allow the restricted use of them on highways for agriculture. This is no different than the approach of putting a tractor or other service vehicle for use in agriculture on the road. Would we want it downtown or in a congested area? No, but out in the country away from the populous areas? Why not?

If legislation were passed that prohibited anyone under 18 to operate an ATV, what is to be done with the many little ATV's that have been sold for only children's use? It would seem that if a law was passed that essentially removed the value of these small children ATV, under the 5th Amendment of our US Constitution some compensation is warranted?

No use of ATV's after sunset or before sunrise? In agriculture this is unreasonable, period. We in agriculture start long before the sun comes up and though, not wanting to, often are working long after the sun goes down.

It seems that many of these issues and concerns might be understood if we are looking at only regulating the use of ATV's in a subdivision or urban areas. In the country, things are a bit different. I urge you to consider this legislation and realize a "one size fits all" bill has unintended consequence. **Please oppose HB2277, or create the necessary exemptions for agriculture.**

The Hawaii Cattlemen's Council stands ready to help draft a meaningful bill that would try to attend everyone's concerns. Thank you for allowing me to testify on this important matter.



AMERICAN COLLEGE OF SURGEONS

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Howard M. Snyder III, MD, FACS
Philadelphia, PA

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Providence, RI

February 20, 2012

House Judiciary Committee Members
Hawaii State House
Honolulu, HI 96813

Dear Judiciary Committee Member:

The American College of Surgeons (ACS) strongly supports legislation (H.B. 2277) that would protect young Hawaiians from unnecessary all-terrain vehicle (ATV) injuries.

The ACS is the largest surgical organization in the world with over 78,000 members nationwide and approximately 285 in Hawaii. The ACS has a strong history of addressing matters related to patient safety and injury prevention and the ACS believes the proposed legislation will go a long way in protecting young ATV riders in your state from preventable injury and death. In 2008, in an effort to further protect ATV riders, the American College of Surgeons Committee on Trauma developed our statement on ATV injuries (http://www.facs.org/fellows_info/statements/st-64.html). According to the statement, ATVs can reach speeds consistent with interstate highway traffic, but in a more hazardous environment; hence, ATVs deserve to have vehicle safety standards in place.

Over 1,500 children under the age of 16 have died as a result of ATV crashes. ATVs, require substantial physical strength and judgment for safe operation. The Consumer Product Safety Commission, the ATV industry and its supporters recognize the inherent dangers that ATVs pose to children suggesting that age requirements, helmet usage, and operation restrictions are effective strategies to limit injury. The ACS would like to thank the Hawaii legislature for introducing a bill that puts the necessary safeguards in place and would prohibit anyone under the age of 16 from operating an ATV as well as require helmet usage while operating or riding an ATV and places a restriction on hours of operation.

In the interest of patient safety, the American College of Surgeons believes that the requirements and restrictions proposed by H.B. 2277 would better protect ATV drivers and riders. The ACS urges the committee to pass the proposed legislation.

Sincerely,

David B. Hoyt, MD, FACS
Executive Director

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Friday, February 24, 2012 9:14 PM

To: JUDtestimony

Cc: diamondbranchhi@aol.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Brendan Balthazar

Organization: Maui Cattlemens Assn.

E-mail: diamondbranchhi@aol.com

Submitted on: 2/24/2012

Comments:

I agree with the intent to provide safety to young kids. And no ATV should be ridden in major towns and city's. But out in the country and on a ranch it is part of our tools. Lot of us have pastures on both sides of the road. We need to travel on some roads to get to the other pasture. Just as a lot of times we move cattle across country roads. We wear cow boy hats it is part of our dress. People on Harley don't have to wear helmets and they are on major hi-ways and free-ways. And most ridiculous is barning the use before sunrise and after sunset. Lot of us start work well before the sun comes up and sometimes are still working fixing pipes well into the dark. The language of this law needs to be fixed so we can do our job and use the tools that we need without government interference. Thanks

Opposition to HB2277

Feb. 27, 2012

Dear Representatives,

The Hawaii Motorcycle Dealer Association strongly opposes HB2277 which would prevent minors from using All Terrain Vehicles. The bill also includes other restrictions which the HMDA does agree with, as well as a restriction that is already currently illegal. All of the restrictions are currently emphasized greatly when a customer is purchasing an ATV. Dealers are strictly monitored to ensure that the right size ATV is being sold to the end user.

The restriction that is currently illegal is prohibiting their use on public roadways. Any unregistered vehicle is restricted from use on public roadways.

Besides the dealers emphasizing the importance of safety, the HMA at Kahuku Motocross Park enforces the same rules as you have outlined in regards to ATVs other than the use of them by minors. KRP and Sand Islands recreational areas also have regulations in place to keep things safe for all participants. This bill would penalize all the people who have been participating in the sport in a safe manner. To put it into a different context, helmets are required for playing Football in any regulated children's league. However kids play football without helmets in their neighborhoods all the time. Should we ban football playing for minors? Should we ban skateboarding? Should we ban allowing minors to ride in a vehicle since that is the number one cause of death for minors?

If this bill were to pass it would be a detriment to the families who spend their weekends together and participate already in a safe manner. Go to Kahuku on any weekend and you will see families enjoying their time together in the appropriate safety gear. The people who are operating on roads without helmets and not practicing ATV riding in a safe manner will continue regardless. Like I pointed out earlier there is already laws against that.

And what will the families do with the small ATVs that they purchased for the right age group? As well as all the gear? They will not be able to sell them in HI. So they would have the sport they love taken away from them that they spend time together doing and they would suffer a sizable financial loss. And all because of a few bad apples and people who do not understand and feel they are right for pushing this agenda.

The HMDA asks that this bill either not be passed or be amended to allow ATV use by minors but with regulation and safety as the utmost importance.

Mark Ely

President

Hawaii Motorcycle Dealer Association

Testimony for HB 2277-Relating to All Terrain Vehicles

Testimony for HB 2277-Relating to All Terrain Vehicles

Suedelorabe@aol.com [Suedelorabe@aol.com]

Sent: Tuesday, February 28, 2012 5:53 PM

To: JUDtestimony

February 29, 2012

**Chairman Keith-Agaran, Vice Chairman Rhoads
Representative members of the Judiciary Committee**

RE: HB 2277 Relating to All Terrain Vehicles

I am writing to you as one of the parents and cofounders of Concerned Families for ATV Safety. Our group was founded in 2005 after several parents got together from the shared grief of losing a child from an ATV crash. We refer to them as "crashes" because they are very preventable in most cases. What would help decrease the numbers of ATV crashes to children is an age limit law similar to driving a car, drinking alcohol, smoking cigarettes etc.

We as parents look to law makers to help guide us in the right direction to protecting ourselves and our children. That is why in most states we see laws for children to ride in car seats, there are seat belt laws and there are laws to drive automobiles. ATV's are far more dangerous than cars yet there are virtually no laws against children riding/driving them.

Thousands of children have died or become severely injured from ATV crashes in the last 20 years. It is only now that states are beginning to realize the severity of it. Massachusetts recently passed legislation prohibiting children under the age of 14 from riding ANY ATV unless it was in a sanctioned race on a racetrack.

Many states have passed helmet, training and supervision laws and while that is a start, it definitely isn't saving the children most of the time.

ATV's are very fast and very heavy machines. They can travel highway speeds and there is no protection around them. Approximate 95 percent of the time the child dies from the machines rolling over in which a helmet, training or supervision doesn't help them.

The American Academy of Pediatrics state that no child under the age of 16 should ever be on an ATV of any size because they don't process the mental or physical skills to properly operate one safely. They need to know how to shift their weight to control the machine and in most cases a child won't remember what to do when a split second decision has to be made.

There are reasons why we have age limits to drive cars and ATV's should be no different.

ATV driving has the highest risk of hospitalization of 33 sports and activities in which children routinely participate in including football. Injures to children from ATV accidents cost society OVER 3 BILLION DOLLARS annually in medical and economic costs, not to mention how it changes a family forever.

Please view our website www.atvsafetynet.org and read the personal stories of some of the children whom have died or become severely injured.

Testimony for HB 2277-Relating to All Terrain Vehicles

We also have a lot of information about children and ATV's and we strongly feel that ATV's and Children are a Deadly Mix!

Please pass HB 2277. 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 all of ours have become.

**Thank you,
Sue DeLoretto-rabe
CoFounder
Concerned Families for ATV Safety
www.atvsafetynet.org**



February 29, 2012

Members of the House Judiciary Committee:

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.

SVIA opposes the provision of HB 2277 that would prohibit 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 have 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 of children under age 16 are the most effective means of enhancing ATV rider safety. A prohibition on operation under age 18 is appropriate and in fact we 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 and 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

1235 South Clark Street, Suite 600, Arlington, Virginia 22202 • PH: (703) 416-0444 • FAX: (703) 416-2269

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 and SVIA has developed comprehensive *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 these ATV safety measures is the most effective way to achieve further reductions in accidents and can significantly reduce the number of injuries and fatalities involving children.

We urge that you amend HB 2277 to delete the minimum 18-year rider age provision and instead incorporate provisions from this Model as you deem appropriate. We strongly support the provisions of HB 2277 that require helmet use and prohibit on-highway use of ATVs. We also support a prohibition on the carrying of passengers, *with the exception of carrying one passenger on those ATVs that are designed to carry a passenger*. These provisions of HB 2277 are included in our Model Legislation.

HB 18, prohibiting ATV riders under age 18, was introduced last year by Representative Marumoto. However, Representative Marumoto agreed to substitute provisions of SVIA's Model. The House Judiciary Committee amended HB 18 and passed the amended version. We urge you to do the same with HB 2277.

Testimony provided on HB 18 last year by the Queen's Medical Center included erroneous information. The testimony said that "A 2009 study in North Carolina reported a significant decrease in children's serious injuries and death following adoption of a law similar to HB 18." In fact, the North Carolina ATV safety law bears no resemblance to HB 18 as introduced. The North Carolina law contains the language of our Model (as it read in 2005 when the North Carolina law was enacted) almost verbatim, except for a minimum operator age of 8 vs. age 6 in our Model. The North Carolina law includes requirements for ATV safety course completion, adult supervision of children and that children under age 16 operate only appropriately-sized ATVs.

Thank you very much for your consideration of these comments.

Sincerely,



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



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 1, 2012 2:00 pm

The Honorable Representative Gilbert S.C. Keith-Agaran, Chair
The Honorable Representative Karl Rhoads, Vice-Chair
House Committee on Judiciary

Dear Chairman Keith-Agaran and Members of the House Committee on Judiciary,

Subject: Support for HB 2277

ThinkFirst Hawaii strongly supports HB 2277 to enhance the health and safety of all-terrain vehicle riders, especially those under the age of sixteen by prohibiting: 1) minors under the age of sixteen from using all-terrain vehicles; 2) the use of all-terrain vehicles on public roadways; 3) passengers from riding on all-terrain vehicles; 4) the use of all-terrain vehicles between sunset and sunrise; and 5) all-terrain vehicles from being operated without the use of a helmet.

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.

Since 2000, the ThinkFirst Hawaii Chapter with its collaboration of community partners has continued to educate and advocate for injury prevention efforts statewide. We strongly support the passage of HB 2277.

Thank you for the opportunity to testify on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Elzy Kaina".

Elzy Kaina
Chapter Director
ThinkFirst Hawaii

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Friday, February 24, 2012 1:28 PM

To: JUDtestimony

Cc: jimmygomes@hawaii.rr.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jimmy Gomes

Organization: Individual

E-mail: jimmygomes@hawaii.rr.com

Submitted on: 2/24/2012

Comments:

To all the members of the JUD committee,

My name is Jay Hamocon and I am in opposition to bill HB2277 because I feel the State is not looking into this in a fair manner. I have read all the statistics that state all these accidents and testimony from the hospitals and nurses. These may be true but what you don't realize is that these accidents that you are reporting are the result of the lack of regulated riding facilities and education. The majority of these accidents are happening on the street and other illegal areas that are already illegal to ride any off road vehicle. The use of a helmet in an illegal area is irrelevant because they shouldn't be there in the first place. This has nothing to do with the actual sport itself. What you are proposing is to take this away from every minor because of a few that are not educated enough and do not have enough regulated legal riding areas to ride their vehicle. These accidents that you are reporting do not happen at the legal riding areas because precautions are taken to be able to ride at the facility. Helmets are not an option; they are required at a regulated riding area. I would like you (The State) to do a study of accidents that happen resulting from the legal riding areas that we have here in the islands compared to the accidents that happen else where in the state. The bottom line is that we need to push these kids and families to ride in the regulated legal riding areas and get them off the streets. I feel parental education is also a must and we should have something of that sort verses just taking a sport away from our kids. **WE NEED MORE RIDING AREAS!** We've had the same spot to ride off road vehicles since the 1970's. Our sport has obviously grown since then and we need to accommodate the demand. This is the reason these accidents are happening, **WE NEED MORE RIDING AREAS!** We need less laws and more education on the sport. These accidents you are reporting have nothing to do with the actual sport and should not be used to pass laws against the sports itself. We should have stronger consequences for riding these vehicles in non regulated riding areas, not take it away from everybody.

Mahalo for your time,

Jay Hamocon

I have been riding on motorcycles since I was about 4 years old.

Riding off road has been in my life ever since and today I am the Parts Manager at Cycle City, the largest motorcycle dealer in the State. If it wasn't for my passion for riding I would not be where I am today. I enjoy going to work everyday because it deals with the sport I grew up with and enjoy every weekend. There are not too many people that can say that about their job.

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Friday, February 24, 2012 11:56 AM

To: JUDtestimony

Cc: jdmoniz@hawaiiantel.net

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jason D. Moniz (KK Ranch)

Organization: Individual

E-mail: jdmoniz@hawaiiantel.net

Submitted on: 2/24/2012

Comments:

Opposed: This bill will have a significant negative impact on our family run ranch.

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Friday, February 24, 2012 10:03 AM

To: JUDtestimony

Cc: jmattoshbp@aol.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jill J Mattos

Organization: Individual

E-mail: jmattoshbp@aol.com

Submitted on: 2/24/2012

Comments:

I am a small rancher in the Hamakua area, we are a family operation, our young adults use ATVs alot in helping out on the ranch, fencing,moving cattle, fertilizing, poisoning of weeds etc. ATV's are a great work horse for ranchers and in small operations our children (young adults) need to help us. We train them in safety in operating ATVs we teach them the right and the wrong (that is our responsiblity as parents. This bill would limit us in the work we do tremedously!! I don't think on private land the legisation should get involved. I can see in cities and subdivisions but not in agriculture!!!

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Friday, February 24, 2012 8:34 AM

To: JUDtestimony

Cc: karin@princevilleranch.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Karin Carswell Guest

Organization: Individual

E-mail: karin@princevilleranch.com

Submitted on: 2/24/2012

Comments:

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Friday, February 24, 2012 8:18 AM

To: JUDtestimony

Cc: hooluanaranch@yahoo.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Luana Beck

Organization: Individual

E-mail: hooluanaranch@yahoo.com

Submitted on: 2/24/2012

Comments:

We strongly support the passage of HB2277. Difficult to understand those in opposition to the safety of our keiki! Mahalo!

Luana Beck

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Friday, February 24, 2012 3:43 PM

To: JUDtestimony

Cc: gottlieb@hawaii.rr.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Alan Gottlieb

Organization: Individual

E-mail: gottlieb@hawaii.rr.com

Submitted on: 2/24/2012

Comments:

I am opposed, as ATV's are an intregal part of the agricultural industry.

I can support the bill IF THE ICHIYAMA AMENDMENT is included in HD1.

In Opposition to House Bill 2227

**HOUSE Bill 2227 scheduled Hearing Thursday, 03-01-12 2:01PM
in House conference room 325.**

I am opposed to this bill, It should not be Illegal for a Minor to ride a ATV. The Discretion should be left to the Parents.

Yes there have been injuries and fatalities from ATV, but there also has been from other sports such as Football, Skateboarding and Bicycle Rideing.

This is no different from making it illegal for Minors to participate in other injury risk sports.

This law will make it even illegal if my child rode a ATV at a Off road Track.

This Bill is unfair for responsible Parents who for one thing never let their kids ride ATV in the streets, and who make sure their kids ride ATV's Skillfully and with Protective Gear.

This Bill punishes responsible parents for the recklessness caused by the irresponsible parents. Totally injustice.

Li Cobian

Of Locomoto-X in Honolulu

808-349-7717

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Saturday, February 25, 2012 7:30 PM

To: JUDtestimony

Cc: kkrall@msn.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kelly M Krall

Organization: Individual

E-mail: kkrall@msn.com

Submitted on: 2/25/2012

Comments:

Please don't let this assinine bill pass. It is obnoxiously offensive to anyone with a smidgeon of understanding of the usefullness of ATV's and typical good sense. Taking away the rights to ride ATV's under these rediculous guidelines for no other reason than someones personal vendetta is embarassing. Men, women and children all use these vehicles for work, recreation or the abilty to gain useful skills prior to riding a 2 wheel vehicle. I don't even own an ATV, but as a responsible motorcycle rider I have used them to train peoples unfamiliar with typical motorcycle controls, without them having to worry about the consequences of falling over. They are useful around a farm and have taken over most the difficult jobs that would normally be done on horseback.....yes, even after dark...the ranch still is "working". Don't promote the "Big Brother" philosophy anymore than it already is and take away another of our "freedoms". DLNR already has the "Don't Let Nobody Recreate" negativity attached to it (gramatically incorrect I know...but I didn't come up with it).....please don't make it worse.

Thank you, Kelly Krall

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Saturday, February 25, 2012 9:27 PM

To: JUDtestimony

Cc: hangonrider@msn.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325
Testifier position: Oppose
Testifier will be present: No
Submitted by: Anthony Ferreira
Organization: Individual
E-mail: hangonrider@msn.com
Submitted on: 2/25/2012

Comments:
RE: HB2277

It seems that not much thought or research was made prior to writing HB2277. I believe there are laws already out there prohibiting ATV's from riding on public roadways and packing. Prohibiting youths from riding ATV's will reduce their opportunity to become responsible adult riders. Instead of outlawing this great activity, why not instill an ATV safety and training program? There are outfits that can provide such a service. Such a service would teach our youths the proper and safe way of riding. They would learn to respect the power of their machine from a young age. (In order to obtain a motorcycle license in Europe, one first must get a license for a 50cc bike, then a 100 cc bike and so on.) On each ATV sold is a sticker that states what age rider the machine was designed for. Every sport and recreational activity has its dangers. Everything we do in life has risks, just walking across a street we take the chance of being hit. Are you going to prohibit our youths from walking alone? Prohibition is not the answer, education is. Riding an ATV can be a great family experience. Riding an ATV is a great teaching tool. My own son gained self confidence, responsibility, basic mechanics (from having to maintain his ride), and that you can have a great deal of fun without using drugs. He was taught there are right and wrong places to ride, and why safety gear is so important. The OHV industry, which includes ATVs, is a great resource of revenue for our state. Revenue is not only created from the ATV sales itself, but think of all the after market items that are purchased, repair and maintenance costs, safety equipment needed, trailers bought to transport the ATVs, and so on. What about monies spent when entire families travel from island to island to watch their keiki participate in events? There is the plane fare, car rental, hotel rooms, and shipping fees that will be a loss to our economy. Our Federal government created the Recreational Trails Program (RTP) where funds are created from OHV (off highway vehicle) users fuel taxes. These funds are then returned to the States that have OHV programs. Our local Department of Transportation receives the RTP funds that are then given to our Department of Land and Natural Resources to manage. The Na Ala Hele program then receives the money and uses it for OHV programs throughout our state. This year our state received \$1,151,694 from the RTP. I highly suggest that you take a look at the Recreational Trails Program's website. It gives a comprehensive outline of the use of the RTP monies. The Federal government can take back the RTP funds if we do not meet specific guidelines. The Big Island has one designated ATV/motorcycle park and one motocross track. Oahu has 4 designated OHV parks. We need promotion and support for our OHV industry, NOT PROHIBITION!!! Remember, this is the only sport that is financially supported by our Federal government through the RTP program. Please give our keiki another reason to stay away from drugs and to stay in school, let them ride!!

HB2277 Testimony

Alan Mefford [alanhawaii@yahoo.com]

Sent: Sunday, February 26, 2012 11:26 AM

To: JUDtestimony

COMMITTEE ON JUDICIARY

Rep. Gilbert S.C. Keith-Agaran, Chair

Rep. Karl Rhoads, Vice Chair

Rep. Tom Brower

Rep. Angus L.K. McKelvey

Rep. Rida T.R. Cabanilla

Rep. Joseph M. Souki

Rep. Mele Carroll

Rep. Clift Tsuji

Rep. Denny Coffman

Rep. George R. Fontaine

Rep. Robert N. Herkes

Rep. Barbara C. Marumoto

Rep. Ken Ito

Rep. Cynthia Thielen

Rep. Sylvia Luke

Testimony for Hearing on HB2277, Thursday, March 01, 2012

Dear Committee On Judiciary Members,

As introduction, I am 74 years old, a retired engineer, and an ATV recreational user.

I strongly oppose HB 2277. It is obvious that this bill does not have input from ATV dealers and recreational users.

Recreational ATV riding is often a family activity. There are smaller ATVs manufactured and sized for riders under 16 years of age so that these riders may participate with the older members of the family. To make it illegal for this group to ride ATVs is to deny families the right to enjoy this recreational activity together. DOCARE does not have the resources to police and enforce this law. Minor riders will likely continue to ride and the probable result will be to turn this youthful group into law breakers. With proper training and supervision, minor use of properly sized ATVs is a safe activity. Education and training is a far more reasonable approach. I am one of the original volunteer developers of the State managed Upper Waiakea ATV/Dirt Bike Park near Hilo. We have a certified ATV safety training facility in our riding park that is free to the public. I have personally taken the course to evaluate it and it is excellent. It is a great way for riders, especially minor riders, to learn how to safely enjoy this form of recreation.

Sales of the smaller machines is a big part of dealers' income. To outlaw minor ATV use is to take away this income. Has anyone asked the dealers what the impact will be?

The prohibition of using ATVs on public roads seems to be redundant. A vehicle must be licensed, registered and safety checked to be operated on a public road. If the existing law isn't or can't be enforced, there is no purpose in adding another unenforceable law.

There are both side by side and front-back seat ATVs that are manufactured to safely carry a passenger. These machines allow a non-riding passenger the opportunity to enjoy Hawaii's back country that they would otherwise not see. The logical approach is to make it illegal to carry a passenger on a machine that is not designed for that purpose.

ATVs are mechanical and as such, they sometimes break down. Sometimes the repair time forces the return after dark. ATVs are manufacturer equipped with lights for such emergencies. If the prohibition of night riding is meant as a safety measure, the risk is when riding on a road, which is illegal anyway.

HB2277 Testimony

I agree that all ATV riders should wear a helmet but let's be fair. There are far more injuries and deaths to street bike riders who don't wear helmets. What about moped and bicycle riders? If you are going to do this, be fair and make it a universal law.

If you are truly interested in promoting ATV safety, here is what you should be looking at:

The ATV Safety Institute's Golden Rules:

Always wear a DOT-compliant helmet, goggles, long sleeves, long pants, over-the-ankle boots, and gloves.

Never ride on paved roads except to cross when done safely and permitted by law - another vehicle could hit you. ATVs are designed to be operated off-highway.

Never ride under the influence of alcohol or drugs.

Never carry a passenger on a single-rider ATV, and no more than one passenger on an ATV specifically designed for two people.

Ride an ATV that's right for your age.

Supervise riders younger than 16; ATVs are not toys.

Ride only on designated trails and at a safe speed.

Take a hands-on ATV Rider Course and the free online E-Course. Visit ATVSafety.org or call 800-887-2887.

It is unfortunate that bills affecting ATVs are generally introduced as the result of complaints about the activity of a very few riders who are not following the rules. As such, the bills address isolated problems and lack consistency. Much of the problem stems from the fact that the State of Hawaii has never recognized ATV and off highway vehicle (OHV) use as a legitimate recreational activity, as has been done for boating, hunting, and other recreational activities. Hawaii is not unique in this. Most States have gone through similar problems and have eventually recognized the legitimacy of OHV recreation, have provided for it, and have reasonably regulated it. They have involved the users in drafting regulation. The OHV community is growing in Hawaii, as it is on the Mainland. Problems will continue to grow with it until it is properly recognized and provided for.

Thank you for the opportunity to express my views on bill HR 2277.

Alan Mefford
Retired, ATV Recreational User
alanhawaii@yahoo.com
(808) 640-4544

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Sunday, February 26, 2012 4:06 PM

To: JUDtestimony

Cc: cc.ss@me.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Claudius Saalfeld

Organization: Individual

E-mail: cc.ss@me.com

Submitted on: 2/26/2012

Comments:

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Saturday, February 25, 2012 5:22 AM

To: JUDtestimony

Cc: cwong-wmm@hawaii.rr.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Calvin Wong

Organization: Individual

E-mail: cwong-wmm@hawaii.rr.com

Submitted on: 2/25/2012

Comments:

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Friday, February 24, 2012 4:58 PM

To: JUDtestimony

Cc: hooluanaranch@yahoo.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Luana Beck

Organization: Individual

E-mail: hooluanaranch@yahoo.com

Submitted on: 2/24/2012

Comments:

Strongly support passage of HB2277.

Tom Beck

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Saturday, February 25, 2012 11:34 AM

To: JUDtestimony

Cc: dfern@cyclecityltd.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Don Fern

Organization: Individual

E-mail: dfern@cyclecityltd.com

Submitted on: 2/25/2012

Comments:

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Monday, February 27, 2012 5:10 PM

To: JUDtestimony

Cc: snerckel@yahoo.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Michael Murray

Organization: Individual

E-mail: snerckel@yahoo.com

Submitted on: 2/27/2012

Comments:

I oppose this bill, we already have laws to keep them off the roads, the rest is common sense, parents should not let the kids ride without training and supervision, if i can ride a 2 wheel bike on the street without a helmet or safety gear which is far more dangerous, this bill is wrong in the way it is, whats next, my first ammendment, the second, if i choose to ride an ATV it is my right to ride or if i choose to let my kids ride that is my right, my obligation would be to train them and provide safety gear, we have way to many laws already on the books that can not be enforced or are rediculous,or what you will pass a law that says my kids cannot surf because they might get bit by a shark, oh wait they can't go to school because yhey might get shot by a wako, or get killed in a car wreck, try wait!!!!, let me get them a motor cycle to ride on the street where they do not need a helmet or safey gear. If people need training i would recomend Kahua Ranch Kawasaki. come on guys get real, is this like the bill to give state workers a nap time and snack on our dime!!!!

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Saturday, February 25, 2012 11:51 AM

To: JUDtestimony

Cc: morrisonm002@hawaii.rr.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325
Testifier position: Oppose
Testifier will be present: No
Submitted by: Mark Morrison
Organization: Hawaii Motorcycle Delaers Assoc.
E-mail: morrisonm002@hawaii.rr.com
Submitted on: 2/25/2012

Comments:

To outlaw under 16 from being able to ride ATVs is simply overkill. All youths killed, in Hawaii, on ATVs were riding improperly, unsupervised or improperly supervised. There have been youth programs that teach good values and keep youth out of trouble and use ATVs to do this. ATVs are also a good family activity when done properly and should include youths. To simply prohibit this is not the answer. If that is done minors will still ride them, they will just do it out of sight and that means unsupervised. The answer is to provide more supervised legal riding areas, that require proper safety gear and enforce existing laws that prohibit where ATVs may be used. You don't say no child is allowed to swim, because of drownings. Instead you say they must be taught properly and supervised.

Testimony for House Bill 2277

DARLENE SHARPE [SHARPE188@AOL.COM]

Sent: Tuesday, February 28, 2012 5:53 PM

To: JUDtestimony

To all in Judgement of this Bill,

I Darlene Sharpe would like to give my testimony against certain measures of this bill in the area of minors not being able to ride ATV vehicles.

I have served on the board of the Hawaii Motorsports Association as board member and more recently Secretary for several years. Our association held events and was in charge of maintaining the Kahuku Motocross Park, where riders and their families frequent to enjoy the outdoor sports of dirt bike and ATV riding. Over the past 10 years as my husband and I supported our son who was about 8 yrs old at the time, we got into the sport and later volunteered our time at the park in cleaning, scorekeeping, and eventually was voted on board.

Personally I feel every sport comes with a danger to it, but for a minor it should be the parents responsibility to ensure they are supervised and have the proper safety gear to ensure the minor child is as safe as they can be, and educate them about the safety hazards involved in riding. I don't feel there should be a permanent ban on this, and in fact there should be more places made available for these types of recreation rather than diminishing it all together.

We have found that at the Kahuku Motocross Park or Waialeale State Park the ridership over the years has definitely increased for recreational vehicles, yet there are less and less places to ride. There are people who experience their day to day stresses of work, raising a family and so forth, who use this sport as their hobby and their time to spend with family and friends to get away and truly enjoy quality time with each other. Many, many families more than anyone would even think, participate in these types of activities as a family, and not just only as individual riders, yet the state refuses to recognize and allow for more locations to be opened up to allow riding due to liability or whatever the reasons. If anything it should be looked into to open more areas to allow these types of things, than continually taking away from people these types of things, they put so much money into and get so much enjoyment from such as ATV riding, and dirt bike and bmx riding.

We should not deny anyone the opportunity to do something they want to do as a hobby, just because they are a minor. I think it should be allowed with supervision, and maybe the hours can be limited to be something like from 7am to 6pm, but to just not allow it altogether is just wrong. Many companies will lose money, families here that already have ownership of an ATV will not be able to use it, if its a

Testimony for House Bill 2277

small one made only for a minor, they may not even be able to sell it, if these bans are imposed. It is not good for our economy , because the businesses will lose money from lack of sales of the ATV's and all the apparel and gear that come with it, and so jobs will be affected.

I ask that you seriously not pass this bill in its current form, but maybe if anything come to at least a compromise to allow it to be passed in a modified version, which allows it but under supervision of a parent, and with safety gear, or fines will be imposed. etc..

Please consider my testimony as I know I speak for many individuals and families and friends out there who want to enjoy their outdoor sports alongside their children and they do it in a safe manner and a controlled environment, and for those who don't follow the rules then of course you impose the consequences of fines and so forth.

Thank you for your time in reading this letter, and I hope your judgment will be a fair and just one.

Darlene Sharpe
Waianae Oahu, Hawaii

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Wednesday, February 29, 2012 8:20 AM

To: JUDtestimony

Cc: lauramo@hawaii.edu

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Laura Mo

Organization: Individual

E-mail: lauramo@hawaii.edu

Submitted on: 2/29/2012

Comments:

I currently work with a local company that gives ATV tours and I support HB2277. My company already prohibits children under 16 from riding ATVs and we also require all riders to wear helmets. We have these restrictions because the safety of our customers is the highest priority. This bill would make it safer for people who use ATVs for recreation but do not have the same requirements that we do. I hope you pass HB2277.

February 28, 2012

Representative Gilbert Keith-Agaran, Chairman
Members of the Committee on Judiciary
House of Representative
State Capitol
Honolulu, HI 96813

Reference: HB 2277, RELATING TO ALL-TERRAIN VEHICLES

Dear Chairman Keith-Agaran and Members of the committee,

My name is Terrence Noda, as currently submitted I am opposed to HB2277. I am a ATV Safety Institute Instructor herein identified as ASI Instructor, Supervisory Volunteer Na Ala Hele Ranger, Waieka ATV Safety Training Site creator and coordinator, Tread Lightly Tread Trainer.

Unfortunately, prohibition will cause good law abiding citizens to break the law. This measure in its current form will do just that.

Passage of this bill will affect: Famers, Ranchers, Hunters, Bird watchers, Forestry workers, Conservation Officers, Law Enforcement, Emergency Response Officials, Recreational Riders and riding areas.

Measure 1, Prohibits minors form using all-terrain vehicles: Nationally, manufactures are required to place minimum age recommendation warning labels on each machine sold. Machines are placed into one of 5 categories, under 6, 10, 12, 14 and 16. Manufactures also provide free training through the ASI addressing "hands on" safe use of ATVs, in some states this is Law. In my effort to promote "safe and responsible riding" I offer at no charge, ASI Safety Training at our Waieka ATV Park (one of the only sites in the nation where ASI is in agreement to cover training costs) Currently there are few takers for the following reasons, parents do not have the time or the correct machine that fits the child's age requirements. Has anyone ever inquired following a child related ATV accident if the child has undergone safety training or if the ATV meets the recommended age requirement? Most children cannot safely operate an ATV outside of their recommended age bracket because they lack the size and strength required to operate the controls safely.

Furthermore, on the neighbor islands outdoor recreation is a way of life. Recreational activity such as ATV riding if done correctly is an alternative to other undesired activities. I often see children around my community checking fences or moving livestock in a safe responsible manner. Passage of this law would prohibit this lifestyle.

As it currently reads I am opposed to this measure and recommend that the child's guardian be held accountable for their children's safety.

Measure 2, Prohibits the use of all-terrain vehicle on public roadways: Many responsible people utilize ATV's in their endeavors whether hunting, bird watching or recreational riding without incident. I currently help in maintaining R1 and R10 "Public Multi Use Roads" located on Mauna Kea which is open for ATV's, dirt bikes, horses, 4 wheel drive vehicles, hikers, hunters, gathers, bird watchers, tourist, etc. Previously ATV's were identified as riding off designated roads which warranted closure of the area,

however, following measures to educate users by signing the riding areas and patrols by Volunteer Na Ala Hele Rangers (mission is to educate, observe, document and report) working with Department of Conservation and Regulatory Enforcement DOCARE. Together, we were successful in encouraging the use of designated roads and at reasonable speeds. Space is limited on these islands to enjoy activities such as ATV riding, users polled were well aware of this and were willing to abide by the Tread Lightly recommendations.

ATV users in some areas cross public roadways or move on the shoulder of public roads to go from field to field or paddock to paddock or unimproved road to unimproved road. Many trails and roads existed prior to the public highway's construction.

People in the agricultural industry also use ATV's to work between fields on a daily basis. Ranchers also use this form of transportation in managing their livestock. This tool is especially valuable when they escape on to a public roadway, where metal horseshoes render the horse ineffective and unsafe. This measure would prevent them from using this effective tool.

ATV's preserve habitat by reducing our carbon footprint and damage to roads. The amount of fuel and noise is reduced provided the ATV has not been performance altered, making this type of travel greener than a vehicle in critical habitat such as Mauna Kea.

As it currently reads I am opposed to this measure and recommend this section is revised to allow riding in designated areas identified for ATV use. Recommend exempting farmers, ranchers, law enforcement, emergency responders and others such as forestry. For safety reasons vehicles used on roads or along roads should be outfitted with a safety flag.

Measure 3, Prohibits passengers from riding on all-terrain vehicles: Manufactures sell ATV's designed for two-up operation, these machines are clearly marked. In addition, in times of need "emergencies" this is the only form of transportation suitable to accomplish the task at hand. In the past there have been a few occasions while on Ranger Patrol we find a hiker or hunter who has sustained a non-life threatening injury far from their vehicle, we have packed these individuals out safely without tying up valuable emergency resources. Na Ala Hele Rangers are required to pass an ASI Safety Course and receive training in addition to the ASI. Passage of this measure would not allow us to legally perform this task.

Recommend that this section exempt law enforcement, emergency responders and others such as forestry on 1up ATVs, ATV's designed for 2up riders, handicap and emergency situations.

Measure 4, Prohibits the use of all-terrain vehicles between sunset and sunrise: Many users of ATV's ride during hours of darkness for this reason all utility ATV's are outfitted with headlights. Those in the agriculture industry rely on their ATV's for transportation during hours of darkness, most are equipped with aftermarket lighting to ensure their own safety. Hunters and outdoors people such as bird watchers also utilize ATVs for ease of transportation on unimproved roads/ trails. Travel is much quicker on an ATV (15-20 mph) and smoother versus a vehicle traveling at 2 mph. Such activities as Hunting, hiking, gathering, bird watching, are best done at dawn and dusk. Travel to these areas on Mauna Kea can be as far as 36 miles. It is unreasonable for a law abiding citizen to be faced with a decision of breaking the law should he/she face a circumstantial decision of riding during hours of darkness to and from their destinations.

ATV Riding during hours of darkness occurs on a daily basis on Mauna Kea safely without incident. This can be attributed to educational programs and proper signage.

Recommend removal of measure 4, Prohibits the use of all-terrain vehicles between sunset and sunrise.

Measure 5, Prohibits the use of ATV's without a helmet: There are certain tasks performed by trained persons where use of a helmet can compromise their safety. Helmets reduce your peripheral vision which can result in poor decision making when acquiring a target. ATV's are also used for conservation work such as fencing. Helmets can affect work times and messing with a helmet while operating cutting equipment can compromise personal safety, especially when the ATV is only used for 5-20 feet runs. Helmets can also cause personal overheating in humid environments at slow speeds 5-10 mph.

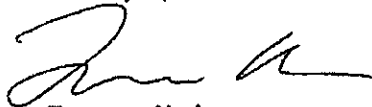
Helmets while applying pesticides can result in skin irritation, serious burns or death. While traveling at low speeds helmets can trap fumes which cannot be adequately vented.

Helmets for sport riders, recreational riders are similar to putting on a seatbelt and should be worn at all times. Through my experience, parents are willing to purchase jerseys, stickers, pants and jackets, unfortunately no safety equipment, such as helmets, chest protector, boots and gloves. Their excuse is that their children will outgrow the equipment which is expensive.

Recommend that helmets be required for all activities especially children, exempt farmers, ranchers, law enforcement, emergency responders and others such as forestry.

It is my sincere hope that you will consider my recommendations. Passage of this bill into law will not promote safe responsible riding nor reduce injury. People will continue to use ATV's as an economical, green and efficient form of recreation and transportation. Laws should address the problem which to me is to hold the responsible adults accountable for their children's actions and to have educational programs which encourage "Safe Responsible Riding". Passage of a HB2277 would result in the opposite. Children could not take a safety training course even if they wanted to. A law requiring children to take a safety course would hopefully lead to a responsible adult in the future. Perhaps a measure requiring ASI Training, safety gear (helmet, long sleeve, long pants, goggles, boots and gloves) and requiring age appropriate machines for children would fulfill one of the missions of this Bill.

Thank you,



Terrence Noda
ASI Instructor

HB2277– Relating to All Terrain Vehicles

Tim Ruel [timruel@gmail.com]

Sent: Wednesday, February 29, 2012 1:50 PM

To: JUDtestimony

The Maui Police Department and many others support this vital bill, which prevents children under 16 from riding all-terrain vehicles. Reality and studies also provide strong support for this bill. The U.S. Consumer Product Safety Commission released its Annual Report of ATV-Related Deaths and Injuries on December 19, 2011. Two major findings from this report:

1. In 2010, ATVs killed at least 55 children younger than 16, accounting for 17 percent of fatalities. Forty seven percent of children killed were younger than 12 years old.
2. Children under 16 suffered an estimated 28,300 serious injuries in 2010 – or 25 percent of all injuries. In 2009, serious injuries to children also made up 25 percent of all injuries.

Please note that there is a time lag with death reports to the Consumer Product Safety Commission. **For example, when child death statistics for the year 2006 were first reported in 2007, the number stood at 111; since that time, additional data collection has increased that number to 143.** “Simply put, ATVs are dangerous to children,” said Robert Block, MD, FAAP, president of the American Academy of Pediatrics. “Children are not developmentally capable of operating these heavy, complex machines. The American Academy of Pediatrics warns all parents that no child under the age of 16 should drive or ride an ATV.” In addition, the Safety Commission recommends the following for adults who ride ATVs: Always wear a helmet and safety gear.

Also, reliable regression analysis indicates helmet use has a *strong protective effect on in-hospital death*, particularly for uninsured motorcyclists. Use of helmets by riders reduces health insurance costs that other people must pay. The refusal of an ATV rider or motorcycle rider to wear a helmet does not merely impact the rider; it affects scores of other people who pay for health insurance.

Source: <http://www.ncbi.nlm.nih.gov/pubmed/19730173> University of Tennessee Health Science Center, 2009; mcroce@utm.edu

Mahalo!

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Thursday, March 01, 2012 12:22 AM

To: JUDtestimony

Cc: fmencher@hawaii.rr.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Frederick M. Mencher

Organization: Individual

E-mail: fmencher@hawaii.rr.com

Submitted on: 3/1/2012

Comments:

The proposed restrictions are impractical for farms and ranches.

Testimony for HB2277 on 3/1/2012 2:01:00 PM

Testimony for HB2277 on 3/1/2012 2:01:00 PM

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

Sent: Thursday, March 01, 2012 6:00 AM

To: JUDtestimony

Cc: Rsouthard309@gmail.com

Testimony for JUD 3/1/2012 2:01:00 PM HB2277

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Randy Southard

Organization: Individual

E-mail: Rsouthard309@gmail.com

Submitted on: 3/1/2012

Comments: