

**CPSC ATV Field Hearing  
West Virginia University  
Morgantown, WV**

**June 5, 2003**

**Opening Remarks of the Commissioners: (10:00-10:15)**

**Panel 1: (10:15-10:45)**

**Rachel Weintraub 15 minutes**  
Executive Director  
Consumer Federation of America  
Washington, DC

**Panel 2: (10:45-10:55)**

**Senator Michael A. Oliverio, II 10 minutes**  
Morgantown, WV

**Panel 3: (10:55-11:35)**

**Edward J. Heiden 5 minutes**  
President  
HEIDEN ASSOCIATES, INC.  
Washington, DC

**Jim Helmkamp, Ph.D. 15 minutes (power point presentation)**  
Associate Director for Research  
Department of Community Medicine  
West Virginia University  
Morgantown, WV

**Sally Greenberg 5 minutes**  
Consumers Union

**Panel 4: (11:35-12:05)**

Deborah L. Napier, Esq. **5 minutes**  
Middleburg, VA

Sam Leeson **5 minutes**  
Bridgeport, WV

Roger F. Hagie **5 minutes**  
Chairman  
Specialty Vehicle Institute of America  
Irvine, CA

*No prepared  
statement*

**Lunch (12:05-1:05)**

**Panel 5: (1:05-1:45)**

Jeff DeVol **5 minutes**  
VP/GM  
DeVol's Cycle Center  
Parkersburg, WV

~~Brad Warner **5 minutes**  
Team Manager Nac's Racing~~

Gene Smithson **5 minutes**  
Summersville Cycles  
Summersville, WV

*did not  
attend*

*No prepared  
statement*

*Elizabeth Piper (from PANEL 12)  
Specialty Vehicle Assoc.*

*Tom Yager (from Panel 12)  
ATV Safety Institute*

**Panel 6: (1:45-2:30)**

**Jim Brenner 5 minutes – power point presentation**  
Rocket Pack/Veritas DGC  
Hampton, NH

**Buck Warfield 5 minutes**  
Chief Instructor  
ATV Safety Institute  
Sykesville, MD

**Lester Horst 5 minutes**  
ATV Safety Instructor  
Horst Cycle Inc.  
Greencastle, PA

**Dick Lepley 5 minutes**  
Pennsylvania Motorcycle Dealer's Association  
National Off Highway Vehicle Conservation Council  
Conneaut Lake, PA

**Panel 7: (2:30-3:15)**

**Leff Moore 5 minutes**  
Executive Director  
West Virginia Recreational Vehicle Association  
West Virginia ATV Safety Coalition

**Royce L. Wood 5 minutes**  
American Motorcyclist Association  
Pickerington, OH

**Doug Morris 5 minutes**  
Director  
All-Terrain Vehicle Association  
Pickerington, OH

**Michael Babusci 5 minutes**  
Executive Director  
Pennsylvania Off-Highway Vehicle Association  
New Kensington, PA

**Break (3:15-3:30)**

**Panel 8: (3:30-4:15)**

**Dr. Nimish Mehta 5 minutes**  
Pediatrician  
Charleston, WV

**Dr. Jonathan Groner 5 minutes**  
Trauma Director  
Children's Hospital  
Columbus, OH

**Dr. Rebecca Brown, MD 5 minutes**  
Pediatric trauma surgeon  
Assistant Director of Trauma Services  
Children's Hospital Medical Center  
Cincinnati, OH

**Dr. Jeffrey S. Upperman 5 minutes – power point presentation**  
Pediatric surgeon  
Children's Hospital  
Pittsburgh, PA

**Panel 9: (4:15-5:00)**

~~**Dr. Allison Wilson 5 minutes**~~  
~~West Virginia~~

*pp presentation*

**Dr. Jack Bergstein 5 minutes**  
West Virginia

**Dr. Joan Phillips 5 minutes**  
Scott Depot, WV

**Dr. Phillips may be accompanied by Jay Ford (victim) who would also like to speak for 5 mins**

*— did not attend*

*No prepared statement*

**Dr. Bonnie Beaver 5 minutes**  
Professor of Surgery  
Marshall University School of Medicine  
Huntington, WV

**Panel 10: (5:00-5:45)**

**Matthew Ballard 5 minutes**  
Executive Director  
Hatfield McCoy Trails  
Lynburn, WV

**Russ Ehnes 5 minutes**  
Executive Director  
National Off-Highway Vehicle Conservation Council  
Great Falls, MT

**Scott Kovarovics 5 minutes**  
Director  
Natural Trails and Waters Coalition  
Washington, DC

**Bill Dart 5 minutes**  
Blue Ribbon Coalition  
Pocatello, ID

**Panel 11: (5:45-6:35)**

*DID NOT  
SPEAK*

~~Dr. Donald S. Pritt (Victim) 5 minutes~~  
~~Former Podiatrist~~  
~~Vienna, WV~~

**Jennifer Martin 5 minutes**  
Hilton Head Island, SC

*No prepared  
statement*

**Lt. C.W. Schollar 5 minutes**  
Law Enforcement  
West Virginia Division of National Resources  
Beckley, WV

**Susan Halbert 5 minutes**  
Senior Vice President  
National 4-H Council  
Chevy Chase, MD

**Panel 12: (6:35-6:55)**

Elizabeth Piper **5 minutes**  
Director of Corporate Affairs  
Specialty Vehicle Association  
Irvine, CA

*moved to Panel 5*

Tom Yager **5 minutes**  
Vice President of Safety Programs  
ATV Safety Institute  
Irvine, CA

*moved to Panel 5*

**Final Commissioner Comments (6:55-7:10)**

1.

Speakers

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10:00 a.m.

NAME	AFFILIATION
Bill DART	Blue Ribbon Coalition
Gene Smithson	ATV Doctor
ED HEIDEN	HEIDEN ASSOCIATES, INC
Tom YAGER	SVIA
Michael Oliverio	senate
Jack Bergstein, MD	Jon Michael Moore Trauma Center WVU H
Kathy VanKleeck	SVIA
Mike Babusci	Pennsylvania Off-Highway Veh Assoc.
Sam Lewis	
Jeff DeVol	
Sally Greenberg	Consumers Union
NIMISH MAHAJAN	AAP
Mike Ross	State Senate.
X Jeffrey Upperman	Children's Hospital of Pittsburgh
Ann Carr	WVU - Dept Neurosurgery / Trauma Center
Jon Groner MD	COLG. CHILDREN'S HOSPITAL AND American Pediatric Surg Assoc

SPEAKERS

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JIM BRENNER	VERITAS DGC
EUSABETH PIPER	SVIA
SUSAN HALBERT	NATIONAL 4-H COUNCIL
Dick Lepley	PhDx
Russ Ehnes	NOHVCC
Matt Ballant	Hotfield McCoy Trails
Dr DS Pruitt	Self
Rakel Weintraub	CFA
Scott Kovanovic	NWC
ROGER HAGIE	SVIA
Jim Helmkamp	West Virginia University
Joan Phillips MD	WV - AAP
Buck Warfield	State Police Retired
Lester Horst	ASI
H.C.W. Schollar	WV DNR Law Enforcement
Doug Morris	ATV/A
Royce Wood	AMA
Rebecca L Brown	Cincinnati Children's Hospital
Randy Boan	Citizen
Florida Napier	Self



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Attendees

NAME	AFFILIATION
Thomas H. Corry MD	W.V.U. Hosp. Director of Trauma
Jennifer Crow	WVUSON
Teresa Drip	WVUSON
Shelley Roy	WVU SON
Pamela Perry	WVU SON
Barbara Switz	Children's Hospital of Pgh
Tiffany Lannan	WVU SON
Catherine Friar	WVUSON
Kathy Warner	WVUSON
Alan R. J.	WVUSON
Shirley Arnold	WVU - Tr. Program Manager
Mike Killers	Arts Unlimited
James W. Graybill MD	WVU Trauma Surgery Resident
Jenny Cross	WVU trauma surg. resident
Jennifer Martin	
Dena Pozeg, PA-C	WVU - Trauma
Emily Hoefler	WVU SON
Stacy Diles	WVU SON
Ashley Atkinson	WVU SON
Glenn Momen	WVU HSTA

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NAME	AFFILIATION
Charles D. Leeson	
Barbara Evans Lewis Chan	WV House of Delegates
CHRIS ELLIS	WV Division of Tourism
K. Robuette	HSC Development
P. Ghvhn	WVU
Jason Weigandt	Racer Productions
Paul D. Leisure	DUNR-PA Bureau of Forestry
Brian PRICE	PA Forest Ranger
G. Michael Smith	US Army Corps of Engineers
LEE ORP	WV DEPT. OF AGRICULTURE
Scott Shaffer	Morgantown Honda, Yamaha, Suzuki, KTM
Matt Watson	Morgantown Honda, Yamaha, Suzuki, KTM
Mark Spruill	Sullivan's Sales Rep
Came Cosmby	RACER PRODUCTIONS
Peta Combo	Racer X Illustrated
Tim Cotter	MX SPORTS
Rebecca L. Brown	Cincinnati Child
Dan O. Jones	
DAN WHITEMAN	WVU
Cara Host	Observer-Reporter
Patricia Kelly	WV-AAP

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NAME	AFFILIATION
Paul Babbitt	WV Attorney General's Office
Mark Whitt	WV Extension Mason County
Raymond Bustee	Raball Transportation Inst. Hurk
Ray Ochs	Specialty Vehicle Institute of America
Sue Thurma	The PBM Co
PAUL NATHANSON	" " "
Gene Smithson	Deakon JA MC ATV'S
Fernando Garcia	Bombardier Recreational Products
Allen Plummer	Bureau National Affairs
JOHN WALSH	AMERICAN SUZUKI
Tom Eling	Exponent - Telegraph (newspaper)
Vicki Smith	Associated Press
John D. Edwards	American Honda Motor. Co.
JERRY TRAINER	TRAINER'S Outdoor Motorsport Inc
Bryl Wats	garden
Bill White	Honda
David W.	KMC
Darryl Murray	wpro
M. Wierand	ESCM
R. S. Alluvialie	WVU - Professor
David Della-Giustina	Professor - W.V.U.
Patricia Nudel	WVU Extension Service Professor
Julia C. Sweeney	WVU School of Nursing
Tracy Gray	WVU School of Nsg
	www.cpsc.gov

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NAME	AFFILIATION
Rodney McPeters	SVIA
Sheryl Van der Leun	SVIA
MAKIL Byer	SVIA
Micah A. Brown	B+G PC
Chad Wilberger	Wayne National Forest
Elizabeth Zeland	CPSC-EC
GRANT NAKAYAMA	POLARIS INDUSTRIES
DARA KLATT	PBR CO.
Joe Eisent	Polaris Industries
Mike Whittier	Ridson Lupina, Inc.
Robert Jones	West Va Univ.
FRED SAVAGE	ATVA - MEMBER
Fred Guidi	SVIA
Dennis Kirby	ASI + PAOHV
Bill KRESNAK	AMERICAN MOTORCYCLIST MAGAZINE / ATVA NEWS
Sean Callahan	Wilson Elser Moskowitz Edelman & Dickel
JIM COWGILL	HIGH TORQUE PUBLICATIONS
CAROLEENE PAUL	CPSC
Alan Korn	National Safe Kids
SOAN Oberle	Product Safety Letter

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NAME	AFFILIATION
Penny Gynsidi	WV DHR / BPH/OEMS
Ibrahim Tarawneh	Exponent
WAYNE LUNDSTROM	WVU
ERIC Lundstrom	child
Kathy Driscoll	WTAE-TV
Shiba Russell	" "
ROBERT H BESS	WV WORKERS COMP SAFETY LOSS
Suzanne Marsh	NIOSH
Suzy Duff	WVU Nsg School
Tina Johnson	WVU Nsg School
Lynn M. Smiley	WVU Nsg School
Christy Strat	WVU School of Nursing
Becky Hout	ATV Safety Instructor
Cathy Byers	WDTV - NewsChannel 5
TIM BUCHE	Specialty Vehicle Institute of America
BERNARDO REYES	CAMC Research Institute
Frank J. Atkinson	Mineral County Child Injury Task Force
Alison Wilson	WVU - HSC - Jon Moore Trauma Center
Anne Roemer	WBAY-TV
Morgan Cantwell	WBAY-TV
X	

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NAME	AFFILIATION
Bill Case	WVU HSC
Bob Beverly	WVU Biomed Photo
Heather Donohoe	WVU Nsg.
Ann M. Cham	WVU Dept of Neurosurgery
James L. Frost, MD	West Virginia Medical Examiner Office (retired) Dept of Pathology, WVU Sch. of Medicine
<del>Ann</del> Cindy Graves, MD, FACS	WVU H
Linda Fletcher	WVU, Neurosurgery
Rebecca J Kessler	WVU Neurosurgery
Dan Rumelt	FCC
Stephen McNatt	WVU Surgery
Kamran Karim	WVU Surg
Tracie Ledbetter	WVU School of Nursing
Jessica Keen	WVU School of Nursing

Testimony of Rachel Weintraub  
Assistant General Counsel, Consumer Federation of America

Before the  
U.S. Consumer Product Safety Commission  
Field Hearing on All-Terrain Vehicle Safety

Morgantown, West Virginia

June 5, 2003

Chairman Stratton, Commissioner Gall and Commissioner Moore, thank you for the opportunity to speak today and thank you for holding this important hearing. We are appreciative of your efforts to hear from those of us who are concerned about the current state of ATV safety in the United States. My name is Rachel Weintraub; I am assistant General Counsel at Consumer Federation of America ("CFA"). CFA is a non-profit organization of 300 consumer groups, with a combined membership of more than 50 million people. CFA was founded in 1968 to advance the consumers' interest through advocacy and education. CFA has been working on ATV safety issues for many years. This past August, CFA and eight other medical, consumer, and conservation groups filed a petition with CPSC calling on CPSC to ban the sale of adult size ATVs for use by children under 16.

My main message to you today is that the history of ATVs in the United States proves that the current approach-- the industry's self-regulating approach-- to safety is not working. Self-regulation by the ATV industry has led to larger and faster ATVs and more children being killed and injured. The number of deaths and injuries is approaching those of the 1980s, when the ATV industry was forced to stop manufacturing three-wheel ATVs, after CPSC initiated a lawsuit against them. CPSC's own data illustrates that CPSC and the states must act to end this hidden epidemic by moving aggressively to protect young children from the dangers posed by adult-size ATVs.

**I. History:**

Faced with increasing rates of injury and death to all consumers and especially children in ATV-related incidents, CPSC took a two-tiered approach: in 1985 it initiated



rulemaking, which it abandoned in 1991, and in 1987 it filed a lawsuit against ATV manufacturers. CPSC asked a federal court to declare ATVs to be “imminently dangerous consumer products,” and sought to require that manufacturers:

- 1) end production of three-wheel ATVs,
- 2) repurchase all three-wheel ATVs from dealer stocks,
- 3) offer financial incentives to owners of three-wheel ATVs to return them, and
- 4) provide safety education.

The lawsuit was settled on the day it was filed by a consent decree. While manufacturers discontinued production of three-wheel ATVs, one of the most important elements of the original lawsuit -- the requirement that manufacturers offer financial incentives to encourage owners of three-wheel ATVs to return them to dealers -- was not included. This loophole has allowed three-wheel ATVs still in use to pose significant hazards to consumers. In fact, in 2001, 14 years after production of three-wheel ATVs ceased, there were 10,000 injuries caused by those vehicles.

When the consent decree expired in 1998, the Commission and the major manufacturers entered into voluntary, company-specific agreements, known generally as “ATV Action Plans.” These agreements, in place today, merely recommend that children under sixteen not ride adult-size ATVs, require warning labels, describe information to be included in owner’s manuals, and reiterate that training will be available to purchasers of new ATVs. However, CPSC’s own data shows a striking increase in the number of injuries since the consent decree expired.

## **II. CPSC Data Consistently Shows that ATV- Related Injuries and Deaths are Increasing**

Between 1982 and 2001, at least 4,541 adults and children were killed in ATV accidents. Between 1993 and 2001, the number of injuries caused by ATVs more than doubled. In 2001 alone, 111,700 people were injured seriously enough by ATVs to require emergency room treatment. Between 1993 and 2001, the number of injuries involving four-wheel ATVs increased by 211 percent to nearly 100,000.

### **Tragically, the CPSC data show that children under 16 are at high risk.**

Between 1982 and 2001, 1,714 children under the age of 16 – or 38 percent of the total number of fatalities – were killed in ATV accidents. Of those, 799 were children under age 12. Between 1993 and 2001, ATV-related injuries suffered by children under 16 increased 94 percent to 34,800.

There have been statistically significant increases in ATV injuries from 1997 to 2001. Injury rates for four-wheel ATVs have increased -- for example in 1993 there were 164.7 injuries per 10,000 vehicles while in 2001 there were 261.8 injuries per 10,000 vehicles.

CFA and the Natural Trails and Waters Coalition have analyzed the statistical evidence on injuries and the follow-up surveys with those injured by ATVs necessitating emergency room treatment. Our analysis demonstrates that the voluntary system has failed to protect the public, especially with respect to children. Relying on the ATV

industry to communicate safety information to consumers has resulted in an ill-informed public lacking training about the operation of ATVs. Children under 16 are injured almost exclusively by adult-size ATVs even though the industry claims that it does not sell them for use by children. The result of this scenario is that people are being injured in record numbers. I have several exhibits that graphically demonstrate the general trends.

Injuries caused by riding ATVs have risen dramatically since the consent decree was replaced with the voluntary "ATV Action Plans" in 1998 (see Exhibit 1). In 2001 injuries were at a record level, exceeding 100,000 for the first time since 1986. Injuries in accidents involving 4-wheel ATVs alone have risen to almost 100,000.

Based upon our estimate of seven million ATVs in use, we believe that the per vehicle accident rate has increased for the first time in almost 20 years. Even if the per vehicle accident rate were constant, the number of injuries has grown so large that it poses a major public health problem.

The banning of the production of three-wheel ATVs has not solved the problem (see Exhibit 2). In 2001 there were almost 100,000 injuries on 4-wheel ATVs. The injury rate to children under sixteen have been increasing since the 1980's. Virtually all of the children injured were operating ATVs that are larger than the size limitation recommended for their age group (see Exhibit 3). The average size of vehicles operated by children is now approximately 240 cc, even though industry and CPSC "recommends" that no child under 16 operate a vehicle larger than 90 cc.

That children are being injured on vehicles that are too large should come as no surprise, since voluntary efforts to better inform and better train the public have failed. Only a small percentage of the public is aware of the recommended size limitation for child operation (see Exhibit 4). Only 13 percent of the injured ATV riders who responded to the CPSC's special survey of a representative sample of those injured in ATV accidents, were aware of a warning label about vehicle size for children under 12 and only 38 percent were aware of a warning label for children under 16.

Awareness of warnings is not greater among owners of more recently purchased vehicles, which presumably have labels to which dealers are supposed to be directing the public's attention as part of the voluntary "ATV Action Plans" (see Exhibit 5). On the critical issue of the recommended size of vehicles for a particular age group, awareness of the age limitation on the warning label has declined slightly.

The extent of formal training, from an organized program or a dealer, has not been boosted by the voluntary program (see Exhibit 6). In 1997 only 3.6 percent of the injured ATV operators received formal training. In 2001, the number was virtually identical, 3.7 percent. Children do not receive much more formal training than adults. Only 5.4 percent of injured children receive such formal training. Children are more likely to receive training from a friend or relative (see Exhibit 7). However, with so few riders receiving formal safety training over a period of many years, this group is unlikely to possess the skills and knowledge necessary to ensure effective training.

Due to the ineffectiveness of education and training efforts by the ATV industry, ATV operators are engaging in behaviors that put them at risk of injury and death. One is the fact that virtually all injured children were operating vehicles that are too large.

Second, over one-third (37 percent) of the children injured were carrying a passenger, considerably more than the one-fifth of adults (see Exhibit 8). When asked whether the children carry passengers as a matter of general operating practice, almost half (47 percent) said that they do. This is only slightly more than the adults (44 percent).

Third, all ATV riders, and children in particular, were not wearing protective gear (see Exhibit 9). Just over half of the children (53 percent) and just under half of the adults (48 percent) were wearing helmets at the time of the injury. For other safety apparel, the portion wearing goggles, gloves and boots falls in the range of one-fifth to one-quarter.

The ATV industry's effort to encourage the wearing of helmets has failed (see Exhibit 10). Helmets are reported to be worn by 42 percent of the children all of the time, while for adults it is 41 percent. About one-third of the children wear a helmet part of the time and a quarter never wear one at all. One-third of the injured adults do not wear a helmet any time.

It is hard to imagine a more striking picture of the failure of an industry's voluntary program to protect the public, especially children. A program that is supposed

to rely on education and training is failing to deliver the message. To put the matter bluntly from the point of view of children injured in ATV accidents:

- about 95 percent of the children operating ATVs are not receiving the organized training that is recommended;
- over 90 percent are driving vehicles that are larger than they should be;
- between two-thirds and nine-tenths are unaware of the warning labels spelling out the “do’s and don’ts” for operating ATVs; and
- half are not wearing the proper protective apparel that is recommended.

This is not only an accident waiting to happen; it is an accident that is happening, tens of thousands of times, resulting in a record number of injuries. The injuries associated with ATVs are a public health problem that demands action by CPSC and state governments.

### **III. Children Should Not Operate Adult Size ATVs**

The Commission, as well as experts in child health, has concluded over the years, that ATVs are inherently difficult to operate for adults and beyond the development capability of children to control.

According to CPSC, drivers of ATVs must make complex split-second decisions:

If the ATV hits a bump, the driver has to determine almost instantaneously, the throttle setting, steering angle, and position of his/her body on the ATV. Such information can only be processed so fast and if the occurrence of the

circumstances exceeds the ability of the driver to react appropriately, an incident will likely occur.<sup>1</sup>

Children do not have the physical or mental abilities to make these complex, split-second decisions.

Medical researchers also challenge the safety records of four-wheel ATVs. One set of doctors conclude that “. . . our data reveal that these vehicles may be extraordinarily difficult to control even with smaller engines and age-specific engine recommendations.”<sup>2</sup>

The American Academy of Pediatrics (AAP), and the American Academy of Orthopaedic Surgeons (AAOS) have issued formal policies concluding that ATVs are a significant public health risk; that children younger than 16 should not be allowed to operate ATVs, and that the safe use of ATVs requires the same or greater skill, judgment and experience as needed to operate an automobile.

While there seems to be almost universal agreement among experts that children should not be riding adult-size ATVs, no mechanisms are in place to ensure that this does not happen. All of the data demonstrate, however, that this is happening and that too many children are getting killed and injured when they drive vehicles that are too large for them.

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<sup>1</sup> U.S. Consumer Product Safety Commission, *Briefing Package on All-Terrain Vehicles*, March 1991, p. 19.

<sup>2</sup> Lynch JM, Gardner MJ, Worsley J, *The Continuing Problem of All-Terrain Vehicle Injuries in Children*, *Journal of Pediatric Surgery*, 1998, 33(2): 331.

#### IV. CFA's Recommendations for A New Approach

Based upon a history that has failed to curb an increasing number of deaths and injuries to ATV riders, especially children, CFA, recommends that:

- The Consumer Product Safety Commission (CPSC) prohibit the sale of adult-size ATVs for use by children under 16 years old as requested in our petition, filed with eight other groups including the American Academy of Pediatrics, American Academy of Emergency Physicians, National Association of Orthopaedic Nurses, Center for Injury Research and Policy, U.S. PIRG, Kids in Danger, Danny Foundation, and Bluewater Network. CPSC's granting of our petition will have the desired effect of limiting ATV death and injuries especially to children:

- 1) This is not a radical approach. This will make mandatory what is voluntary now, but which has been failing American consumers. The industry espouses the "golden rule" that children under 16 should not be riding adult-size ATVs but the data shows that this "golden rule" is not being complied with by ATV dealers.

- 2) A regulatory ban on sales of adult-size ATVs for use by children will give CPSC a remedy against dealers who fail to comply with the "age recommendations" of the "ATV Action Plans."



3) A regulatory ban would accomplish what the “age recommendation” of the consent decree and the ATV Action Plans have failed to do: send a powerful message to parents about how dangerous large ATVs are for children.

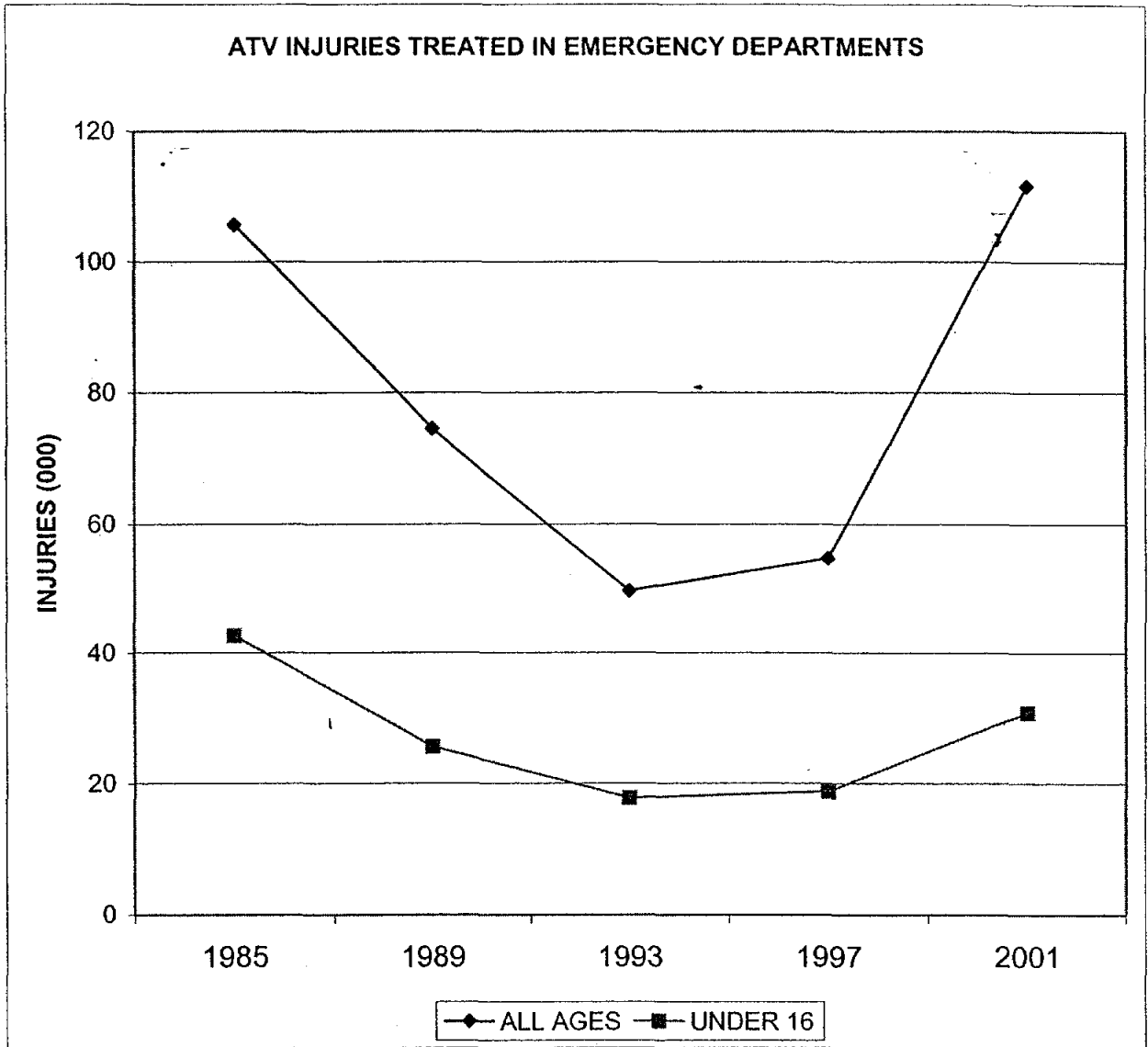
4) A regulatory ban would also make clear that the “age recommendations” are not merely warning labels devised by the ATV industry to protect itself against personal injury lawsuits. For the first time since CPSC began to work on this issue, an unequivocal message would be sent to manufacturers, dealers and consumers that no child can operate any adult-size ATV under any circumstances.

- We recognize that CPSC does not have the authority to take every action necessary to solve the problems currently caused by ATVs. While CPSC can ban the sale of adult-size ATVs for use by children under 16, we urge CPSC and industry to support state efforts to set licensing requirements, set training requirements for riders of ATVs, prohibit riders from carrying passengers, and require ATV riders to wear helmets and other protective equipment.

The death and injury data, and the failure of the voluntary approach compel the need for collective steps to reduce the hazards posed to children by adult-size four wheel ATVs. We hope that CPSC will not wait for the numbers of deaths and injuries to climb even higher, but instead will act soon to protect children from the well documented hazards of riding adult-size ATVs.

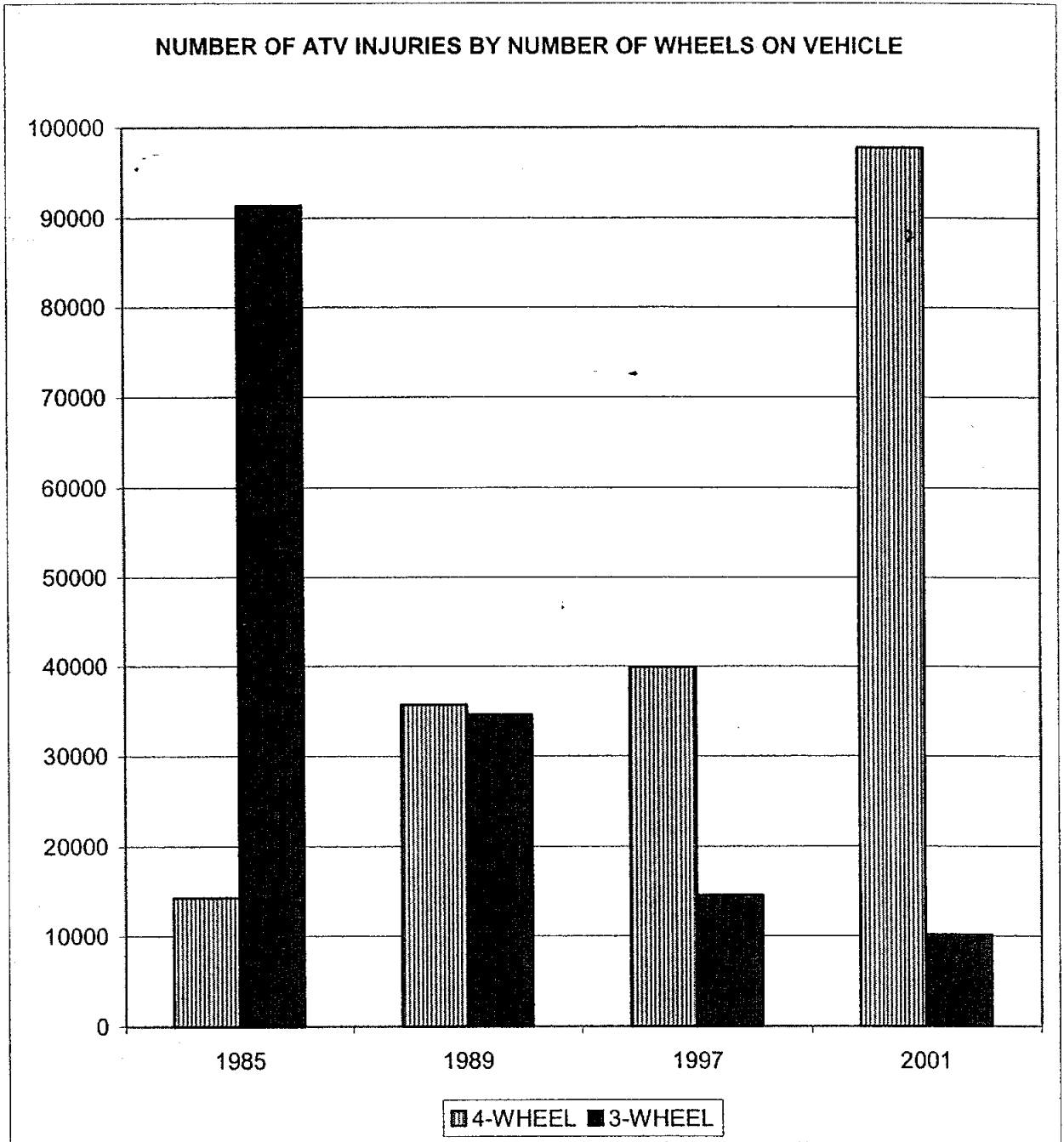
Thank you.

EXHIBIT 1



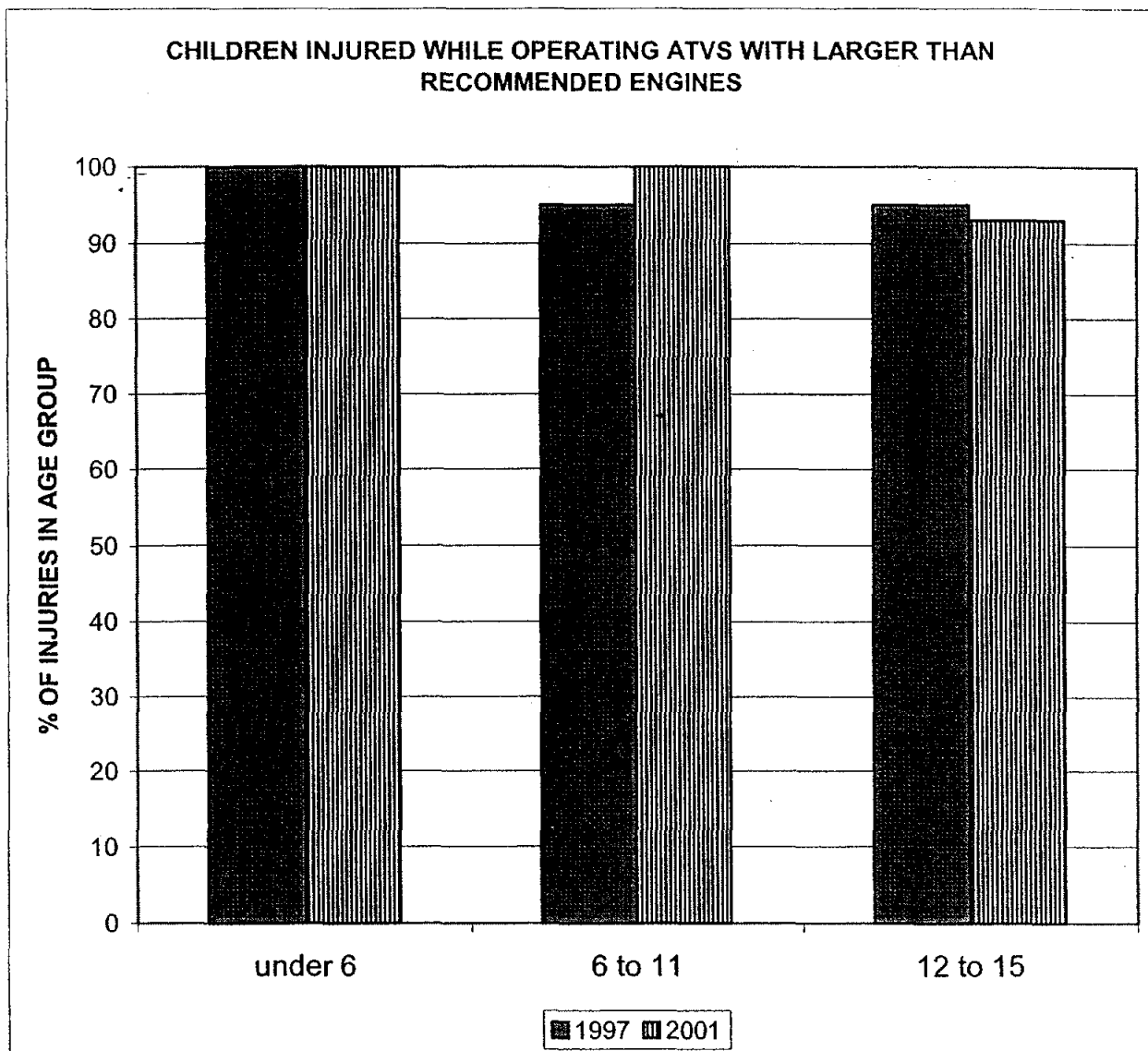
Source: Kyle, Susan B. and Prowpit W. Adler, *Part II: Report on 1997 ATV Injury Survey* (U.S. Consumer Product Safety Commission, April 1998), Figure 1 for 1985 – 1993. “U.S. Injuries by ATV Engine Size and Driver Age,” provided as Attachment 3 to Consumer Product Safety Commission response to FOIA Request from Rachel Weintraub, Assistant General Counsel, Consumer Federation of America, dated February 11, 2003, for 1997 and 2001.

## EXHIBIT 2



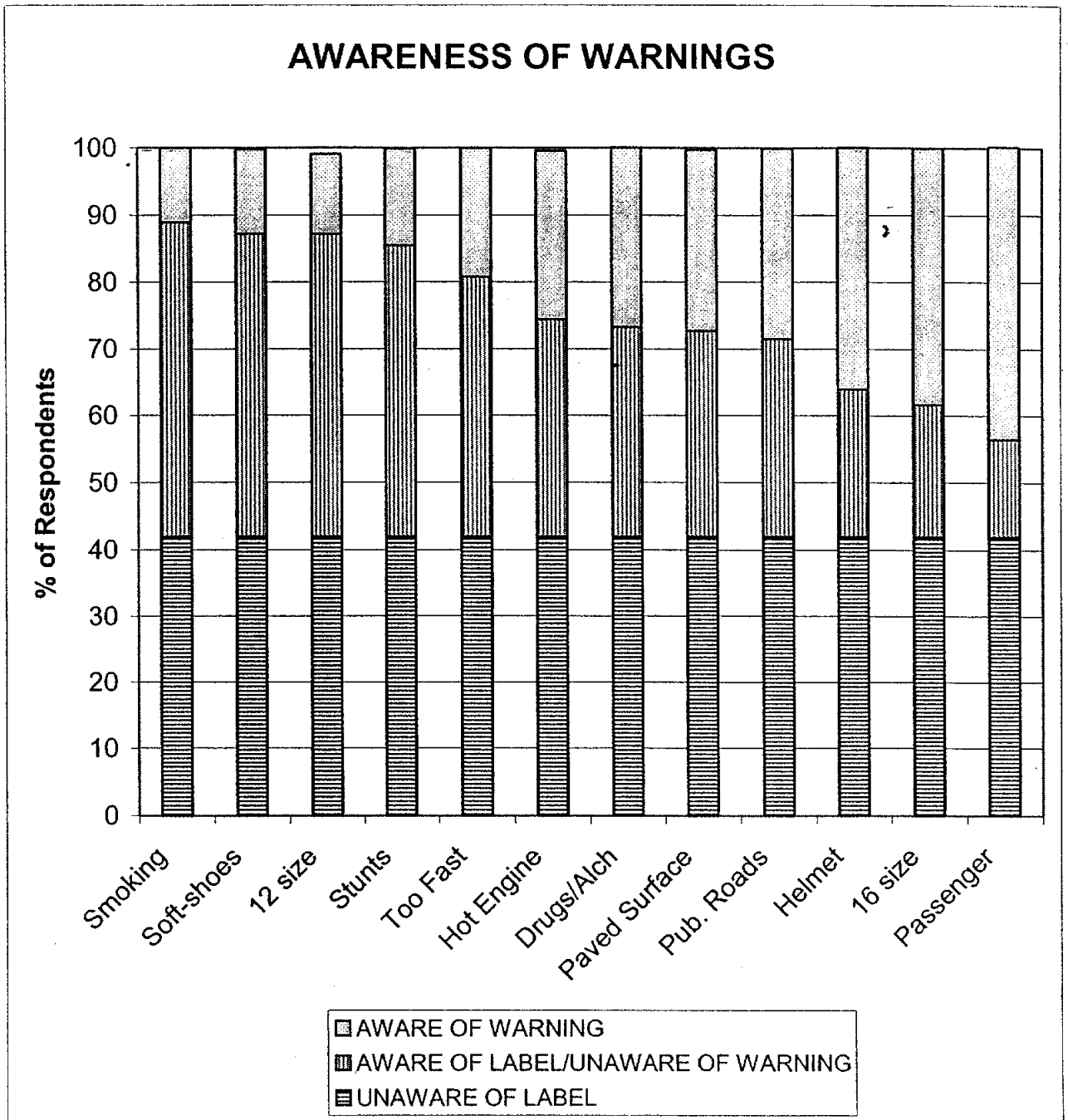
Source: Kyle, Susan B. and Prowpit W. Adler, *Part II: Report on 1997 ATV Injury Survey* (U.S. Consumer Product Safety Commission, April 1998), Table 1 for 1985 – 1997. Analysis of Injury Special Study Raw Data Files, Provided as Attachment 2 to U.S. Consumer Product Safety Commission Response to FOIA Request from Rachel Weintraub, Assistant General Counsel, Consumer Federation of America, response dated February 11, 2003, for 2001.

### EXHIBIT 3



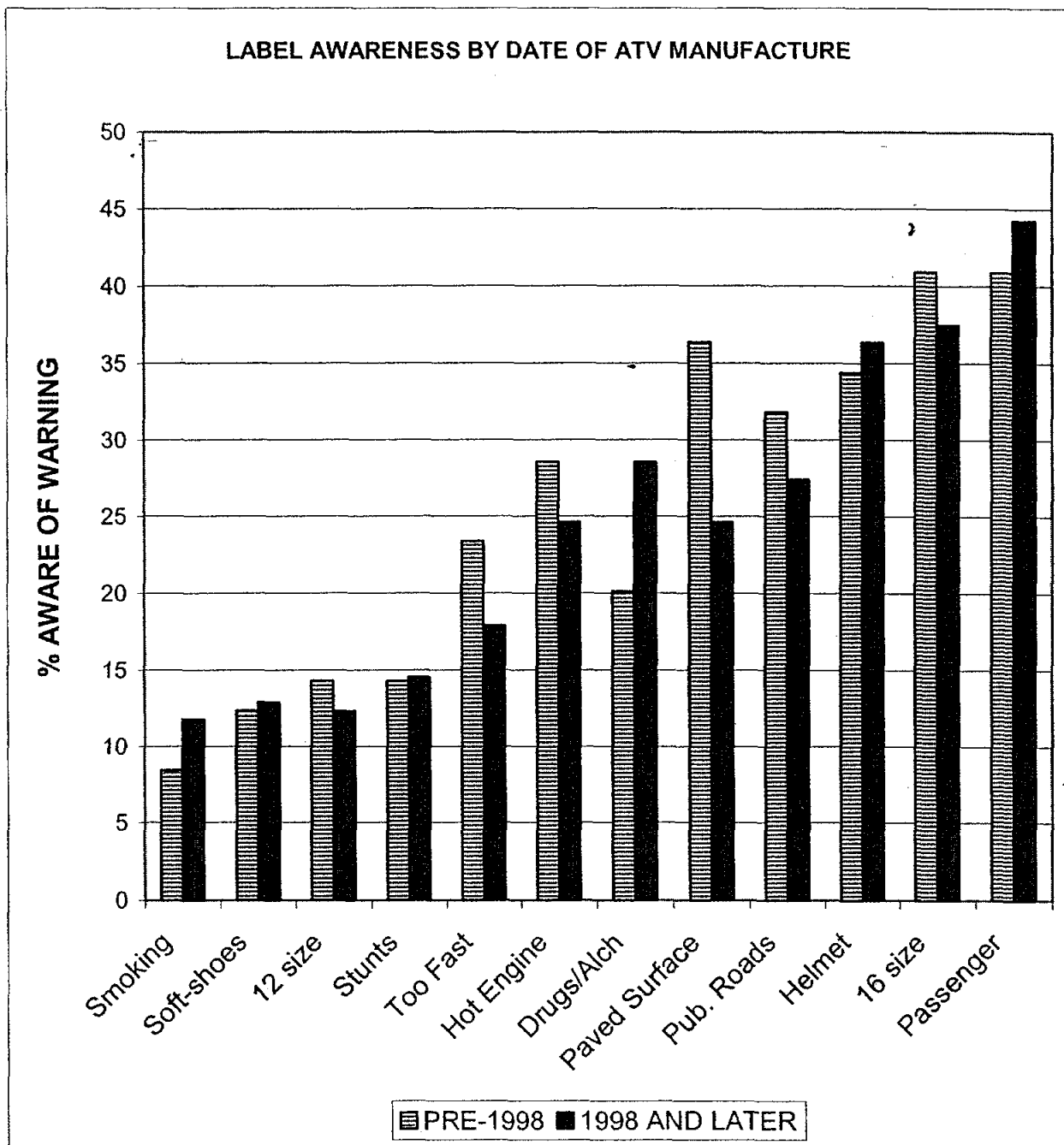
Source: Analysis of Injury Special Study Raw Data Files, Provided as Attachment 2 to U.S. Consumer Product Safety Commission Response to FOIA Request from Rachel Weintraub, Assistant General Counsel, Consumer Federation of America, response dated February 11, 2003, for 1997 and 2001.

EXHIBIT 4



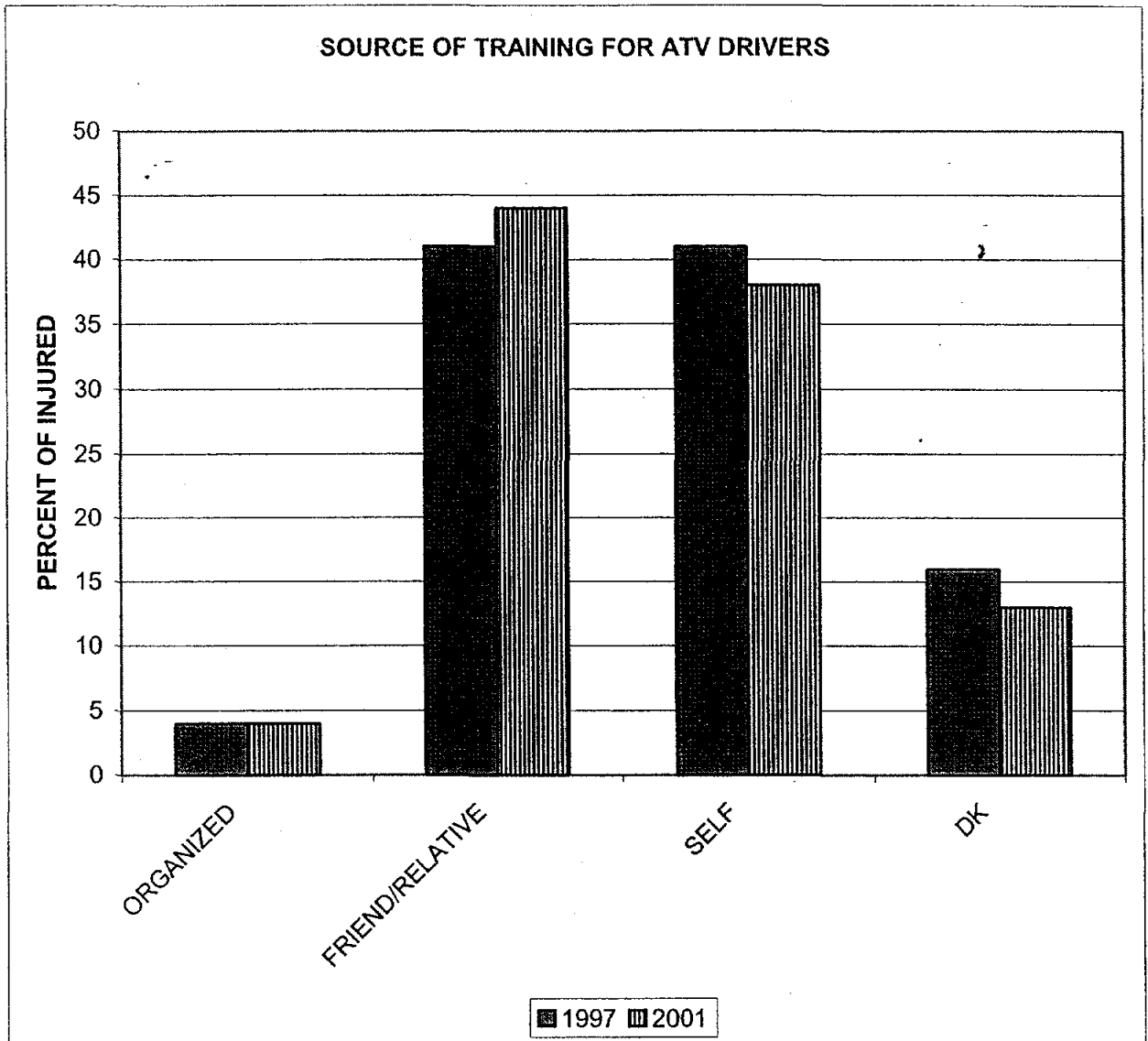
Source: Analysis of Injury Special Study Raw Data Files, Provided as Attachment 2 to U.S. Consumer Product Safety Commission Response to FOIA Request from Rachel Weintraub, Assistant General Counsel, Consumer Federation of America, response dated February 11, 2003.

EXHIBIT 5



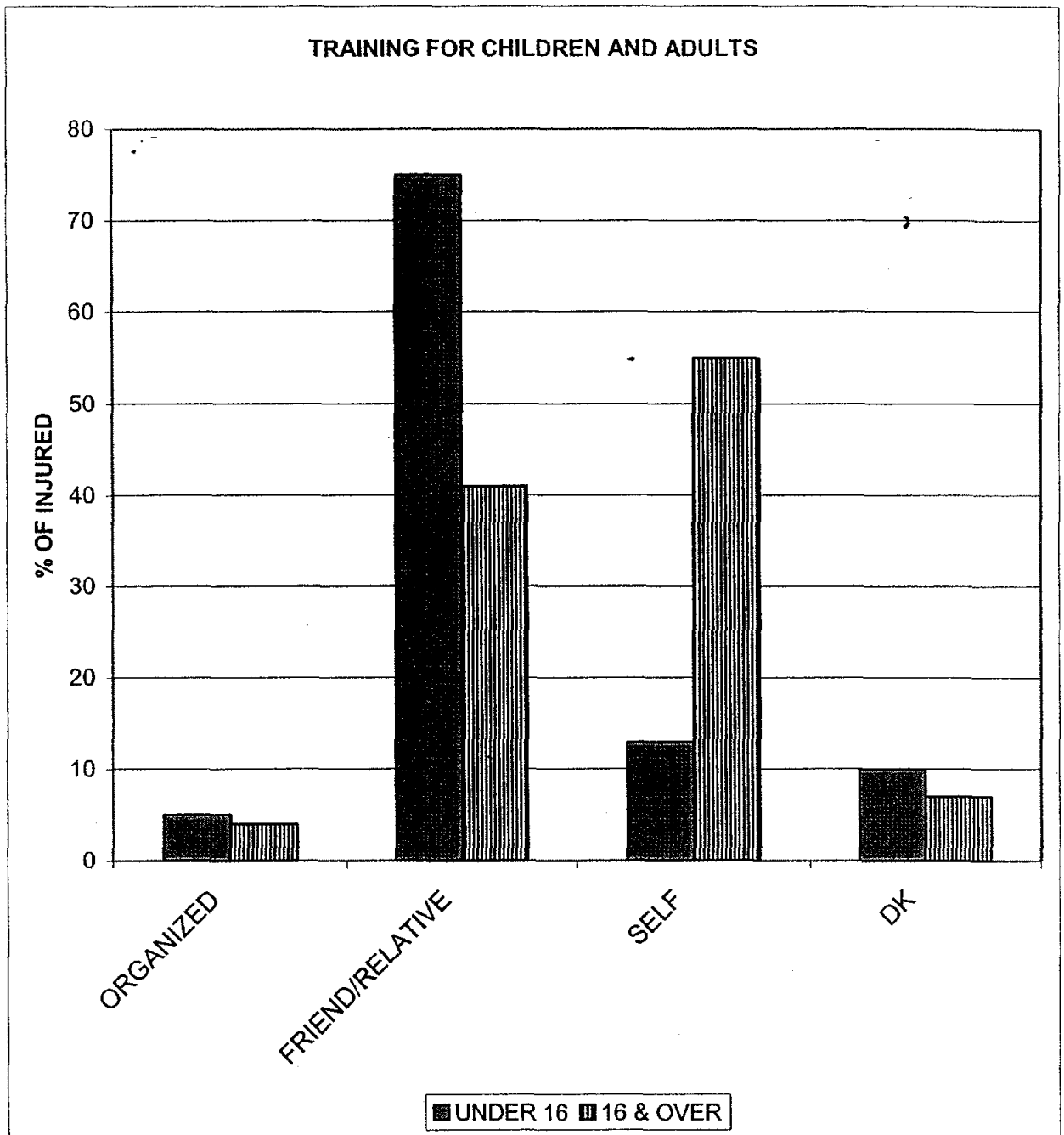
Source: Analysis of Injury Special Study Raw Data Files, Provided as Attachment 2 to Consumer Product Safety Commission Response to FOIA Request from Rachel Weintraub, Assistant General Counsel, Consumer Federation of America, response dated February 11, 2003.

### EXHIBIT 6



Source: Kyle, Susan B. and Prowpit W. Adler, *Part II: Report on 1997 ATV Injury Survey* (U.S. Consumer Product Safety Commission, April 1998), page 50, for 1997. Analysis of Injury Special Study Raw Data Files, Provided as Attachment 2 to U.S. Consumer Product Safety Commission Response to FOIA Request from Rachel Weintraub, Assistant General Counsel, Consumer Federation of America, response dated February 11, 2003, for 2001.

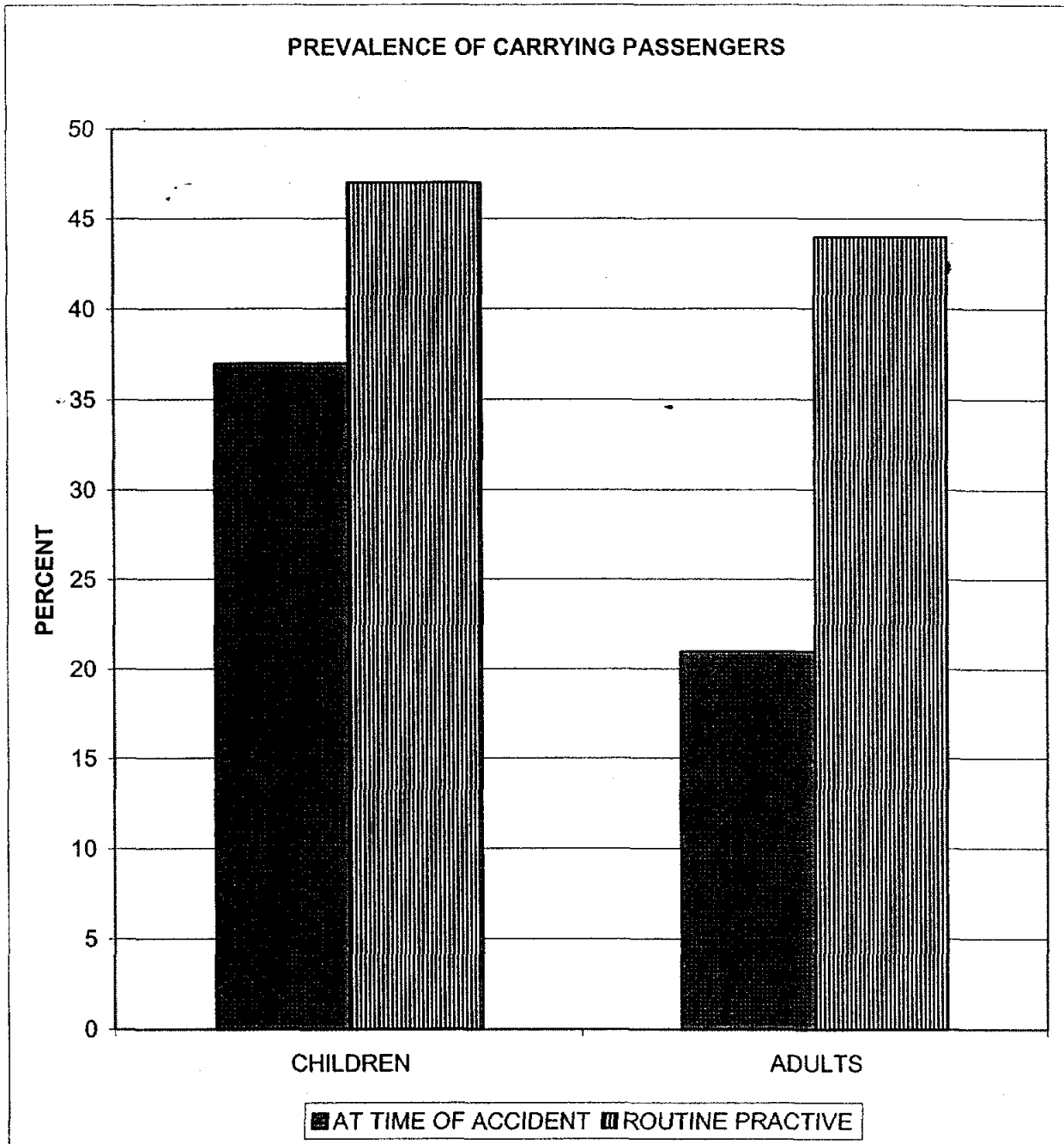
### EXHIBIT 7



Source: Analysis of Injury Special Study Raw Data Files, Provided as Attachment 2 to U.S. Consumer Product Safety Commission Response to FOIA Request from Rachel Weintraub, Assistant General Counsel, Consumer Federation of America, response dated February 11, 2003.

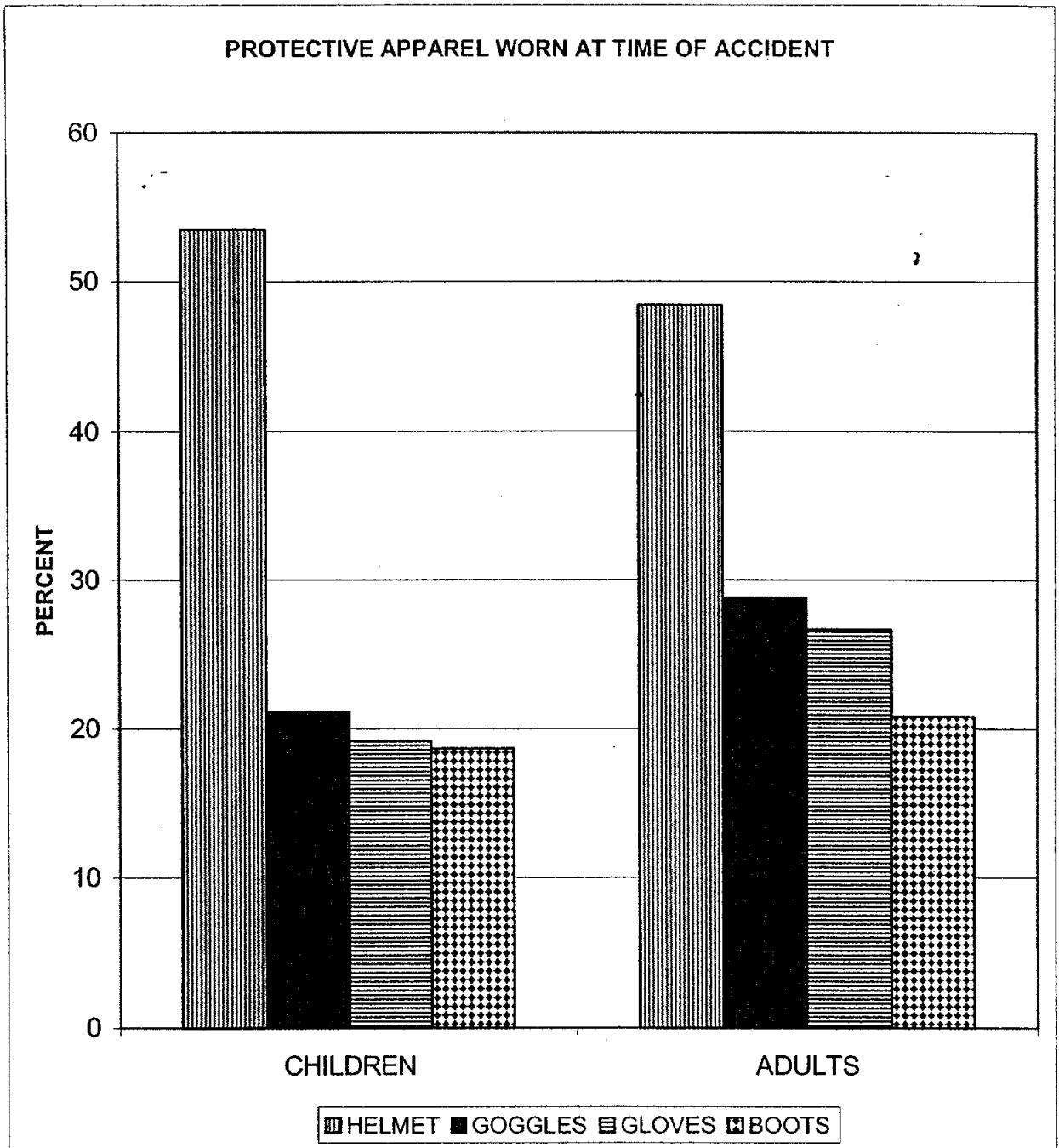


### EXHIBIT 8



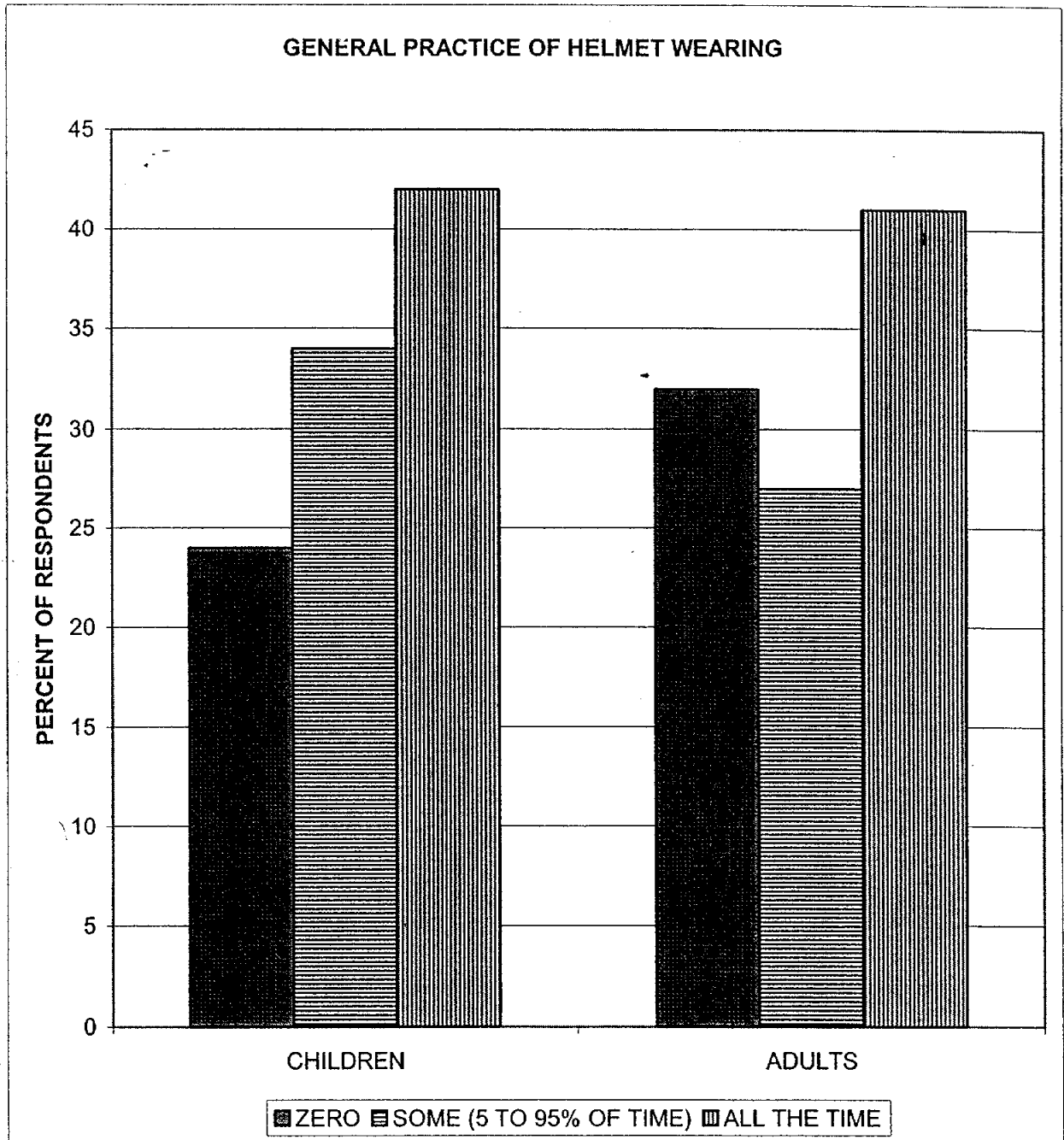
Source: Analysis of Injury Special Study Raw Data Files, Provided as Attachment 2 to U.S. Consumer Product Safety Commission Response to FOIA Request from Rachel Weintraub, Assistant General Counsel, Consumer Federation of America, response dated February 11, 2003.

EXHIBIT 9



Source: Analysis of Injury Special Study Raw Data Files, Provided as Attachment 2 to U.S. Consumer Product Safety Commission Response to FOIA Request from Rachel Weintraub, Assistant General Counsel, Consumer Federation of America, response dated February 11, 2003.

### EXHIBIT 10



Source: Analysis of Injury Special Study Raw Data Files, Provided as Attachment 2 to U.S. Consumer Product Safety Commission Response to FOIA Request from Rachel Weintraub, Assistant General Counsel, Consumer Federation of America, response dated February 11, 2003.

**Statement by  
Senator Michael A. Oliverio, II  
Morgantown, West Virginia**

**Hammond, Rocky**

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**From:** Betty Baird [bbaird@mail.wvnet.edu]

**Sent:** Friday, April 04, 2003 2:53 PM

**To:** lmartin@register-herald.com; wilkerson\_cl@charter.net;

**Subject:** (no subject)

The upside is that the operation of all-terrain vehicles (ATVs) can produce much enjoyment for recreational riders. Further, the ATV can greatly assist many in farming and commercial activities. The downside is that when operated improperly, ATV crashes can produce serious injuries and cause deaths.

For seven years now, I have sponsored legislation to adopt ATV safety laws in West Virginia. Unfortunately, none of those bills have ever passed. Forty-four other states in the country regulate ATV use, and it is interesting to compare those who do with those who do not regulate. The states that don't have laws in place regulating the use of ATVs are Hawaii, Mississippi, North Carolina, South Carolina, Alabama and West Virginia. In those six states, the death rate on ATVs is twice that of the other forty-four states.

In our state, these deaths have been recorded throughout West Virginia. In the last three years alone, sixty-three deaths have occurred across thirty-three of our fifty-five counties. I think this demonstrates that this problem is not, as some would say, an isolated incident.

Some ask what should be regulated to help reduce the mortality rate without dramatically infringing on the use of the vehicles. I believe that we can do four things that will help significantly, yet still allow for the recreational and commercial uses.

First, West Virginia should adopt a helmet law that requires all children to wear a helmet when riding an ATV, regardless of where they ride the vehicle. Of all the children who have died in West Virginia in ATV crashes, only four percent of the children were confirmed to have had a helmet on at the time of their death. Helmets save lives!

Second, we should not allow children to transport other children on ATVs. This dramatically reduces the stability of the vehicle and leads to the death of multiple children in the same crash.

Third, we should prohibit younger riders from being able to operate adult-size ATVs. You can debate the exact age and engine size, but I would suggest prohibiting riders under sixteen from operating 250cc, or greater, vehicles.

And finally, we should prohibit the use of ATVs on roads. Please note, I said roads, and not trails. Much debate can occur over which roads, but I would suggest that much agreement could occur by limiting road use on interstates and corridors, state routes, county roads and city streets.

If laws like these were adopted, would they make a difference? What would happen is that gradually we would change the culture as to how West Virginians ride ATVs. Parents and grandparents, who haven't already, would buy children helmets and require them to wear them. They would instruct younger riders not to "ride double or triple", and they would keep them off the bigger ATVs.

Further, law enforcement would have more clearly defined authority to keep ATVs off our roads. The net result would be a reduction in ATV crashes, and, in turn, a decrease in deaths and debilitation injuries.

You will note that most of these changes in the law deal specifically with younger riders. During the decade of the nineties, many children in our state died on ATVs, and at least sixteen more have died since the turn of the century, just three short years ago. In fact, the death rate for a boy in West Virginia riding an ATV is five times the national average. While the death rate for little girls in West Virginia is eleven times the national average. We need to work together to stop this carnage.

One fall day in Morgantown, I had an opportunity to visit an eight-year-old boy (at a local rehabilitation hospital), who had been in an ATV accident during the spring of that year. His father was operating the ATV, and during the crash, the little boy broke his back. This child was struggling every day to learn to walk again. To his credit, he was making great progress. My heart ached as I visited with him and his parents.

I couldn't help but think of how I spent my summers when I was that boy's age. Little league baseball, trips to the swimming pool, vacation Bible school and the library, and a summer vacation made up my summers. This child, however, spent his summer learning to walk again. What a tragedy! However, it is an even greater tragedy if we do nothing to prevent this from happening to other children!

**Statement for  
Consumer Product Safety Commission  
West Virginia Public Field Hearing  
Morgantown, WV  
June 5, 2003**

**Statement of  
Dr. Edward J. Heiden  
Heiden Associates  
2101 L Street, N.W.  
Suite 200  
Washington, D.C. 20037**

I am the President of Heiden Associates, a product safety and economic consulting firm based in Washington, D.C. Heiden Associates specializes in the application of microeconomic and statistical analysis to business and public policy issues. One of our core areas of expertise is product safety, recall, and liability analysis.

In 2001, Heiden Associates conducted an exposure survey to determine both the number of ATVs in use and the amount of time that consumers operate them. The exposure survey was sponsored by the major ATV manufacturers and conducted in close consultation with CPSC staff. CPSC staff simultaneously conducted an in-depth study of ATV-related injuries. These joint efforts culminated in the CPSC's risk analysis report, *All-Terrain Vehicle 2001 Injury and Exposure Studies* ("ATV 2001 Study"), which was issued in January 2003.

**The Increase In ATV-Related Accidents Results In Large Part From Greater ATV Use.**

The *ATV 2001 Study* demonstrates that a large portion of the increase in the estimated number of ATV-related injuries since 1997 is due to increased exposure in the form of higher numbers of ATVs, ATV riders, and ATV riding hours. From 1997 to 2001, the number of ATVs in use increased almost 40 percent, the number of ATV drivers grew by almost 36 percent, and the number of ATV driving hours increased 50 percent. *ATV 2001 Study* at 9, Table 1. A new operability rate analysis developed from the exposure study shows that the average life of a 4 wheel ATV is now 19 years.

**ATV Injury Risks Are Still Well Below Pre-Consent Decree Levels.**

Based on the current population estimates, injury risk was 197.7 injuries per 10,000 4 wheel ATVs in 2001. This was 27 percent below the 1988 injury risk of 271.7 injuries per 10,000 ATVs and 35 percent below the 1987 risk of 303.5 injuries per 10,000 ATVs. Exhibit 1.



While there have been substantial increases in the number of ATVs, ATV drivers, the level of ATV use, and injuries since 1997, the percentage of total ATV injuries which involve children under 16 *decreased* from 39 percent in 1997 to 30 percent in 2001. *Id.* at 11, Table 2.<sup>1</sup> The percentage of ATV drivers who are under 16 has also decreased from 21 percent of all drivers in 1997 to 17 percent of all drivers in 2001. *Id.* at 14, Table 5. The proportion of total driving hours involving drivers under 16 similarly fell from 22 percent in 1997 to 17 percent in 2001. *Id.* Most importantly, the proportion of injuries involving drivers under 16 declined from 34 percent in 1997 to 26 percent in 2001. *Id.*

The *ATV 2001 Study* further shows that persons under the age of 16 have a lower estimated number of injuries than those between 16 and 24. *Id.* at 31, App. 2 at Table A1. Children between 12 and 15 also had a lower increase in risk per million riding hours from 1997 to 2001 than did the 18 to 24, 25 to 44, and 45 to 64 age groups. *Id.*

**ATV Risks Are Comparable To The Risks Associated With Other Recreational Activities.**

Other recreational products and activities involve a greater risk of injury or death to children under 16 than riding an ATV. For example, on the basis of number of injuries to the general population per 100,000 participants, ATV riding is safer than football, basketball, wrestling, bicycling, soccer, baseball, snow skiing/snowboarding, skateboarding, softball, ice hockey, boxing, cheerleading, and rollerskating. *See Exhibits 2, 3.* Using total participation days as an alternative exposure measure, ATVs have a lower injury risk than each of the

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<sup>1</sup> The *ATV 2001 Study* indicates that 36 percent of ATV riders in 1997 were under the age of 16. *ATV 2001 Study* at 11, Table 2. The proportion of riders under 16 dropped to 31 percent in 2001. *Id.* Children under 16 did not suffer a disproportionate percentage of ATV injuries in 2001. They represented approximately 31 percent of riders and 30 percent of total injuries. Moreover, the risk in terms of injuries per thousand riders in 2001 for riders under 16 (4.6 per thousand) was comparable to the risk for riders 16 and over (4.8 per thousand). *Id.*

products and activities listed above, as well as racquetball/squash, inline skating, water skiing, volleyball, and snowmobiles. *See* Exhibits 4, 5. For the specific sub-group of children 7 to 15, the injury risks are generally higher for all of these products and activities, whether measured based on the total number of participants or on the total participation days. *See* Exhibit 6.

ATVs are also safer than motor vehicles based on a number of different injury comparisons. Based on injuries per 100,000 participants, ATVs are more than *twice* as safe as the general category of motor vehicles (1,161 injuries for motor vehicles versus 488 for ATVs), and fifty-three percent safer than passenger cars (747 injuries for passenger cars). *See* Exhibit 7. For the specific sub-group of children under 16, the risks associated with ATVs are again significantly lower than the risks associated with riding in a motor vehicle (528 for motor vehicles versus 459 for ATVs). *See* Exhibit 8.

Moreover, the risk of fatality associated with ATV use (2.4 fatalities per 100,000 participants) is comparable to the risk of fatality associated with such common recreational activities as bicycling (2.4) and swimming (2.2). *See* Exhibit 9. When measured on the basis of fatalities per million days of participation, ATV riding (0.4 fatalities per million participation days) is safer than swimming (0.5) and comparable to bicycling (0.4). *See* Exhibit 10.

ATV riding is also considerably safer than riding in a motor vehicle. ATVs are associated with 9.8 fatalities per 100,000 vehicles, compared to motorcycles (65.9), passenger cars (16.0), and light trucks (15.0). *See* Exhibit 11. The risk of fatality to children under 16, in particular, is almost twice as high when they are riding in a motor vehicle (4.5 per 100,000 participants) as it is when they are riding on an ATV (2.3). *See* Exhibit 12.

Although the warned-against risks associated with operation of adult-size ATVs are still present, they are not disproportionate to the risks associated with many recreational and other

activities in which children commonly participate. If children were to shift from riding ATVs to other recreational activities which have similar or greater risk of injury, it would not appear to reduce overall injuries.

**State Legislation Can Help To Reduce ATV-Related Injuries Involving Children.**

State legislation can make a meaningful difference in reducing ATV injuries. For example, we have examined two states, Kentucky and New Jersey, that enacted state legislation that regulate the use of ATVs by children under the age of 16. Kentucky's law prohibits the operation of an ATV with an engine size greater than 90cc by a child under the age of 16. Ky. Rev. Stat. Ann. § 189.15(5)(a) (2002). New Jersey prohibits operation of an ATV on public lands by a child under the age of 14 and operation of an ATV over 90cc on public lands by a person under 16. N.J. Stat. Ann. § 39:3C-16(a), (b) (2002).

In Kentucky, the percent of fatalities sustained by riders under 12 declined from 26% pre law to 7% after the law was enacted. Exhibit 13. The percent of fatalities for riders under 16 declined from 55% pre-law to 22% after the law. Both results are statistically significant at the 95% confidence level. In New Jersey, the fraction of fatalities in the state involving riders under 14 declined from 18% to 0%. Fatalities involving riders under 16 went from 29% to 0%. Although the extent to which the state laws (as opposed to other factors) accounted for these decreases cannot be quantified with precision, these data suggest that such state laws can have a meaningful effect in reducing ATV-related fatalities and injuries involving children.

These same positive effects have been observed with other state laws regulating the use of motorized vehicles by children. For example, in 1996, Florida enacted a law prohibiting the use of personal watercraft by children under twelve. Fla. Stat. Ann. § 327.395. The percentage of personal watercraft-related accidents involving children in Florida declined over 50% after

enactment of the statute, from 24 in 1996 to the low teens (13 to 15) in 1997 through 2000, even while the number of personal watercraft in use continued to increase each year.<sup>2</sup> These data again suggest that effective enforcement of state age restrictions on product usage can significantly reduce the number of injuries and fatalities involving children.

**Most ATV-Related Accidents Involve Warned-Against Behavior.**

We reviewed relevant ATV exposure and fatality data to evaluate and compare ATV-related fatality incidents and exposure in two of the states that serve as the focal point of this forum – West Virginia and Pennsylvania. The state data were also compared with data for the nation as a whole.

These data show that:

- ATV drivers in West Virginia ride more than they do elsewhere– 33% higher than for the nation as a whole in terms of average annual exposure hours.
- There appears to be proportionately less non-recreational use in West Virginia and Pennsylvania than nationally. Whereas over 70% of ATV drivers nationwide indicated that they use their ATV for non-recreational purposes, a smaller percentage of drivers in West Virginia and Pennsylvania (60% and 44%, respectively) indicated that they use their ATV for non-recreational purposes.
- The proportion of ATV drivers under 16 in West Virginia and Pennsylvania was about the same (18 and 20 percent, respectively) as for the United States as a whole (18 percent).
- The fraction of ATV-related fatalities over the 1997-2001 period involving drivers under 16 was lower in West Virginia (15 percent) and Pennsylvania (13 percent) than for the entire country (26 percent).

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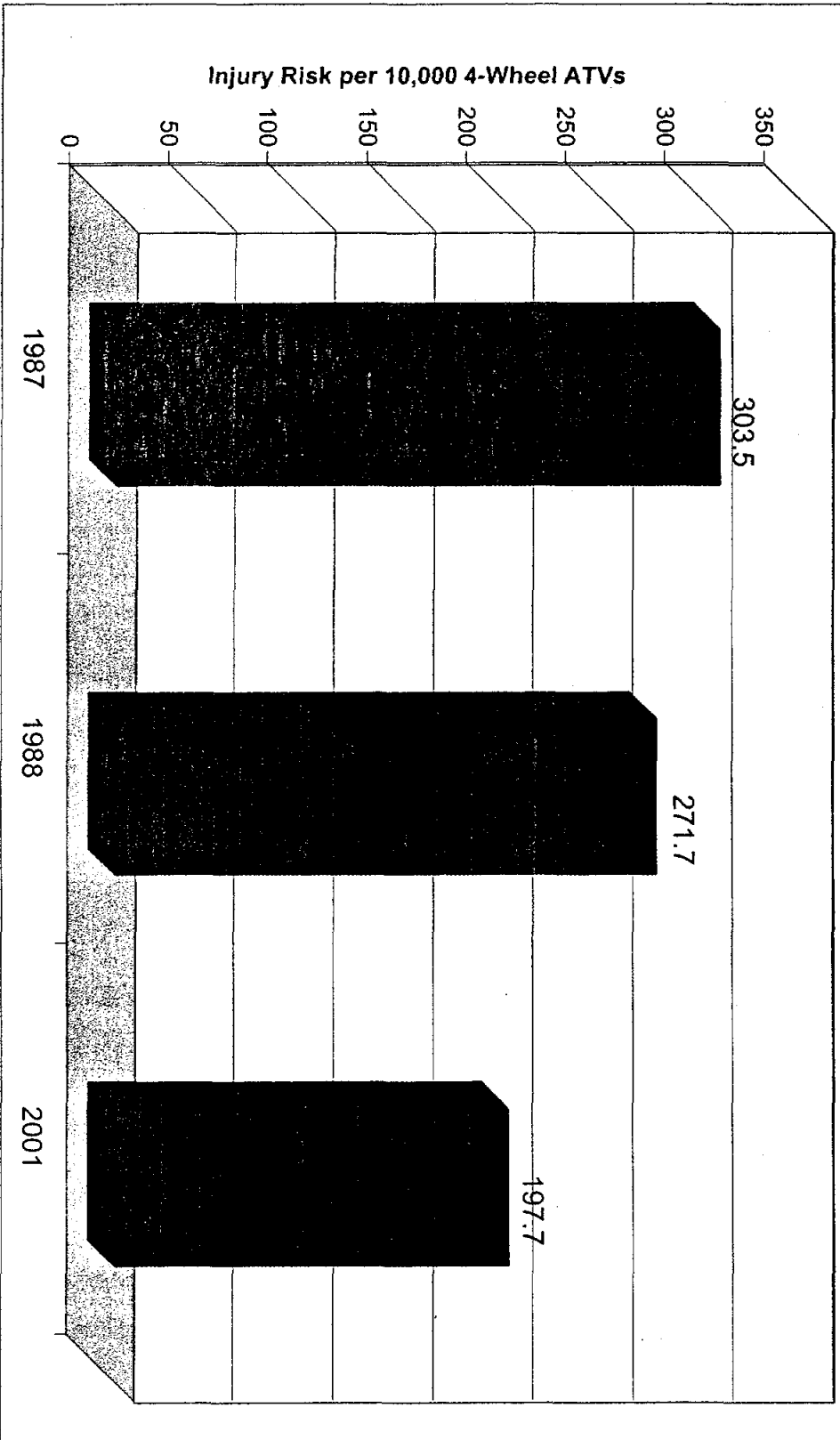
<sup>2</sup> Personal watercraft-related accidents are reported to and compiled by the Florida State Boating Law Administrator. Although Florida and some other states compile data on personal watercraft-related accidents, no comparable state-level data is compiled for ATV-related accidents. The NEISS database used by CPSC compiles accident data on a national basis, which unfortunately does not permit a similar analysis of ATV accident reductions in states that have enacted ATV age restriction legislation.

- Based on our analysis of a large sample of 100 CPSC short IDI fatality summaries (8 10 lines each) in West Virginia, one or more instances of warned against behavior was observed in 88% of the cases, with lack of helmet use being by far the major factor cited. Specific evidence of erroneous or questionable driver judgment was also noted in a number of cases. Exhibits 14, 15.

**Larger ATVs Do Not Pose Disproportionate Risks.**

The *ATV 2001 Study* reports an increase in the number of ATVs with engine sizes of 400cc or greater. The study further reports that in 2001 risk associated with these larger size ATVs was comparable to the risk for other adult vehicles of smaller engine sizes. There were 22.0 injuries per 1,000 ATVs with engine sizes 400cc and above, compared to 21.2 injuries per 1,000 ATVs with engine sizes between 200cc and 399cc. Based on the CPSC ATV fatality database, only seven percent of all ATV-related fatalities in 1997-2001 involved ATVs with engine sizes greater than 400cc. Vehicles with engine sizes greater than 400cc accounted for 12 percent of the ATV population, according to the 2001 exposure survey. These data suggest that ATVs with larger engine sizes do not present a disproportionate safety risk.

**EXHIBIT 1**  
**COMPARISON OF CURRENT ATV INJURY RISK WITH RISK AT**  
**TIME OF CONSENT DECREE**



**EXHIBIT 2**  
**2001 INJURY RISK ESTIMATES FOR ATVs AND OTHER ACTIVITIES**  
**PER 100,000 PARTICIPANTS**

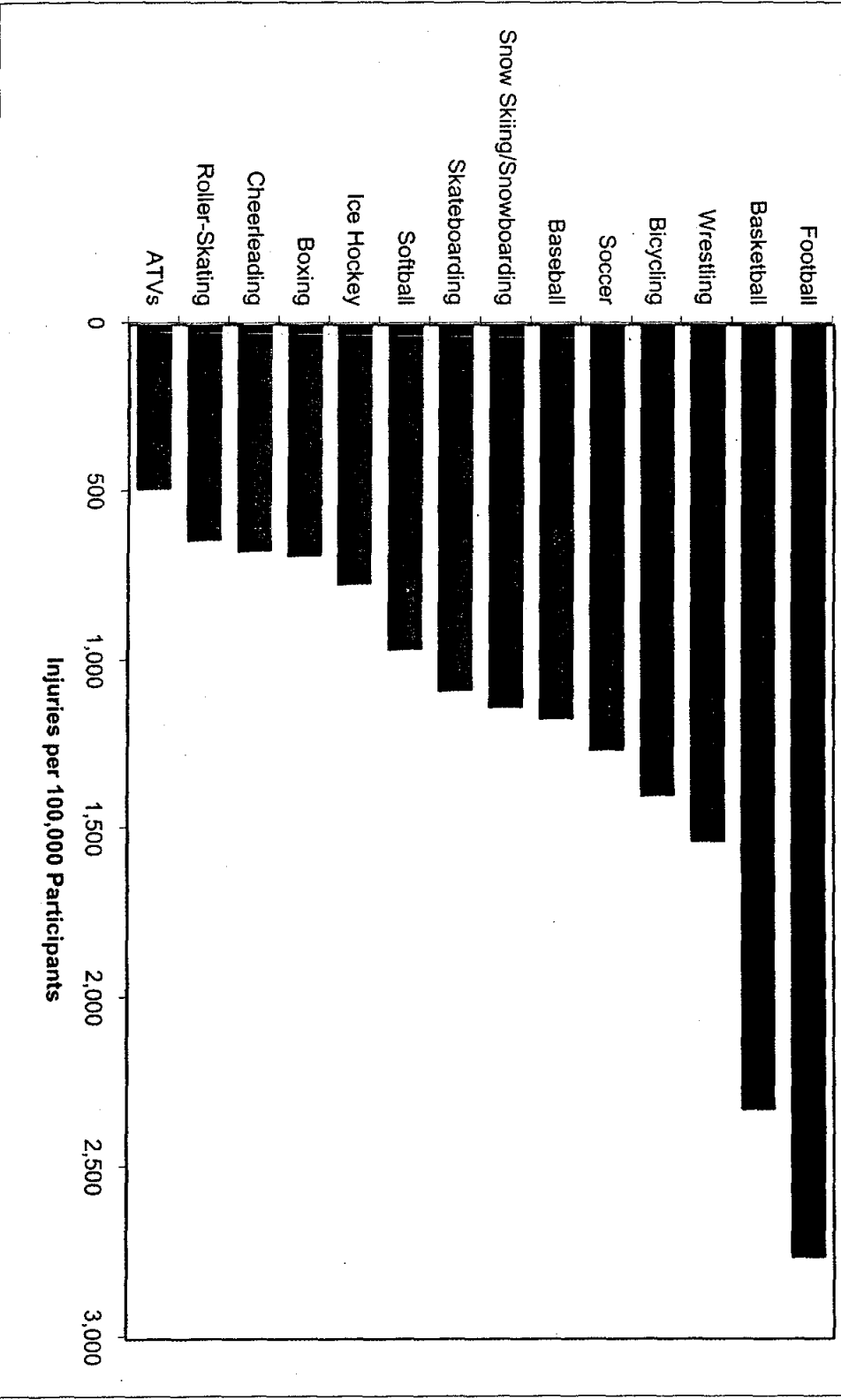
Activity	Emergency Room Injuries per 100,000 Participants
Football	2,761
Basketball	2,326
Wrestling	1,536
Bicycling	1,400
Soccer	1,264
Baseball	1,170
Snow Skiing/Snowboarding	1,135
Skateboarding	1,085
Softball	962
Ice Hockey	769
Boxing	685
Cheerleading	670
Roller-Skating	640
<b>ATVs</b>	<b>488</b>

Sources: "All-Terrain Vehicle 2001 Injury and Exposure Studies", CPSC,  
 January 2003.

2001 National Electronic Injury Surveillance System (NEISS),  
 CPSC.

"Sports Participation in 2001", National Sporting Goods  
 Association.

**EXHIBIT 3  
PER-PARTICIPANT INJURY RISK**



Sources: "All-Terrain Vehicle 2001 Injury and Exposure Studies", CPSC, January 2003.  
2001 National Electronic Injury Surveillance System (NEISS), CPSC.  
"Sports Participation in 2001", National Sporting Goods Association.



**EXHIBIT 4**  
**2001 INJURY RISK ESTIMATES FOR ATVS AND OTHER ACTIVITIES**  
**PER MILLION PARTICIPANT DAYS**

Activity	Emergency Room Injuries per Million Days
Snow Skiing/Snowboarding	1,202
Basketball	876
Football	864
Roller-Skating	545
Ice Skating	476
Wrestling	361
Soccer	343
Softball	329
Baseball	302
Skateboarding	286
Snowmobiles	278
Volleyball	273
Ice Hockey	249
Bicycling	232
Boxing	231
Water Skiing	226
In-Line Skating	161
Cheerleading	123
Racquetball/Squash	113
<b>ATVs</b>	<b>91</b>

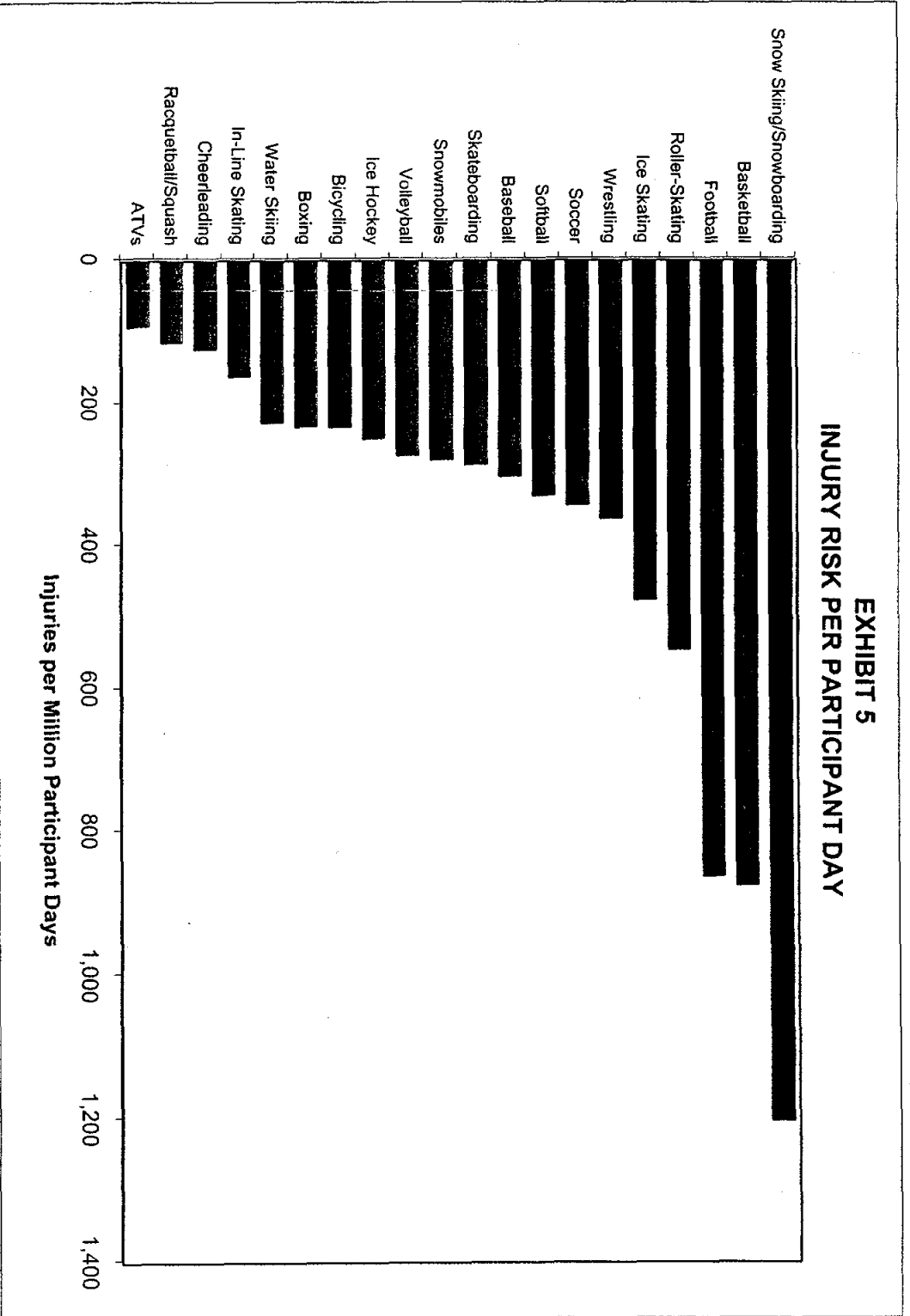
Sources: "All-Terrain Vehicle 2001 Injury and Exposure Studies", CPSC,  
January 2003.

2001 ATV Exposure Survey, Heiden Associates.

2001 National Electronic Injury Surveillance System (NEISS),  
CPSC.

"Sports Participation in 2001", National Sporting Goods  
Association.

**EXHIBIT 5  
INJURY RISK PER PARTICIPANT DAY**



Sources: "All-Terrain Vehicle 2001 Injury and Exposure Studies", CPSC, January 2003.  
 2001 ATV Exposure Survey, Heiden Associates.  
 2001 National Electronic Injury Surveillance System (NEISS), CPSC.  
 "Sports Participation in 2001", National Sporting Goods Association.

**EXHIBIT 6**  
**2001 INJURY RISK ESTIMATES FOR ATVS AND OTHER ACTIVITIES**  
**FOR CHILDREN 7 - 15**

Activity	Emergency Room Injuries per 100,000 Participants	Activity	Emergency Room Injuries per Million Days
Football	3,605	Snow Skiing/Snowboarding	1,626
Basketball	2,214	Football	946
Bicycling	1,739	Basketball	729
Wrestling	1,656	Roller-Skating	571
Snow Skiing/Snowboarding	1,338	Wrestling	416
Baseball	1,200	Boxing	327
Soccer	1,093	Volleyball	289
Boxing	948	Baseball	275
Ice Hockey	938	Soccer	273
Skateboarding	901	Ice Hockey	272
Softball	796	Skateboarding	232
<b>ATVs</b>	<b>676</b>	Bicycling	232
		Softball	229
		In-Line Skating	155
		<b>ATVs</b>	<b>134</b>

Sources: "All-Terrain Vehicle 2001 Injury and Exposure Studies", CPSC, January 2003.  
2001 ATV Exposure Survey, Heiden Associates.  
2001 National Electronic Injury Surveillance System (NEISS), CPSC.  
"Sports Participation in 2001", National Sporting Goods Association.

**EXHIBIT 7**  
**2000-01 INJURY RISK ESTIMATES FOR ATVS AND MOTOR VEHICLES**

Vehicle Type	Injuries per 100,000 Participants
Motor Vehicles	1,161
Passenger Cars	747
<b>ATVs</b>	<b>488</b>

Sources: "All-Terrain Vehicle 2001 Injury and Exposure Studies", CPSC,  
January 2003.  
"Traffic Safety Facts 2000", National Highway Traffic Safety  
Administration.

**EXHIBIT 8**  
**2000-01 INJURY RISK ESTIMATES FOR ATVS AND MOTOR VEHICLES**  
**FOR CHILDREN UNDER 16**

Vehicle Type	Injuries per 100,000 Participants
Motor Vehicles	528
<b>ATVs</b>	<b>459</b>

Sources: "All-Terrain Vehicle 2001 Injury and Exposure Studies", CPSC,  
January 2003.  
"Traffic Safety Facts 2000", National Highway Traffic Safety  
Administration.

**EXHIBIT 9**  
**2000-01 FATALITY RISK ESTIMATES FOR ATVS AND OTHER ACTIVITIES**  
**PER 100,000 PARTICIPANTS**

Activity	Fatalities per 100,000 Participants
Bicycling	2.4
<b>ATVs</b>	<b>2.4</b>
Swimming	2.2

Sources: "All-Terrain Vehicle 2001 Injury and Exposure Studies", CPSC, January 2003.  
"Annual Report: All-Terrain Vehicle (ATV)-Related Deaths and Injuries", CPSC, August 5, 2002.  
"Sports Participation in 2001", National Sporting Goods Association.  
"Injury Facts", National Safety Council, 2002.

**EXHIBIT 10**  
**2000-01 FATALITY RISK ESTIMATES FOR ATVS AND OTHER ACTIVITIES**  
**PER MILLION PARTICIPANT DAYS**

Activity	Fatalities per Million Days
Swimming	0.5
Bicycling	0.4
<b>ATVs</b>	<b>0.4</b>

Sources: "All-Terrain Vehicle 2001 Injury and Exposure Studies", CPSC, January 2003.

"Annual Report: All-Terrain Vehicle (ATV)-Related Deaths and Injuries", CPSC, August 5, 2002.

2001 ATV Exposure Survey, Heiden Associates.

"Sports Participation in 2001", National Sporting Goods Association.

"Injury Facts", National Safety Council, 2002.

**EXHIBIT 11**  
**2000-01 FATALITY RISK ESTIMATES FOR ATVS AND MOTOR VEHICLES**  
**PER 100,000 VEHICLES**

Vehicle Type	Fatalities per 100,000 Vehicles
Motorcycles	65.9
Passenger Cars	16.0
Light Trucks	15.0
<b>ATVs</b>	<b>9.8</b>

Sources: "All-Terrain Vehicle 2001 Injury and Exposure Studies", CPSC,  
"Annual Report: All-Terrain Vehicle (ATV)-Related Deaths and  
Injuries", CPSC, August 5, 2002.  
"Traffic Safety Facts 2000", National Highway Traffic Safety  
Administration.



**EXHIBIT 12**  
**2000-01 FATALITY RISK ESTIMATES FOR ATVS AND MOTOR VEHICLES**  
**FOR CHILDREN UNDER 16**

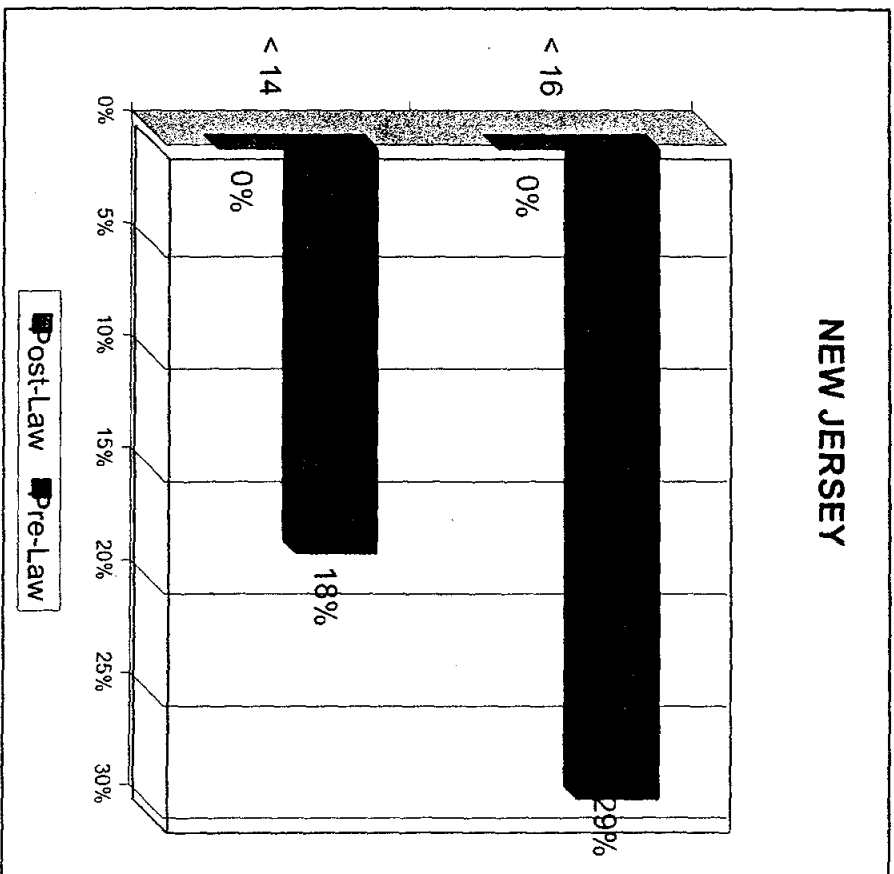
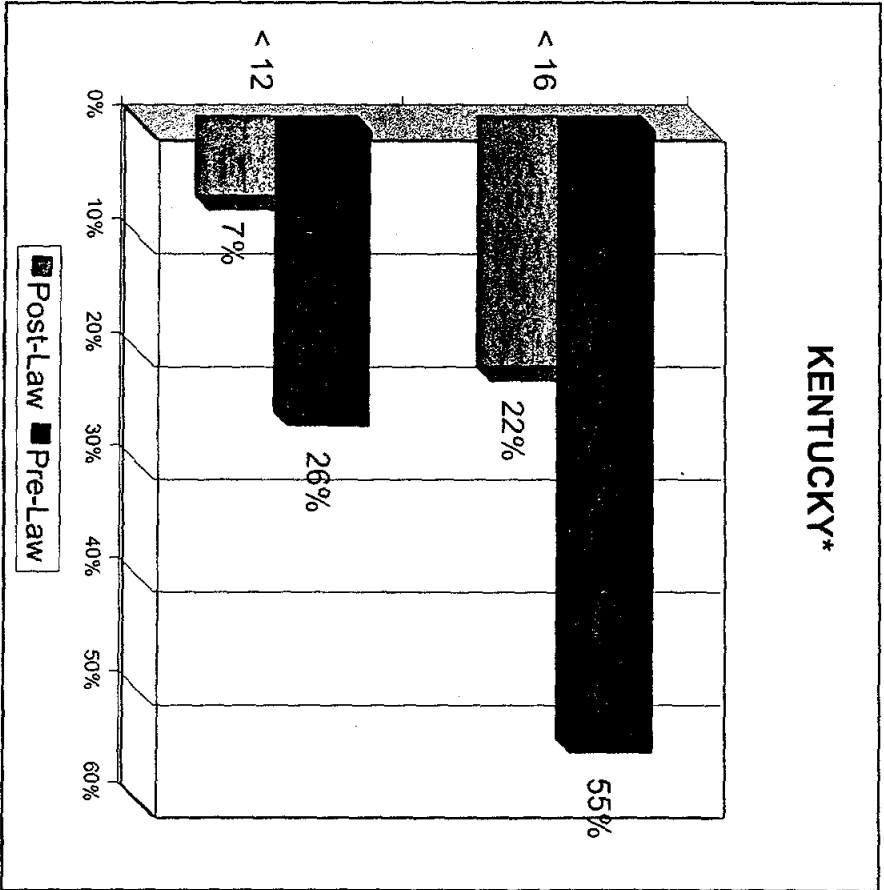
Vehicle Type	Fatalities per 100,000 Participants
Motor Vehicles	4.5
<b>ATVs</b>	<b>2.3</b>

Sources: "All-Terrain Vehicle 2001 Injury and Exposure Studies", CPSC,  
January 2003.

"Annual Report: All-Terrain Vehicle (ATV)-Related Deaths and  
Injuries", CPSC, August 5, 2002.

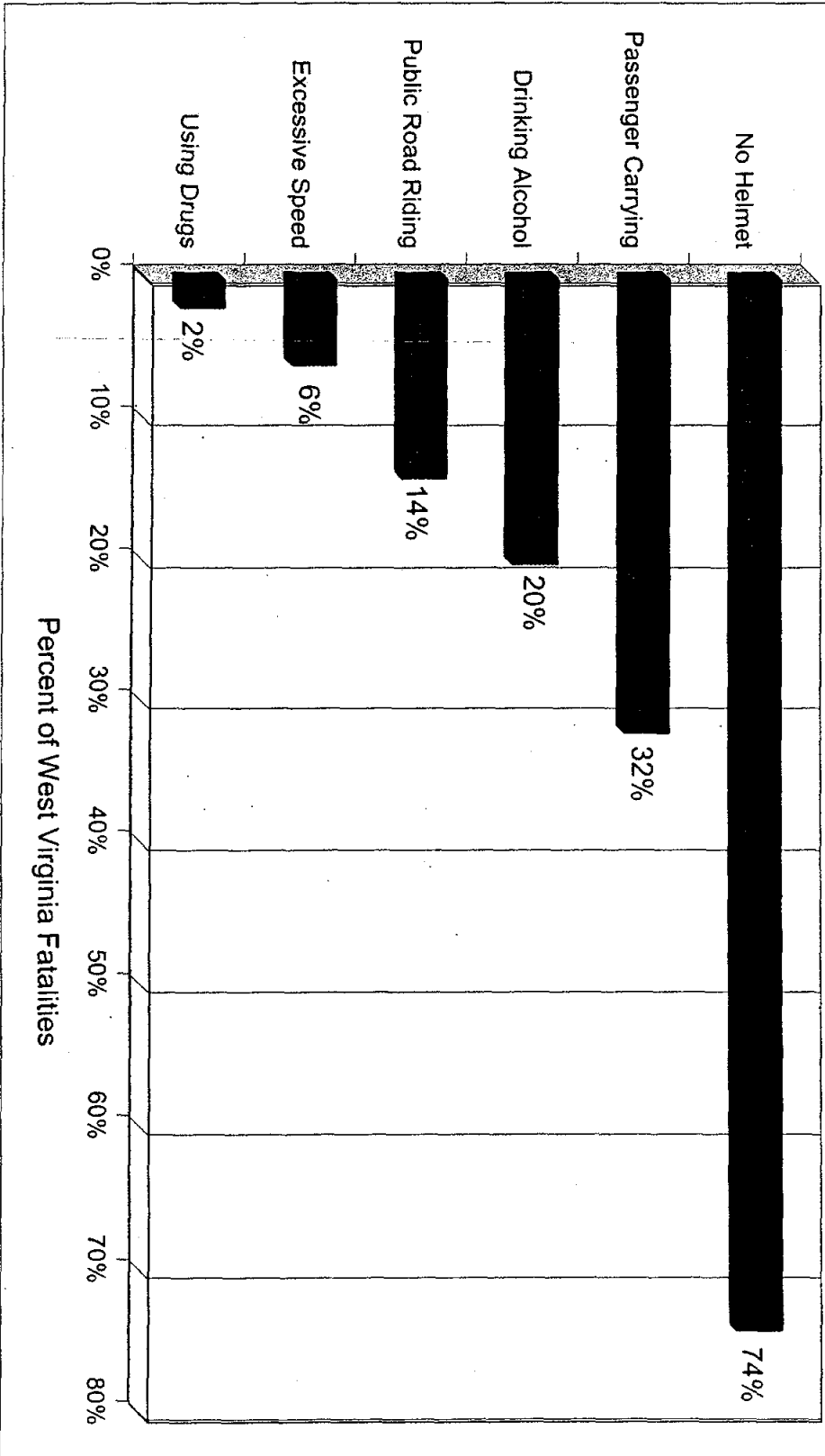
"Traffic Safety Facts 2000", National Highway Traffic Safety  
Administration.

**EXHIBIT 13  
PERCENT OF ATV FATALITIES TO CHILDREN**

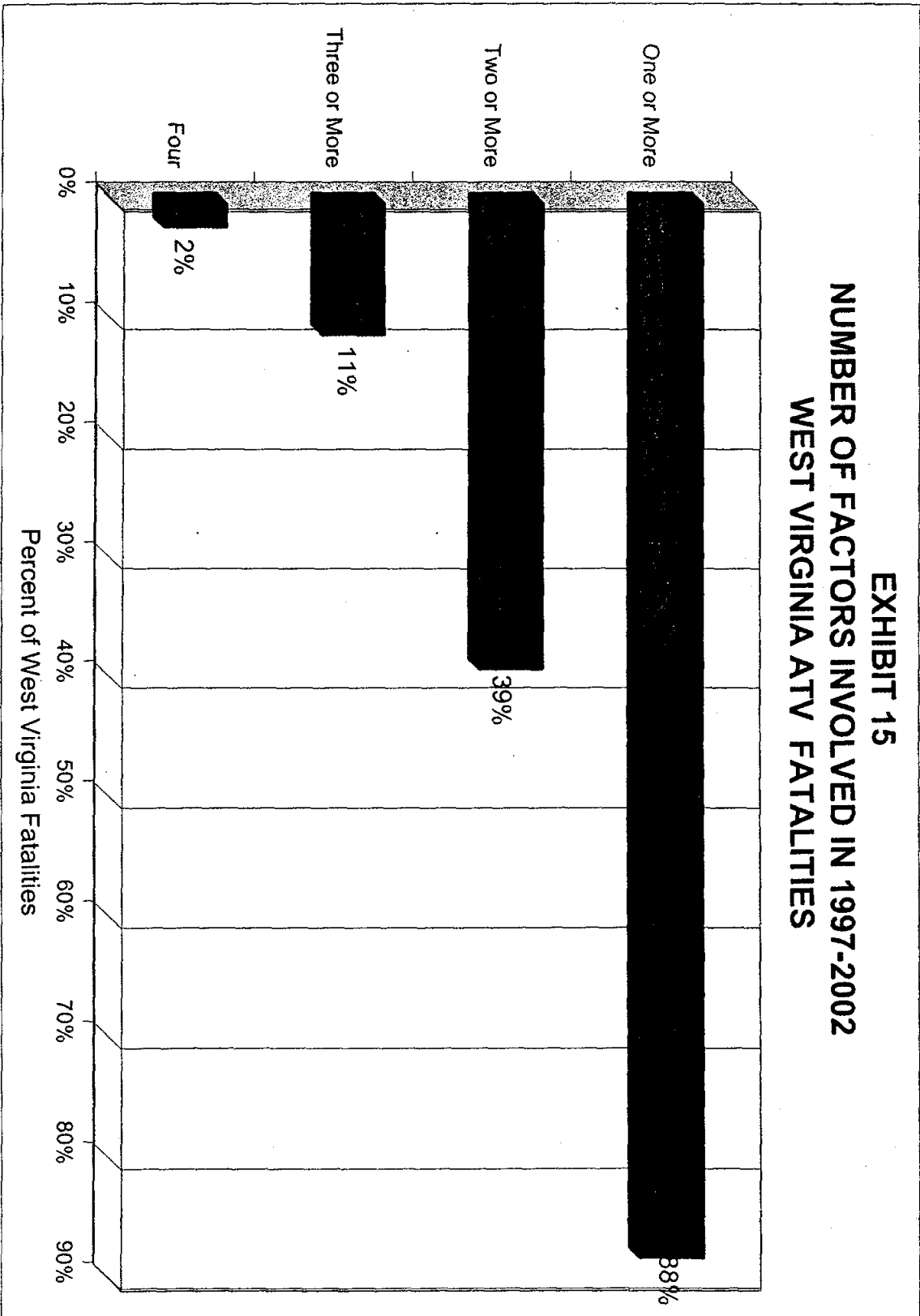


\*Significant at 95% confidence level.

**EXHIBIT 14**  
**FACTORS INVOLVED IN 1997-2002**  
**WEST VIRGINIA ATV FATALITIES**



**EXHIBIT 15**  
**NUMBER OF FACTORS INVOLVED IN 1997-2002**  
**WEST VIRGINIA ATV FATALITIES**



## **Outline for Presentation/Testimony During**

### **ATV Hearing Morgantown, West Virginia June 5, 2003**

*Jim Helmkamp, Ph.D.  
Center for Rural Emergency Medicine  
West Virginia University*

#### **I. Introduction**

- Characteristics and uses of ATVs
- National trends in deaths and injuries
- West Virginia compared to other states
  - Rate comparisons (population and ATV sales)
  - Safety legislation

#### **II. West Virginia's experience 1990-2002**

- ATVs and West Virginia culture
- Historical trends
- Statewide distribution of fatalities
- Age and gender
- ATVs and children
  - passengers
  - helmets
  - trauma site
  - incident event and location
- Estimate annual costs of ATV deaths
- Non-fatal injuries
- Epidemiological perspective

#### **III. Actions being taken**

- State level
  - Healthy People 2010
  - Legislation
- Community level
  - local efforts
  - municipal ordinances
- In the home
  - parent and adult responsibility
  - kids on adult ATVs

#### **IV. Conclusions**

- Data is only part of the answer
- Reasonable legislation
- Attitudes, perceptions, and reality

## ATV Safety – How do we Translate the Numbers into Action?

*Jim Helmkamp, PhD*

ATV Hearing  
Sponsored by: U.S. Consumer Product Safety Commission  
Hosted by: Center for Rural Emergency Medicine  
Health Sciences Center, West Virginia University  
June 5, 2003

1

## Characteristics of ATVs

- ◆ Weigh 300-600 pounds
- ◆ Oversized, low-pressure (4-5psi) tires
- ◆ Straddle seat
- ◆ Operator must be “rider-active”
- ◆ Handle bar for steering
- ◆ Motorized, gasoline-powered
- ◆ Intended for use off-road and on non-paved surfaces

2

## ATVs are often driven on

- ◆ Private property such as farms, homes
- ◆ Woods and forests
- ◆ Streets and highways
- ◆ Driveways
- ◆ Gravel and dirt roads
- ◆ Bike trails

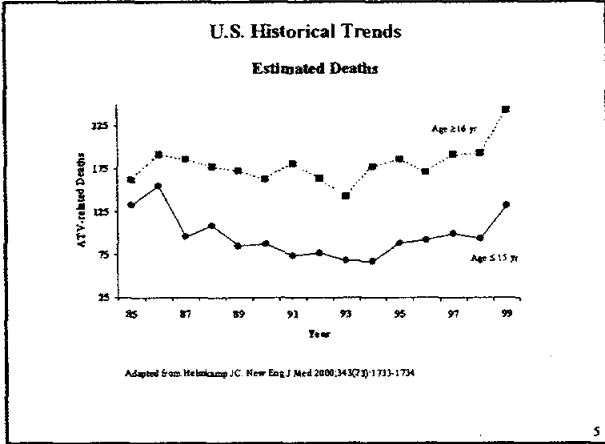
*...but are designed primarily for off-road use*

3

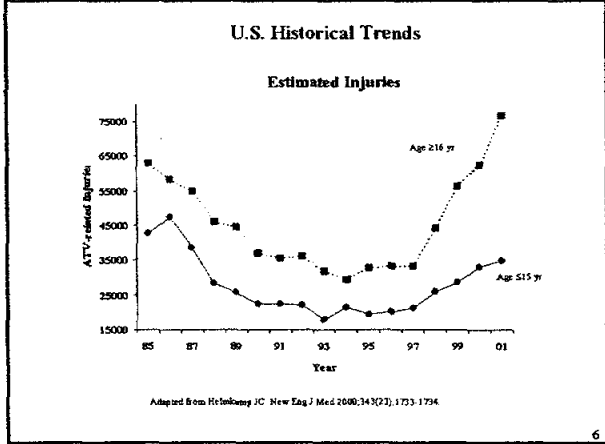
## So what's the problem with ATVs?

Let's look at the results of ATV crashes in terms of counts and rates and not from the equipment or machine perspective

4



5



6

**How does West Virginia's experience fit into the overall picture?**

7

### West Virginia's ATV Fatality Experience Compared with Contiguous States

	1982-2001	National Rank	Proportion Occurring in Past 5 Years
Pennsylvania	264	2	33%
West Virginia	194	6	54%
Kentucky	168	8	49%
Ohio	124	15	38%
Virginia	84	22	37%
Maryland	25	44	27%
U.S.	4,541	-	32%

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**Age and Gender-specific Fatality Rates for WV,  
Surrounding States, and the U.S., 1990-1999**

State	Number of Deaths	Rate per 100,000
<i>Helmet and other Safety Equipment Required</i>		
Pennsylvania	157	0.12
Kentucky	85	0.23
Virginia	41	0.86
<i>Machine-related Safety Requirements</i>		
Maryland	9	0.02
Ohio	51	0.05
<i>No Safety Requirements</i>		
West Virginia	124	0.76
United States	1,226	0.89

Adapted from Heinikamp *Am J Pub Health* 2001;91(11):1792-1795.

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**Another Perspective on Rates Based on ATV Sales Information:  
1996-2000**

State	Deaths*	Total ATVs Sold**	Rate per 100,000 ATVs Sold
<i>Helmet and Machine Safety Requirements: age restrictions, registration</i>			
Kentucky	76	79,220	95.9
Maryland	12	17,072	70.3
Ohio	41	83,129	49.3
Pennsylvania	70	98,136	71.3
Virginia	31	41,913	74.0
<i>No regulation on ATV use</i>			
West Virginia	95	54,989	172.8
United States	1,441	2,139,253	67.4

\* U.S. Consumer Product Safety Commission

\*\* Approximately 93% of estimated sales by major ATV manufacturers, as reported by the Specialty Vehicle Institute of America and the U.S. Consumer Product Safety Commission

Adapted from Heinikamp *WV Medical J* 2002;98(1):24-25.

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**Let's look at the West Virginia ATV deaths  
in a little more detail**

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**ATVs are an important part of West Virginia culture**

- ◆ Farming, mining, and other occupations
- ◆ Hunting
- ◆ Law enforcement
- ◆ Competitive riding
- ◆ Off-road rallies, fairs and rodeos
- ◆ Recreation
- ◆ 4-H and FFA clubs

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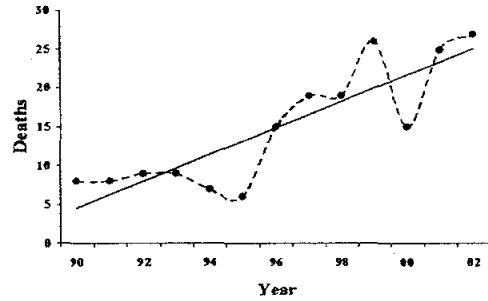
Uneven and unpredictable terrain...



put unskilled ATV operators at increased risk of injury

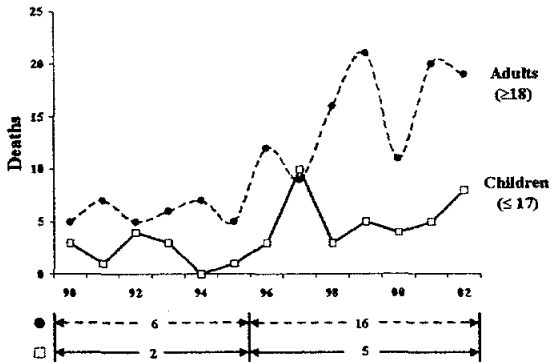
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West Virginia Historical Trends



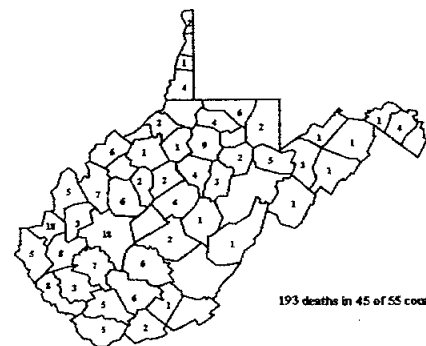
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West Virginia Historical Trends



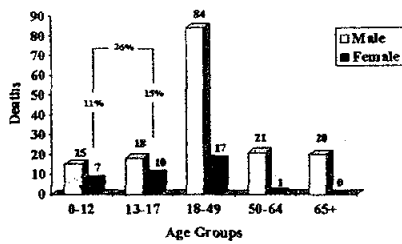
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Statewide Distribution of ATV-related Deaths: 1990-2002



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**Age and Gender Distribution of WV ATV Deaths:  
1990-2002, N=193**



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**Age and Gender Comparisons**

	<u>Male</u>	<u>Female</u>
Range	2 to 86 years	2 to 56 years
Most common age at death	18	16
Mean age at death	36	18
Years of Productive Life Lost		
≤ 17	65	63
≥ 18	33	51
All ages	39	57

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**What's the Problem with ATVs and Kids in West Virginia?**

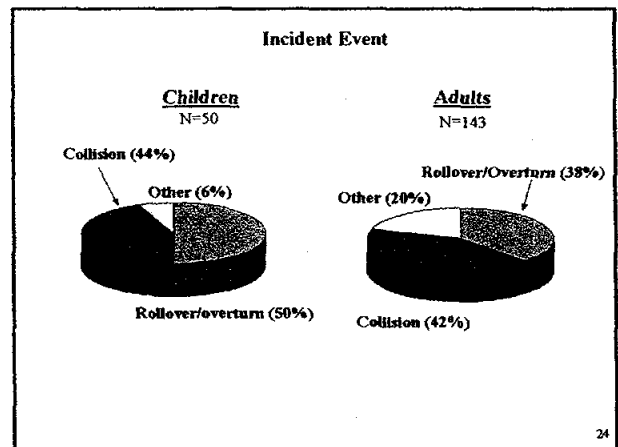
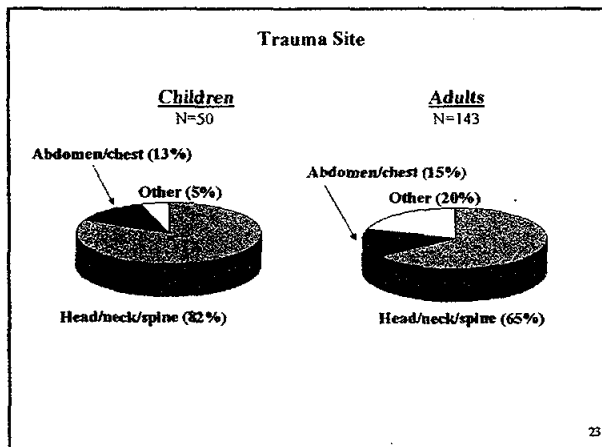
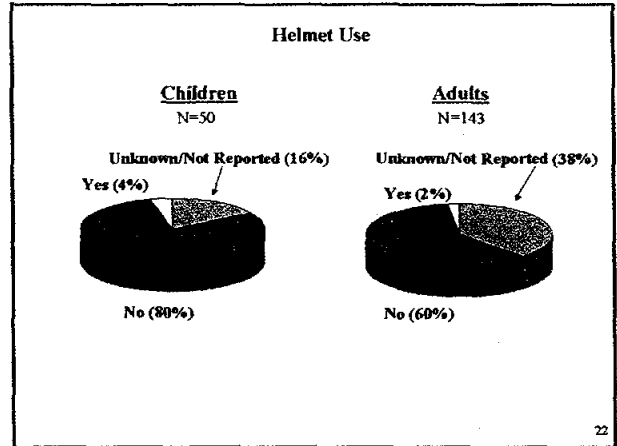
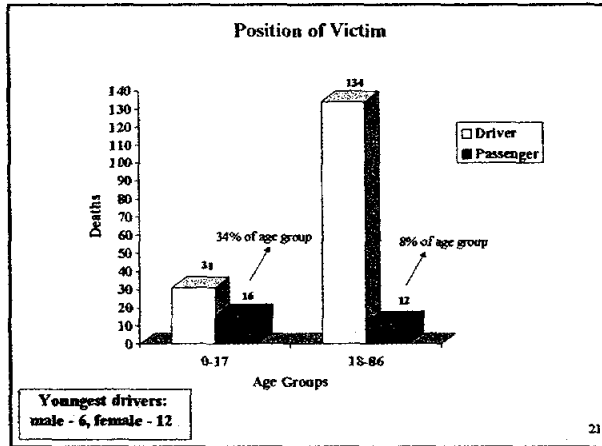
- ✓ 26% of ATV-related deaths (50 of 193) are children 17 years of age or younger.
  - 21% in boys (33 of 158)
  - 49% in girls (17 of 35)
- ✓ 34% of youth ATV deaths are to passengers compared to 9% of adult ATV deaths.
- ✓ The rate of death among children is significantly higher in WV than in the U.S.
  - 5 times for boys
  - 11 times for girls
- ✓ Fewer than 5% of riders wore helmets.

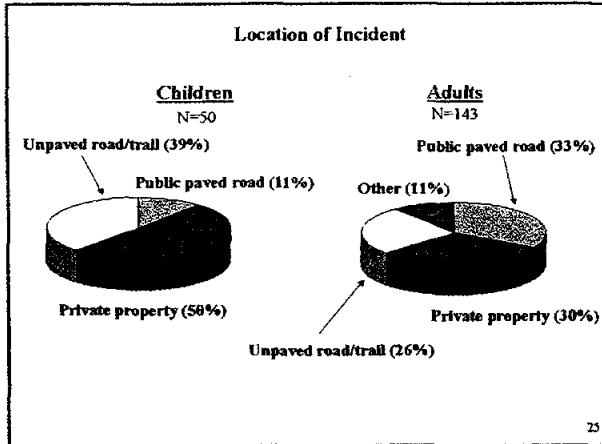
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**Some of the 50 kids who have died in ATV crashes since 1990**

**Inwood boy state's fifth child fatality**  
 Girl, 11, killed in ATV crash  
 Teen dies after vehicle hits tree  
**Pregnant woman dies in ATV wreck**  
**Local Teen Dies in ATV Accident**  
 Six-year-old dies in ATV wreck

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**An estimated 150,000 ATV riders in West Virginia  
(about 1 rider for every 9 citizens)**

Fatal victims are predominantly:

- ◆ Male, operating his ATV on the weekend without a helmet and with passengers.
- ◆ They have sustained head injury when ATV overturned while riding on a paved surface.
- ◆ They may have been driving at excessive speeds and under the influence of alcohol, and
- ◆ Their ATV probably was not titled with DMV.

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**Estimated Annual Costs for West Virginia ATV-related  
Deaths: 1990-2002**

Comprehensive Costs – hospital care, emergency services, vocational rehabilitation, insurance, legal/court costs, wages, property damage. Model based on the 1994 Federal Highway Administration/National Highway Transportation Safety Administration MV Death Model: \$2,854,500 per death (assuming ATV crash is a motor vehicle crash).

**Children:** 4 average deaths per year X \$2,854,500 = **\$11,418,000**

**Adults:** 11 average deaths per year X \$2,854,500 = **\$31,399,500**

**Total:** 15 average deaths per year X \$2,854,500 = **\$42,817,500**

Adapted from Helmkamp, *WV Medical J* 2002;98:24-25

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**We know how many deaths, but what about non-fatal injuries  
in West Virginia?**

Comparing estimated national deaths and injuries for 1998-2000 results in a death-to-injury ratio that indicates, on average:

for every ATV-related death, about 192 persons seek care in the ED for serious ATV injuries.

Applying this ratio to West Virginia's 60 ATV deaths occurring from 1998-2000, it is estimated that there have been **11,520** serious injuries requiring ED care.

*However, we do not have a standardized and accurate means within West Virginia to verify this estimate.*

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From an epidemiological perspective,

ATV-related injuries and fatalities are not Accidents

- ◆ They have known risk factors
- ◆ They are generally predictable
- ◆ Most are PREVENTABLE or their severity could easily be lessened

In reality however,

longstanding ATTITUDES, PERCEPTIONS, and PRACTICES are very difficult to overcome.


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What actions can we take now?

- At State Level
- At County and Community Level
- At Home


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At the State level



**Healthy People 2010/Injury Control Plan**

- ◆ Objective - pass helmet law (youth and adult)
- ◆ Objective - reduce death rate
- ◆ Objective - improve injury surveillance
- ◆ Objective - training and education
- ◆ Objective - operator licensing, decoupling, etc.



**Policy Changes**

- ◆ Introduce and pass reasonable legislation

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**Proposed bills in State Legislature**

1999 – SB 199  
2000 – SB 149, 196; HB 2217, 4022, 4174  
2001 – SB 18, 50, 85, 199, 215; HB 2017, 2287, 2438, 2500  
2002 – SB 190, 228, 227; HB 4051, 4053

*None of these bills got out of committee!*

2003 – Gov Wise involvement, viable attempts (SB 9, 104, 128, HB 2121, 2431) but very weak joint compromise → defeated

2004 – ??

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### Why is it so difficult to pass ATV legislation?

- ◆ Turf issues - who will enforce what?
- ◆ Freedom issues vs. public health burden
- ◆ Risk vs. safety
- ◆ Insensitivity and indifference
- ◆ Inflexibility
- ◆ Public health vs. politics
- ◆ Attitudes and perceptions
- ◆ Arrogance
- ◆ Constituent influence

### In the Community



- ◆ Training
- ◆ Education
- ◆ 4H
- ◆ OpEd pieces
- ◆ Partnerships

#### Municipal Ordinances – limiting use of ATVs

2001 – Mannington, Grafton, Buckhannon, Fairmont, Fairview, St. Albans, Oak Hill, Elkins, Philippi, Monongah, Logan

2002 – St. Marys, Morgantown, Reedsville, Parkersburg, Glenview

2003 – Clarksburg

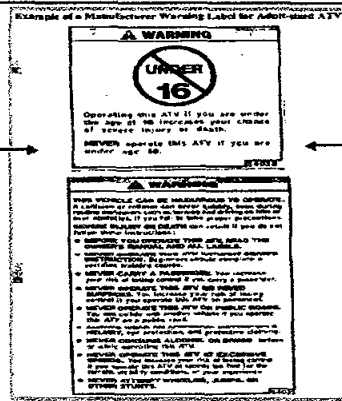
### At home



- Parents and adults
- ◆ Lead by example
  - ◆ Use common sense
  - ◆ Be responsible
  - ◆ Abuse and neglect?



No helmets and carrying passengers



Keep kids off ATVs that are too big for them >> "rider fit"