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Consumer Federation of America

March 14, 2003

Secretary Todd Stevenson
Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, DC 20207

Dear Secretary Stevenson,

Consumer Federation of America (CFA) is submitting this comment to supplement CFA's previous comment letter of December 12, 2002, and to supplement the information included in our petition, CP-02-4/ HP-02-1, requesting that U.S. Consumer Product Safety Commission ban the sale of adult-size four-wheel all-terrain vehicles ("ATVs") sold for use by children under sixteen years of age.

CFA appreciates the opportunity to offer supplementary comments in response to the February 2003 *All-Terrain Vehicle 2001 Injury and Exposure Studies* (hereinafter "study") released by CPSC. This study confirms previous CPSC data, which has consistently shown that more and more children each year are being physically harmed while riding ATVs that are too large, too heavy, too complex, and too powerful for them to operate safely. Significantly, this study confirms the need for CPSC to act to reverse the increasing numbers of ATV injuries.

In assessing trends between 1997 and 2001, the Commission's study concludes that the number of ATV-related injuries increased by 104 percent to 111,700. While the number of riders, including passengers and drivers, increased 36% to 16.3 million and the number of ATVs in use increased 40% to 5.6 million, the injuries per 1,000 drivers, riders and ATVs increased at a faster rate. Specifically, between 1997 and 2001, injuries per 1,000 drivers went up 50.7% from 4.5 to 6.8, injuries per 1,000 riders went up 62% from 3 to 4.9, and injuries per 1,000 ATVs went up 46.4% from 13.7 to 20. This data confirms that injuries are increasing significantly even when taking into account the increase in ATV sales, riders and usage.

The CPSC study demonstrates that ATV injuries are caused by bigger and faster ATVs. For example, injuries caused by ATVs with engines greater than 400 cc, increased by 567 percent to 24,437. This increase is more than twice as great as the increase in the number of these ATVs in use during this period.

CPSC's study unfortunately confirms that children under sixteen years old continue to suffer disproportionately from ATV injuries. Consider the following:

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- The number of injuries suffered by children under 16 increased 57 percent to 29,013 while their percentage of the riding population grew by 13 percent or about one-fourth as much.
- Children under 16 continue to suffer significantly more injuries than older riders. Children suffered nearly twice as many injuries as older riders when analyzed based on a fixed number of ATVs.
- Injuries per 1,000 drivers under 16 increased 39.1% from 7.3 to 10.2.
- "The least experienced group also had the highest percent increase in the number of drivers from 1997 to 2001. The large increase in the riskiest group corresponds to a large percent increase in injuries." (table 7)
- In 2001, children under 16 suffered 22,768 injuries on ATVs with engine sizes greater than 90cc compared to 3,429 on smaller machines – therefore, about 87% of children under 16 were injured on adult-size ATVs.
- 1.1 million children under 16 in 2001 are estimated to be driving adult-size ATVs.
- Children under 16 continue to suffer much greater number of injuries than older drivers on large machines. For children younger than 16 years old, their injuries per 1,000 drivers for an ATV of 91 to 199 cc was 22.4 versus 5.5 for those 16 and older. For children younger than 16 years old, their injuries per 1,000 drivers for an ATV of 200cc and over was 20.2 versus 9.5 for those 16 and older.

While CPSC's study provides comprehensive data on ATV injuries and exposure through 2001, anecdotal data also shows that death and injuries have continued unabated over the past year and in particular since December of 2002 when the comment period was extended. Based upon a limited search of newspaper and television reports since December 10, 2002, the following articles illustrate the pervasive and harmful impacts of ATVs upon consumers and children specifically.

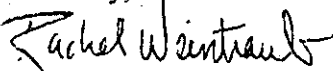
- In Graham, North Carolina, Matthew Hockaday, 16 years old, died after he was thrown from an ATV driven by his friend, also a teenager. A third 16-year-old boy was thrown from the ATV as well and did not suffer serious injuries. *The Associated Press*, "Teenager Charged in ATV Death," *The News and Observer*, March 14, 2003.
- Seventh-grader Randall Price died Sunday as a result of injuries that he sustained while driving an all-terrain vehicle on his family's property in Riner, Virginia. "RINER BOY DIES IN ATV ACCIDENT," *The Roanoke Times* March 11, 2003, page: NRV5.
- In Gower Corner, Florida, Kaitlin Bolin, an 8-year-old, second-grader died from her injuries sustained when the ATV she was riding and her 14-year-old sister was driving crashed. *James Thorner*, "Girl dies from ATV accident injures," *St. Petersburg Times*, February 21, 2003.

- In Milam County, Texas, 15-year-old Michael Eulenfeld died when the ATV he was driving crashed into a barbed wire fence. *Steven Kreytak, "Teen driving four-wheeler hits fence, dies," Austin American-Statesman, February 10, 2003, p. B1.*
- In New Mexico, there were more motorcycle and ATV deaths than in past years. *D'Val Westphal, "Good News, Bad News," Albuquerque Journal, January 28, 2003, p. D1.*
- On January 4, 2003, Justine Lingren, an 11-year-old, from Maple Grove, Minnesota, died when the ATV she was riding with her two young cousins lost control. *Lisa Donovan, "11-year-old's ATV death underscores the need for safety precautions," St. Paul Pioneer Press, January 12, 2003, p. 5B.*
- Joshua Dean Mattson, a 15-year-old boy from Waycross, Georgia, died while driving an ATV onto a highway. He was the second southern Georgia teenager killed this year in an ATV incident. *Teresa Stepzinski, "ATV driver dies of injuries- Ware County teenager involved in highway collision with oncoming car," The Florida Times-Union, December 31, 2002, p. B1.*

While anecdotal, and merely a small sampling of reported ATV deaths since December 2002, these tragic incidents add to the data presented by CPSC's study. Together they tell the story of a nationwide epidemic in which too many children are killed or seriously injured while riding on all-terrain vehicles.

CFA's petition, CP-02-4/ HP-02-1, requests that the U.S. Consumer Product Safety Commission ban the sale of adult-size four-wheel all-terrain vehicles ("ATVs") sold for use by children under sixteen years of age. CFA urges CPSC to reverse this deadly status quo by approving our petition.

Sincerely,



Rachel Weintraub
Assistant General Counsel



Consumer Federation of America

FAX

DATE: 3/14/03
TO: Sec. Todd Stevenson
LOCATION: CPSC
PHONE: _____ FAX: (301) 504-0127
FROM: Rachel Weentrants
TOTAL NUMBER OF PAGES INCLUDING THIS COVER SHEET: 4

IF YOU HAVE ANY PROBLEMS RECEIVING THIS MESSAGE, PLEASE CALL US
AT (202) 387-6121 FAX (202) 265-7989

Please find my comments on CFA's ATV
petition. (CP-02-4 / HP-02-1)

Thank you,
[Signature]



U.S. Public Interest Research Group

National Association of State PIRGs

13 December 2002

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Secretary Todd Stevenson
 Office of the Secretary
 U.S. Consumer Product Safety Commission
 Washington, DC 20207

Dear Secretary Stevenson,

The U.S. Public Interest Research Group (U.S. PIRG) is submitting this comment in favor of petition CP-02-4/ HP-02-1, which requests that the U.S. Consumer Product Safety Commission ban the sale of adult-size four wheel all-terrain vehicles ("ATVs") sold for the use of children under sixteen years of age. U.S. PIRG is the national lobbying organization for the state PIRGs. State PIRGs are non-profit, non-partisan public interest advocacy groups active around the nation.

We urge CPSC to take action in response to the current system that has failed to protect American consumers. The state PIRGS have been working on ATV safety issues for many years and are troubled by the current situation. The current voluntary approach, put into effect in 1998, through ATV action plans, has proven inadequate to curb the rising numbers of deaths and injuries caused by ATVs.

CPSC is well aware of the disconcerting statistics that compel a new approach to ATV safety:

- ◆ From 1982 to 2001, at least 4,541 adults and children have been killed in ATV incidents.
- ◆ From 1993 to 2000, ATV-related deaths increased 159 percent from a minimum of 211 to at least 547.
- ◆ From 1993 to 2001, the number of injuries caused by ATV-related incidents more than doubled to 111,700.
- ◆ During this same period, the number of injuries caused solely by incidents involving four-wheel ATVs increased by 211 percent to nearly 100,000.
- ◆ The risk of injury to riders of four-wheel ATVs today (261.8 injuries per 10,000 ATVs) is nearly as great as it was in 1988 (275.8 injuries per 10,000 ATVs).
- ◆ Individuals injured by ATVs require hospitalization four times more frequently than the average for all other consumer products.

This data proves that the risk of injury to riders of four-wheel ATVs is almost the same as it was when "three-wheelers" were banned in 1988. At that time, CPSC



U.S. Public Interest Research Group

National Association of State PIRGs

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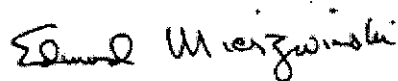
was so concerned about the rate of injury and death that it brought five ATV manufacturers to court. While we were ultimately opposed to the final settlement resulting from that lawsuit, we were encouraged that CPSC initiated strong action to protect consumers. We urge CPSC to again take strong steps to protect consumers, especially in light of the fact that the current approach is failing to stem increasing ATV-related deaths and injuries.

The current approach, in which ATV manufacturers police themselves, is ripe with conflicts of interest. Most significant of which is that the ATV industry seeks to sell as many ATVs as possible to maximize profits while also supposedly encouraging consumers not to purchase adult-size ATVs for their children under sixteen. The conflict is clear: discouraging the purchase of adult-size ATVs for children under sixteen reduces sales and the subsequent profits gained from such sales.

The sad fact is that this conflict of interest results in great injury to those under sixteen-years-old. In a 1998 study, CPSC found that nearly 96 percent of the injuries to children under sixteen-years-old occurred while they were riding adult-size ATVs. Children under sixteen also suffer more severe injuries than older riders, in fact ATV riders under sixteen are 4.5 times more likely than older riders to receive injuries requiring emergency room treatment. While children under sixteen make up approximately 14 percent of all ATV riders, they incur 37 percent of all injuries and 38 percent of all fatalities. From 1982 to 2001, 1,714 children under sixteen-years-old were killed in ATV-related accidents. Of those, 799 were children under age twelve. For children under sixteen, the estimated number of ATV-related injuries increased 94 percent between 1993 and 2001 to 34,800.

A promising solution to this grave public health crisis has already been proposed and CPSC has the opportunity to take important steps to protect children. The U.S. Consumer Product Safety Commission should ban the sale of adult-size four-wheel ATVs for use by children under sixteen. We urge CPSC to act favorably on this petition and make the right choice for America's children.

Sincerely,



Edmund Mierzwinski
Consumer Program Director



led by
ANMED HEALTH SYSTEM

MEMBER OF THE SAFE Anderson County SAFE KIDS Coalition
ANDERSON AREA MEDICAL CENTER • EMERGENCY DEPARTMENT
800 NORTH FANT STREET, ANDERSON, SC 29621 • 864-224-0251
NOV 13 10 11 AM '02

ATV
CMM 10

December 5, 2002

Todd Stevenson
Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20207

**RE: Petition to Ban All-Terrain Vehicles for Use by Children Under Age 16:
CP-02-4/HP-02-1**

Dear Mr. Stevenson:

On behalf of the Anderson County SAFE KIDS Coalition, I am writing to support a petition, submitted to the U.S. Consumer Product Safety Commission (CPSC) by the Consumer Federation of America (CFA) and other parties, which requests a ban of adult all-terrain vehicles (ATVs) for use by children under the age of 16. As ATVs pose an unreasonable risk of death and injury to children, Anderson County SAFE KIDS Coalition supports most of the provisions of this petition.

As you may know, Anderson County SAFE KIDS Coalition is a member coalition of the National SAFE KIDS Campaign. We were established in 1999 and are led by Anderson Area Medical Center, a Level II Trauma Center. Our community partners include law enforcement, fire services, EMS, schools, child care centers, public health practitioners, and parents and caregivers concerned with preventing unintentional pediatric injury. While we have enjoyed a great deal of success in raising community awareness on the public health burden of injury, education alone cannot stem the rising tide of childhood injuries seen in the Emergency Department at our hospital. We need legislative help.

Anderson County SAFE KIDS Coalition believes that ATVs should not be operated by children ages 15 and under. ATVs are inherently difficult for adults to operate and beyond the developmental capability of children to control. This concept, coupled with the increased number of associated injuries and fatalities in our community, show that there are inherent dangers to children driving adult ATVs. In fact, many of the conclusions found in the CPSC's most recent research (*Consumer Product Safety Commission, Annual Report: 2001 All-terrain Vehicle [ATV]-related Deaths and Injuries*, August 2002) clearly demonstrate that there is presently a substantial risk of death and injury. Death and injury that was to be addressed by consent decrees, action plans and consumer education and labeling. Significantly, between 1982 and 2001, 1,714 children under age 16 – including 799 under the age of 12 – were killed in ATV incidents. Furthermore, between 1993 and 2001, the number of ATV-related injuries by children under age 16 increased 94 percent to 34,800. The CPSC data also revealed that while only 14 percent of all ATV riders were children under the age of 16, these children disproportionately suffered approximately 37 percent of all injuries and 38 percent of total fatalities between 1985 and 2001. Locally in Anderson County in the past year, we have had 43 children under age 14 visit the Emergency Department for injuries suffered while riding ATVs. Additionally, there have been two young children fatally injured when they drove their ATV into the path of an oncoming car on rural county roads.

In our view, banning ATVs for children would not require removal of the products from the marketplace, but simply preclude ATV manufacturers and retailers from marketing their products to children. Additionally, ATV salespeople would be required to warn potential purchasers about the dangers of the product and ask parents if the ATV was being bought for a child under age 16. These measures, if properly enforced, would pass on vital safety information to parents as well as help to prevent child ATV-related incidents from occurring in the first place by preventing the sale of the vehicle if it is known or reasonably believed that the product will be used by children under 16. Additionally, Anderson County SAFE KIDS Coalition supports increased educational efforts, labeling, and instructions – targeted at current owners of ATVs to remind them of the potential dangers of these devices.

If you would like any addition information on Anderson County SAFE KIDS or our affiliation with the National SAFE KID Campaign, please don't hesitate to contact me at (864) 224-0251.

Sincerely,

A handwritten signature in cursive script that reads "Dwayne S. Smith".

Dwayne S. Smith, M.Ed., C.H.E.S.
Coordinator, Anderson County SAFE KIDS Coalition

ATV count

31

OFFICE OF THE SECRETARY
NOV 29 13 41 09

Peter Zadis

115-64 220 Street , Jamaica, New York 11411-1161

November 29, 2002 04:02 PM

Office of the Secretary Consumer Product Safety Commission
Consumer Product Safety Commission
Washington, DC 20207

Subject: Petition CP-02-4/HP-02-1, Petition on ATVs

Dear Office of the Secretary Consumer Product Safety Commission:

I urge the Commission to issue a regulation that prohibits the sale of adult-size four-wheel all-terrain vehicles (ATVs) for use by children under 16 years old as requested in the above referenced petition. The growing number of ATV-related injuries and fatalities demonstrates that the Commission must take proactive steps to address a serious product safety problem.

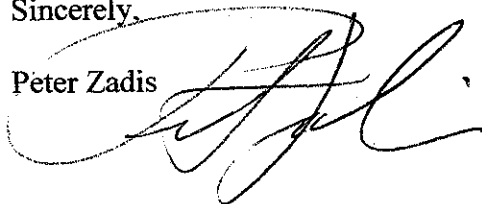
The Commission is well aware of the rising tide of injuries and deaths caused by ATV-related accidents. The consistent, and troubling, upward trend throughout the 1990s demonstrates that the Commission can no longer defer to the ATV industry when it comes to safety. The current voluntary approach, embodied in the *ATV Action Plans* is failing in every respect. The core tenet of this approach is the pledge by manufacturers not to sell adult-size ATVs (defined as machines with engines larger than 90 cc) for use by children under 16. A recent investigation by Good Morning America (GMA) raises serious questions about the effectiveness of this approach.

As reported on November 8, GMA visited or called 10 randomly selected ATV dealers nationwide and asked salespeople to recommend an ATV for a 14-year-old child. Nine of the ten dealerships recommended an adult-size ATV with full knowledge that it was being purchased in violation of the industry's age limits. Many dealers recommended the adult-size machines without caveats while one explained the age restrictions, then proceeded to tell the reporter how to evade them.

The evidence available to the Commission through annual surveys and more comprehensive studies proves that the industry-dominated approach to ATV safety is ineffective. It is time to set a new direction at the national level. This effort must be led by the Commission and begins with the issuance of a regulation that prohibits the sale of adult-size four-wheel ATVs for use by children under 16.

Sincerely,

Peter Zadis



Cleveland County
**SAFE
KIDS**

Coalition

A member of the
National SAFE KIDS Campaign

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U.S. CONSUMER PRODUCT SAFETY COMMISSION
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Steering Committee

December 2, 2002

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Sheila Sisk
Betsy Szumski
Chief Charlie Vanhoy
Sally Wills

Todd Stevenson
Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20207

**RE: Petition to Ban All-Terrain Vehicles for Use by Children Under Age 16:
CP-02-4/HP-02-1**

Dear Mr. Stevenson:

On behalf of the Cleveland County SAFE KIDS Coalition, I am writing to support a petition, submitted to the U.S. Consumer Product Safety Commission (CPSC) by the Consumer Federation of America (CFA) and other parties, which requests a ban of adult all-terrain vehicles (ATVs) for use by children under the age of 16. As ATVs pose an unreasonable risk of death and injury to children, Cleveland County SAFE KIDS Coalition supports most of the provisions of this petition.

As you may know, Cleveland County SAFE KIDS Coalition includes representatives from schools, local law enforcement organization, fire and emergency medical services as well as public health and local businesses. We have recently discussed the apparent increase in ATV associated injuries and were very encouraged to learn about this national effort.

Cleveland County SAFE KIDS Coalition believes that ATVs should not be operated by children ages 15 and under. ATVs are inherently difficult for adults to operate and beyond the developmental capability of children to control. This concept, coupled with the increased number of associated injuries and fatalities, show that there are inherent dangers to children driving adult ATVs. In fact, many of the conclusions found in the CPSC's most recent research (*Consumer Product Safety Commission, Annual Report: 2001 All-terrain Vehicle [ATV]-related Deaths and Injuries, August 2002*) clearly demonstrate that there is presently a substantial risk of death and injury. Death and injury that was to be addressed by consent decrees, action plans and consumer education and labeling. Significantly, between 1982 and 2001, 1,714 children under age 16 – including 799 under the age of 12 – were killed in ATV incidents. Furthermore, between 1993 and 2001, the number of ATV-related injuries by children under age 16 increased 94 percent to 34,800. The CPSC data also revealed that while only 14 percent of all ATV riders were children under the age of 16, these children

disproportionately suffered approximately 37 percent of all injuries and 38 percent of total fatalities between 1985 and 2001. Our statistics are similar in that 128 people died in ATV accidents in North Carolina from 1982-1999, an average of eight a year. From 1999-2001, there were 53 such fatalities, an average of nearly 18 a year. At least three people were killed in ATV wrecks in Northwest North Carolina during a four months period

In our view, banning ATVs for children would not require removal of the products from the marketplace, but simply preclude ATV manufacturers and retailers from marketing their products to children. Additionally, ATV salespeople would be required to warn potential purchasers about the dangers of the product and ask parents if the ATV was being bought for a child under age 16. These measures, if properly enforced, would pass on vital safety information to parents as well as help to prevent child ATV-related incidents from occurring in the first place by preventing the sale of the vehicle if it is known or reasonably believed that the product will be used by children under 16. Additionally, Cleveland County SAFE KIDS Coalition supports increased educational efforts, labeling, and instructions – targeted at current owners of ATVs to remind them of the potential dangers of these devices.

If you would like any addition information on Cleveland County SAFE KIDS Coalition or our affiliation with the National SAFE KIDS Campaign, please don't hesitate to contact me (Judy Hawkins) at 704-487-3182 or Dr. Mike Barringer at mikebarringer@carolina.rr.com.

Sincerely,



Michael Barringer, MD
Chairman, Cleveland County SAFE KIDS Coalition
Trauma Director, Cleveland Regional Medical Center



Judy Hawkins, RN
Education Coordinator
Cleveland Regional Medical Center

SECRET

Helen Magnavita

656 W. Washington Street , Slatington, Pennsylvania 18080-1641

December 07, 2002 05:36 AM

Office of the Secretary Consumer Product Safety Commission
Consumer Product Safety Commission
Washington, DC 20207

Subject: Petition CP-02-4/HP-02-1, Petition on ATVs

Dear Office of the Secretary Consumer Product Safety Commission:

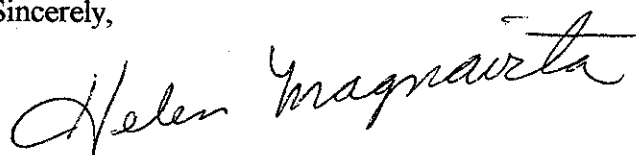
I urge the Commission to issue a regulation that prohibits the sale of adult-size four-wheel all-terrain vehicles (ATVs) for use by children under 16 years old as requested in the above referenced petition. The growing number of ATV-related injuries and fatalities demonstrates that the Commission must take proactive steps to address a serious product safety problem.

The Commission is well aware of the rising tide of injuries and deaths caused by ATV-related accidents. The consistent, and troubling, upward trend throughout the 1990s demonstrates that the Commission can no longer defer to the ATV industry when it comes to safety. The current voluntary approach, embodied in the *ATV Action Plans* is failing in every respect. The core tenet of this approach is the pledge by manufacturers not to sell adult-size ATVs (defined as machines with engines larger than 90 cc) for use by children under 16. A recent investigation by Good Morning America (GMA) raises serious questions about the effectiveness of this approach.

As reported on November 8, GMA visited or called 10 randomly selected ATV dealers nationwide and asked salespeople to recommend an ATV for a 14-year-old child. Nine of the ten dealerships recommended an adult-size ATV with full knowledge that it was being purchased in violation of the industry's age limits. Many dealers recommended the adult-size machines without caveats while one explained the age restrictions, then proceeded to tell the reporter how to evade them.

The evidence available to the Commission through annual surveys and more comprehensive studies proves that the industry-dominated approach to ATV safety is ineffective. It is time to set a new direction at the national level. This effort must be led by the Commission and begins with the issuance of a regulation that prohibits the sale of adult-size four-wheel ATVs for use by children under 16.

Sincerely,



SECRET

Burnis E Tuck

DEC 13 P 1:02

8852 N. Chance Ave., Fresno, California 93720-1947

December 06, 2002 8:11 PM PST

Office of the Secretary Consumer Product Safety Commission
Consumer Product Safety Commission
Washington, DC 20207

Subject: Petition CP-02-4/HP-02-1, Petition on ATVs

Dear Office of the Secretary Consumer Product Safety Commission:

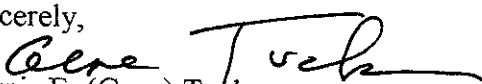
I strongly urge the Commission to issue a regulation that prohibits the sale of adult-size four-wheel all-terrain vehicles (ATVs) for use by children under 16 years old as requested in the above referenced petition. The growing number of ATV-related injuries and fatalities clearly demonstrates that the Commission must take proactive steps to address a serious product safety problem.

The Commission is well aware of the rising tide of injuries and deaths caused by ATV-related accidents. The consistent, and troubling, upward trend throughout the 1990s demonstrates that the Commission can no longer defer to the ATV industry when it comes to safety. The current voluntary approach, embodied in the *ATV Action Plans* is, predictably, failing in every respect. The core tenet of this approach is the pledge by manufacturers not to sell adult-size ATVs (defined as machines with engines larger than 90 cc) for use by children under 16. A recent investigation by Good Morning America (GMA) raises serious questions about the effectiveness of this approach.

As reported on November 8, GMA visited or called 10 randomly selected ATV dealers nationwide and asked salespeople to recommend an ATV for a 14-year-old child. Nine of the ten dealerships recommended an adult-size ATV with full knowledge that it was being purchased in violation of the industry's age limits. Many dealers recommended the adult-size machines without caveats while one explained the age restrictions, then proceeded to tell the reporter how to evade them.

The evidence available to the Commission through annual surveys and more comprehensive studies proves that the industry-dominated approach to ATV safety is ineffective. It is time to set a new direction at the national level. This effort must be led by the Commission and begins with the issuance of a regulation that prohibits the sale of adult-size four-wheel ATVs for use by children under 16.

Sincerely,


Burnis E. (Gene) Tuck

C

Child Fatality Review Board of the County of Summit

ATV summit 35

264 South Arlington St., Akron, Ohio 44306-1399 Phone: (330) 379-9094 Fax: (330) 379-1901

CPSC/OFFICE OF SECRETARY

2002 DEC 13 A 10:25

Participating Agencies:

Akron Fire Department

Akron Municipal Court

Akron Police Department

Akron Public Schools

Akron Regional Hospital Association

Children's Hospital Medical Center of Akron

General Counsel to the County Executive

SID Network of Ohio

Summit County Health Department

Summit County Children Services

Summit County Juvenile Court

Summit County Medical Examiner's Office

Summit County Mental Health Association

Summit County Fire Chiefs Association

Summit County Police Chiefs Association

Summit County Prosecutor's Office

Concerned Citizens:

Patrick McGrath
Janice Raynor
W. Michael Sweeney
Nancy Treichler

Chair:

Roger Hoover

Convened by:

Summit County Children Services

Executive Director:

Joseph W. White, Jr.

December 10, 2002

Secretary Todd Stevenson
U.S. Consumer Product Safety Commission
Washington, D.C. 20207

Re: Petition CP-02-4/HP-02-1, Petition on ATV's

Dear Secretary Stevenson:

The Child Fatality Review Board of the County of Summit in Akron, Ohio wishes to join with other organizations to petition the U. S. Consumer Product Safety Commission (CPSC) to ban the sale of adult size four-wheel All Terrain Vehicles (ATV's) for use by children under 16 years of age, because ATV's pose a risk of injury or death to children. A classic example of this risk recently occurred in Summit County when an ATV overturned causing the death of a six year-old boy who had previously driven the ATV without incident. On this particular occasion, mother remained in the house, as she felt the child was safe as he was accompanied by his nine-year-old brother and his nine-year-old friend.

Nearly 35,000 children under 16 years of age were treated in Emergency Rooms last year for ATV related injuries, nearly double the number only eight years ago. This is an unconscionable number of injuries and demands action from CPSC. Present prevention efforts are not meeting the need to stop the growing number of injuries and deaths among children related to ATV's. ATV operators younger than 16 years are 4.5 times more likely then 35-50 year old operators to require emergency treatment for ATV related injury.

ATV's have been on the market for over 30 years. Production of three-wheelers was stopped in 1988 when the number of recorded injuries topped 100,000. The design was changed to four-wheel ATV's, which was predicated on the belief that they would be safer. However, this has not proven to be the case. The number of incidents on the four-wheelers is currently as great as when the three-wheel ATV's were banned in 1988, particularly among the pediatric age children.

The CPSC estimates that 14% of ATV riders are children under 16 years of age, and that these children disproportionately account for 37% of all injuries and 30% of all deaths. CPSC research also estimates that between 1982 and 2001, 1,714

Petition on ATV's

December 10, 2002

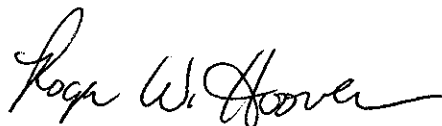
Page Two

children under sixteen years, including 779 younger than 12 years, died in ATV related incidents. The estimated number of children younger than 16 years experiencing related injuries increased 94% between 1993 and 2001 to 34,800. The petition before the CPSC focuses on adult size ATV's because approximately 95% of children younger than 16 years old injured on an ATV were riding on an adult size machine, which weighs a minimum of 550 pounds.

Every state has a formal automobile comprehensive system to promote safety on America's highways and roads which includes age limits, licensing and training requirements. And yet 24 states have no minimum age to drive an ATV, and 19 more allow children ages 8 to 12 years to drive them; 35 states do not require any safety training or testing to drive an ATV; and 42 states do not require a license to drive one. Children under 16 years do not possess the necessary skills, levels of judgment, strength, coordination and maturity to safely maneuver and control these powerful machines.

In summary, ATV's are responsible for an escalating number of child deaths and serious injury to children under 16 years of age. The members of the Child Fatality Review Board strongly recommend that the CPSC ban the use of adult-size ATV's by children under 16. Deaths due to usage of these vehicles are unquestionably an unnecessary cause of death for many of the nation's children. It is time for stronger federal regulation to help reverse the trend of ATV related injuries and deaths to children. America cannot countenance such a needless loss of precious resources - our children.

Sincerely,

A handwritten signature in cursive script that reads "Roger W. Hoover". The signature is written in dark ink and is positioned above the typed name.

Roger Hoover, Chair

RH:mm

ATV
36

To: The Commissioners,
The US Consumer Product Safety Commission

Ref: 67 FR64353
10 December 2002

Office of the Secretary
Room 501,
4330 East-West Highway,
Bethesda Maryland, 20814

From: William W. Walton

This letter supports the Petition filed by the Consumer Federation of America requesting the Consumer Product Safety Commission to ban the sale of new and used adult sized ATV's to be used by children under the age of 16 years as a hazardous substance. As an engineer at the CPSC for 20 years and Director of the Engineering Directorate for 10 years, I am unaware of any more incidious, hazardous product used by children. The product is "inherently unstable", very difficult to drive safely, and performance standards cannot address their design flaws. I have worked with the ATV industry, the Commission's engineering staff, ASTM, ANSI and other organizations and I can assure the Commissioner's that there is no performance standard that will adequately address the unreasoneable risk of injury and death associated with ATV's used by children under 16 years of age.

Children must be 16 years of age and licensed to drive a vehicle on a road. An ATV is far more dangerous to a young, unlicensed person than is a car. CPSC's data bases show this to be true.

I implore the Commissioners to recognize this unacceptable risk associated with ATV's and to give every American family with young children a present this Christmas and every future Christmas, This may be your last opportunity to provide safety to young children for this product.

I will be pleased to appear as a witness and answer your questions if the Commissioners wish.

Sincerely

William W. Walton

William W. Walton
1970 Stockslager Road
Oakland, Maryland 21550

CPSC/OFC OF THE SECRETARY
12/17/02

2002 DEC 16 A 10:26

ATV
coming 5/1

Sunday, December 01, 2002

Secretary Todd Stevenson
U.S. Consumer Product Safety Commission
Washington, DC 20207

RE: ATV Safety, Petition CP-02-4/ HP-02-1

Dear Secretary Stevenson:

In your deliberations on the banning of the use of adult size ATVs by children under the age of 16, I would like you to consider the story of my son Kyle.

We live on a modest piece of property in the country south of Salem, Oregon. When we first moved here a couple of years ago, Kyle was lost. No friends next door and no paved streets and sidewalks to ride his skateboard and bicycle. Fortunately we had found him a used, kid sized four wheeler. With cleared fields, logging roads and deer trails, Kyle had soon found his element. This was a boy who loved to ride. He took pride in wearing proper gear including a full face helmet, boots and gloves. He also took care of his equipment and was a very competent and cautious rider. After a year or so we purchased the modern equivalent of a horse, a brand new Arctic Cat, 250 cc, utility type four wheeler. I can't tell you how useful these things are in managing a piece of property like ours. It came with a video and a sticker on the fender that warned of the dangers of children under 18 years of age riding them. But soon, as he out grew his small four wheeler, Kyle began to experiment with the bigger unit. He was very careful with it, only using it in first or second gear when he had an adult close by. In over a year and a half, he never had even the slightest of accidents.

By now, Kyle had many friends at his new school, the best of which lived only two houses away. Zach also had a four wheeler and the two of them loved to ride together. They could go back and forth between houses by crossing a field and using a private, otherwise unused, dirt road. This was the one situation in which we let Kyle ride off our property without adult supervision. On May 6, 2002, at about 6:30 pm, Kyle was following Zach back to our house for dinner. He cut a corner on the dirt road. On a fairly gentle slope, we think he turned to avoid a small limb in his path. His four wheeler rolled up on its side, throwing Kyle down hill and then pinning him with the rear rack in the small of his back. By the time Zach had realized Kyle was no longer behind him and returned looking, Kyle who had been unconscious all along, had suffocated. Zach rushed to get his dad, who was only a few hundred feet away but by the time they got the four wheeler off Kyle, it was too late. Ironically, Kyle had been behind Zach because he had stopped to put on all his safety gear. Kyle was a good boy. He was almost 10 years and 9 months old. He was my son, my friend, my whole life.

My wife and I are not stupid people. But despite college degrees, despite warnings from

videos and stickers, we let our son ride that machine. ATV's are very fun to ride, they are very useful and they seem very stable and safe. Common sense would dictate that a child shouldn't be riding such a large machine. But it's all too easy to put that common sense, the warning stickers and the video out of your mind. That's why the current system in which manufacturers and dealers are in charge of communicating safety information is failing. It failed my family and fails many other families across the country. The U.S. Consumer Product Safety Commission has to do something to change this failed system.

I know that a law banning the use of adult sized four wheelers is not going to keep all kids off of these things in every situation. But it is what the U.S. Consumer Product Safety Commission should do. It sends the message that four wheelers are dangerous no matter what level of skill or type of protective clothing you have. It also sends the message that letting kids ride adult sized ATVs is criminal. I promise you that if we knew last May what we know today, Kyle would be in his room right now playing with his toy John Deeres and matchbox cars, waiting to sit down for dinner with us. Let this law be a tool that parents can use to communicate to their children the serious consequences that can come from ignoring the dangers involved. Let this law save lives.

Thank you for your time and consideration.

Sincerely,


Tom Rabe

December 13, 2002

ATV
Comments
38

Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, DC 20207

RE: Petition CP-02-4/HP-02-1, Petition on ATVs

The undersigned organizations urge the Commission to issue a regulation that prohibits the sale of adult-size four-wheel all-terrain vehicles (ATVs) for use by children under age 16 as requested in the above referenced petition. The Commission has clear legal authority to take such action pursuant to the Consumer Product Safety and Federal Hazardous Substances Acts. Prior to addressing the substance of this issue, the authors of this letter state clearly for the record that the use of the term "accident" in the following comments does not imply that injuries and fatalities caused by ATVs happen by chance or can not be prevented.

The Growing Nationwide Epidemic:

As bigger, faster and more dangerous ATVs have been introduced into the market, injuries and deaths have increased significantly. By virtually every measure, injuries and fatalities are once again approaching levels that prompted the Commission to force the phase-out of highly dangerous three-wheel ATVs in the late 1980s. The following summarizes several disturbing trends using data collected by the Commission:

- Between 1982 and 2001, at least 4,541 adults and children have been killed in ATV accidents.
- Between 1993 and 2000, ATV-related deaths increased 159 percent from a minimum of 211 to at least 547.
- Between 1993 and 2001, the number of injuries caused by ATV-related incidents more than doubled to 111,700.
- During this same period, the number of injuries caused solely by accidents involving four-wheel ATVs increased by 211 percent to nearly 100,000.
- The risk of injury to riders of four-wheel ATVs today (261.8 injuries per 10,000 ATVs) is nearly as great as it was in 1988 (275.8 injuries per 10,000 ATVs).
- Individuals injured by ATVs require hospitalization four times more frequently than the average for all other consumer products.

Language in the 1988 consent decree and current, voluntary "ATV Action Plans" addresses the sale of certain size ATVs for use by children under age 16. On paper, this is designed to protect this age group from the serious dangers posed by ATVs. The evidence available to the Commission demonstrates that this goal is not being achieved in practice. For example:

- The Commission concluded in 1998 that nearly 96 percent of the injuries to children under 16 occurred while they were riding adult-size ATVs.
- The CPSC estimates that 14 percent of all ATV riders are children under the age of 16. However, these children disproportionately suffered approximately 37 percent of all injuries and 38 percent of total fatalities between 1985 and 2001.
- Between 1982 and 2001, 1,714 children under the age of 16 were killed in ATV-related accidents. Of those, 799 were children under age 12.
- For children under 16, the estimated number of ATV-related injuries increased 94 percent between 1993 and 2001 to 34,800.
- Children under 16 suffer a higher number of injuries than any age group except those between 16 and 24.
- ATV riders under 16 are 4.5 times more likely than older riders to receive injuries requiring emergency room treatment.

Medical Professionals Document the Problem, Call for Strong Protections:

Pediatricians, orthopedic surgeons and other health care professionals across the country are expressing growing concern that the industry's "solution" to the problem fails to protect children and continues to leave them as vulnerable to injury and death as they were 15 years ago. The problem is so serious that major medical associations have issued formal policies concerning ATV use by children.

The American Academy of Pediatrics (AAP), which represents 57,000 primary care pediatricians, pediatric specialists and surgeons, issued its first formal policy concerning use of ATVs by children in 1987. In June 2000, the AAP updated and strengthened its recommendation that children younger than 16 not be allowed to operate ATVs regardless of size. (See Enclosure A) In making this recommendation, the Academy concludes: "[O]ff-road vehicles are particularly dangerous to children younger than 16 years who may have immature judgement and motor skills . . . An automobile driver's license, and preferably some additional certification in ATV use, should be required to operate an ATV. The safe use of ATVs requires the same or greater skill, judgement and experience as needed to operate an automobile."

The American Academy of Orthopaedic Surgeons (AAOS), the world's largest medical association for musculoskeletal specialists, has also issued a formal Position Statement on this subject. (See Enclosure B) The Association states "[I]n light of statistics that show an inordinate number of injuries and deaths resulting from the use of ATVs, the American Academy of Orthopaedic Surgeons considers ATVs to be a significant public health risk." The Academy highlights the multitude of factors that make ATVs particularly unsafe for children: "Children under age 12 generally possess neither the body size or strength, nor the motor skills or coordination necessary for the safe handling of an ATV. Children under age 16 generally have not developed the perceptual abilities or judgement required for the safe use of highly powerful vehicles."

Medical studies of ATV-related injuries and fatalities in Arkansas, Georgia, Ohio, Oklahoma, Pennsylvania, South Carolina, Utah, West Virginia, and Wisconsin reach similar general conclusions concerning children (See Enclosures C, D, E, F, G, H, and I):

- 1) children younger than 16 continue to be killed and injured in large numbers;
- 2) injuries increased markedly in the late 1990s;
- 3) children face a significantly greater risk of injury than older riders;
- 4) few injured children receive formal training; and
- 5) the vast majority of injured children do not wear helmets.

Many of these and other studies document a growing problem among the adult population as well. For example, a paper presented to American Academy of Physical Medicine and Rehabilitation in November 2002 assessing neurotrauma injuries associated with ATV accidents in western Pennsylvania found admissions for such injuries at a single facility increased five-fold between 1997 and 2001 from 18 to 91. A study from Puerto Rico published in the journal *Orthopedics* (October 2002) reaffirms the severity of many ATV-related injuries concluding that the average patient required hospitalization for 11 days with the average cost of treatment exceeding \$11,800. (See Enclosure J)

Voluntary “Action Plans” are Ineffective:

The continuous increase in ATV-related injuries and fatalities and a wide body of medical research demonstrate that the voluntary “ATV Action Plans” are ineffective and must be replaced.

These agreements are fundamentally flawed because their core tenet – that manufacturers do not recommend the sale of adult-size ATVs for use by children under 16 – is undermined by an inherent conflict of interest. The goal of the ATV industry is to maximize profits, which requires maximizing sales. Providing potential purchasers with the cold, hard facts about the growing number of injuries and deaths as well as actively exploring whether or not an adult-size ATV will be used by a child under age 16 could reduce sales.

A recent investigation by Good Morning America (GMA) reinforces the serious flaws with this approach. As reported on November 8, 2002, GMA visited or called 10 randomly selected ATV dealers nationwide and asked salespeople to recommend an ATV for a 14-year-old child. (See Enclosure K) Nine of the ten dealerships recommended an adult-size ATV with full knowledge that it was being purchased in violation of the industry’s recommendation. Many dealers recommended the adult-size machines without caveats while one explained the age restrictions, then proceeded to tell the reporter how to evade them. While the industry might assert that these are “isolated incidents,” neither it nor CPSC visit a broad enough cross section of the thousands of ATV dealers nationwide to conclude that this level of noncompliance is not common.

When confronted with this evidence by GMA, a representative of the ATV industry explained that this provision is “only one” of the ways it attempts to disseminate

safety information. Based on these comments, the industry appears to view this provision as no more important than any other in the voluntary agreements. In fact, the age restrictions represent the core of the agreements and should be the bulwark against widespread sale of adult-size ATVs for use by children under 16. After a dealer violates this policy, labels on machines, warnings in owner's manuals and tiny print in advertisements have limited effectiveness in terms of protecting children.

In addition to this evidence, changes in the ATV market since 1998 demand a new approach that applies uniformly across the industry. The Action Plans only cover the specific companies (Honda, Polaris, Suzuki, Yamaha, Kawasaki, and Arctic Cat) that executed them with CPSC. They do not apply to other entities that manufacture, sell or import ATVs in the United States. Since the plans were adopted, there has been a dramatic increase in the number of companies selling ATVs in this country. Most of these firms or individuals import ATVs from Taiwan, Hong Kong, Korea, Italy and other countries around the world and sell them under a range of names, including Monsoon, Predator, Monster Joe, and Xtreme Machine. These companies are not covered by the Action Plans. Therefore, they are free to sell vehicles of any size to any individual, they do not have to offer training, and they are completely exempt from even the minimal oversight that the major ATV makers exercise over their dealer networks.

The growth in this emerging market further demonstrates the fundamental flaw with a voluntary, company-specific approach. It would make no sense for the federal government to sign agreements with Chevrolet and Honda to equip their cars with seat belts while not doing the same with Chrysler and Volkswagen. However, this is just the type of "system" that exists today as more than 800,000 new ATVs enter the market each year.

Growing Problem Imposing Economic Costs on Society:

No one bears more of the burden of ATV-related injuries or deaths than the victims and their families. The emotional pain and loss experienced by far too many Americans cannot be calculated. Unfortunately, this increasingly serious safety problem is inflicting a growing economic cost on all Americans in the form of medical bills, disability payments and lost economic productivity.

For example, the American Academy of Orthopaedic Surgeons concluded that ATV-related injuries "cost the U.S. over \$6.5 billion in medical, legal and work loss expenses in 2000." Estimates of the cost borne by residents of individual states are equally troubling. Dr. Jim Helmkamp of the Center for Rural Emergency Medicine at West Virginia University has concluded that the "average annual comprehensive economic loss resulting from *fatal* ATV-related injuries is between \$10 million and \$34.2 million" in West Virginia alone.(See Enclosure L) Cost to society can also be measured in noneconomic terms. For example, in West Virginia, where ATV accidents claimed 124 lives between 1990 and 1999, the average victim lost 43 years of productive life.(See Enclosure L)

The Commission Must Initiate a New Approach to ATV Safety:

The Commission can no longer defer to the ATV industry on safety issues. ATV safety has steadily deteriorated since the early 1990s. Perhaps more importantly in the context of the pending petition, injuries and deaths have continued to increase substantially under the voluntary approach adopted in 1998. The Commission has a responsibility to initiate a new approach in which it takes a direct and proactive role. The first step in this process involves issuing a regulation prohibiting the sale of adult-size four-wheel ATVs for use by children under age 16 as requested in the above referenced petition. The Commission has clear authority to take this action pursuant to Section 8 of the Consumer Product Safety Act (15 U.S.C. 2057) and the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)(A)).

Sincerely,

Scott Kovarovics
Director
Natural Trails & Waters Coalition
Washington, DC

Sean Smith
Public Lands Director
Bluewater Network
San Francisco, CA

Douglas R. Cornett
Executive Director
Northwoods
Wilderness Recovery
Marquette, WI

Dan Hoffman
Director
Arizona Wilderness Coalition
Alpine, AZ

Steve Holmer
Campaign Coordinator
American Lands Alliance
Washington, DC

Daniel Patterson
Desert Ecologist
Center for Biological
Diversity
Tucson, AZ

Ray Fenner
Executive Director
Superior Wilderness Action
Network
Sandstone, MN

Dan Silver
Director, Policy & Programs
Endangered Habitats League
Los Angeles, CA

Richard Martin
Coordinator
Forest Coalition of
Pennsylvania

Brent Martin
Executive Director
Georgia Forestwatch
Ellijay, GA

Terry Weiner
Conservation Coordinator
Desert Protective Council

Karen Schambach
President
Center for Sierra
Nevada Conservation
Georgetown, CA

Joseph Vaile
Campaign Coordinator
Cascade-Siskiyou
Wildlands Center
Ashland, OR

TinaMarie Ekker
Policy Director
Wilderness Watch
Missoula, MT

Sally Grimes
Executive Director
Winter Wildlands
Alliance
Boise, ID

AN comment 34



National
FarmMedicine
Center

RECEIVED BY
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December 9, 2002

Todd Stevenson
Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20207

Dear Mr. Stevenson,

On behalf of the National Farm Medicine Center, we are writing to support the petition submitted to the U.S. Consumer Product Safety Commission (CPSC) by the Consumer Federation of America and other parties, which requests a ban of adult all-terrain vehicles (ATVs) for use by children under the age of 16. Data compiled by the CPSC clearly demonstrate that ATVs pose an unreasonable risk of death and injury to youth under age 16. Children on farms and ranches frequently use ATVs for work as well as recreation. The National Farm Medicine Center believes banning children under 16 from operating adult sized ATVs will reduce preventable ATV-related injuries to children.

ATVs are heavy and powerful machines that are beyond a child's developmental capability to control. This size and power leads to an unnecessarily high ATV-related injury rate for children under age 16. This fact is clearly demonstrated in CPSC's most recent research (*Consumer Product Safety Commission, Annual Report: 2001 All-terrain Vehicle [ATV]-related Deaths and Injuries*, August 2002). This report shows that between 1982 and 2001, 1,714 children under age 16 (including 799 under the age of 12) were killed in ATV-related incidents. Additionally, the CPSC's report shows 472,700 age 16 and under required emergency department care for ATV-related injuries. These injuries represent approximately 37 percent of all ATV-related injury. However, it is estimated that only 14 percent of all ATV operators are under the age of 16. Thus, children under 16 are disproportionately likely to be injured by an ATV.

We believe that banning ATVs for children under age 16 does not require removal of ATVs from the marketplace or the farm. This ban will simply preclude ATV manufacturers and distributors from marketing their product for use by children under age 16. ATV salespeople would be required to warn parents about the potential dangers ATVs pose to children under age 16 and prohibit adults from purchasing the ATV if it was for use by someone under the age of 16. With proper compliance, these measures would pass vital safety information to parents and assist in limiting access of children under age 16 to full-sized ATVs.

Thank you for taking the time to solicit our view on the issue of banning ATVs for use by children under age 16. We are available to answer any questions that the CPSC may have relating to our position. As always, the National Farm Medicine Center looks forward to working with the CPSC on this and other issues in the future.

Sincerely,

Barbara Lee, PhD
Director

Michael Peters, MS
Rural Youth Safety Specialist

AN
40

Laura DeGolier

114 S. Main St. PMB 301 , Fond Du Lac, Wisconsin 54935-4229

December 07, 2002 10:44 PM

Office of the Secretary Consumer Product Safety Commission
Consumer Product Safety Commission
Washington, DC 20207

Subject: Petition CP-02-4/HP-02-1, Petition on ATVs

Dear Office of the Secretary Consumer Product Safety Commission:

I urge the Commission to issue a regulation that prohibits the sale of adult-size four-wheel all-terrain vehicles (ATVs) for use by children under 16 years old as requested in the above referenced petition. The growing number of ATV-related injuries and fatalities demonstrates that the Commission must take proactive steps to address a serious product safety problem.

The Commission is well aware of the rising tide of injuries and deaths caused by ATV-related accidents. The consistent, and troubling, upward trend throughout the 1990s demonstrates that the Commission can no longer defer to the ATV industry when it comes to safety. The current voluntary approach, embodied in the *ATV Action Plans* is failing in every respect. The core tenet of this approach is the pledge by manufacturers not to sell adult-size ATVs (defined as machines with engines larger than 90 cc) for use by children under 16. A recent investigation by Good Morning America (GMA) raises serious questions about the effectiveness of this approach.

As reported on November 8, GMA visited or called 10 randomly selected ATV dealers nationwide and asked salespeople to recommend an ATV for a 14-year-old child. Nine of the ten dealerships recommended an adult-size ATV with full knowledge that it was being purchased in violation of the industry's age limits. Many dealers recommended the adult-size machines without caveats while one explained the age restrictions, then proceeded to tell the reporter how to evade them.

The evidence available to the Commission through annual surveys and more comprehensive studies proves that the industry-dominated approach to ATV safety is ineffective. It is time to set a new direction at the national level. This effort must be led by the Commission and begins with the issuance of a regulation that prohibits the sale of adult-size four-wheel ATVs for use by children under 16.

Sincerely



Laura DeGolier

David Lien

430 E. Cheyenne Mt. Blvd., #21 , Colorado Springs, Colorado 80906

December 07, 2002 08:04 PM

Office of the Secretary Consumer Product Safety Commission
Consumer Product Safety Commission
Washington, DC 20207

Subject: Petition CP-02-4/HP-02-1, Petition on ATVs

Dear Office of the Secretary Consumer Product Safety Commission:

I urge the Commission to issue a regulation that prohibits the sale of adult-size four-wheel all-terrain vehicles (ATVs) for use by children under 16 years old as requested in the above referenced petition. The growing number of ATV-related injuries and fatalities demonstrates that the Commission must take proactive steps to address a serious product safety problem.

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The evidence available to the Commission through annual surveys and more comprehensive studies proves that the industry-dominated approach to ATV safety is ineffective. It is time to set a new direction at the national level. This effort must be led by the Commission and begins with the issuance of a regulation that prohibits the sale of adult-size four-wheel ATVs for use by children under 16.

Sincerely,

David Lien



SE 01 V LI 300 2002
ADMITTED TO FILE 12/10/02

Rev. Robyn Thunderchild

53 Radiker Rd , Worthington, Massachusetts 01098-9610

December 07, 2002

Office of the Secretary Consumer Product Safety Commission
Consumer Product Safety Commission
Washington, DC 20207

Subject: Petition CP-02-4/HP-02-1, Petition on ATVs

Dear Office of the Secretary Consumer Product Safety Commission:

I urge the Commission to issue a regulation that prohibits the sale of adult-size four-wheel all-terrain vehicles (ATVs) for use by children under 16 years old as requested in the above referenced petition. The growing number of ATV-related injuries and fatalities demonstrates that the Commission must take proactive steps to address a serious product safety problem.

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The evidence available to the Commission through annual surveys and more comprehensive studies proves that the industry-dominated approach to ATV safety is ineffective. It is time to set a new direction at the national level. This effort must be led by the Commission and begins with the issuance of a regulation that prohibits the sale of adult-size four-wheel ATVs for use by children under 16.

Sincerely,


Rev. Robyn Thunderchild



Dauphin
County
SAFE
KIDS
Coalition

Milton S. Hershey Medical Center
Pediatric Surgery, H113
P.O. Box 850
Hershey, PA 17033
717-531-SAFE

December 10, 2002

Mr. Todd Stevenson
Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 2027

**RE: Petition to Ban All-Terrain Vehicles for Use by Children
Under Age 16:
CP-02-4/HP-02-1**

Dear Mr. Stevenson:

On behalf of Dauphin County SAFE KIDS Coalition, I am writing to support the petition, submitted to the U.S. Consumer Product Safety Commission (CPSC) by the Consumer Federation of America (CFA) and other parties, which requests a ban of adult all-terrain vehicles (ATVs) for use by children under the age of 16. ATVs pose an unreasonable risk of death and injury to children.

Many of the conclusions found in the CPSC's most recent research (*Consumer Product Safety Commission, Annual Report: 2001 All-terrain Vehicle [ATV]-related Deaths and Injuries, August 2002*) clearly demonstrate that there is presently a substantial risk of death and injury. Significantly, between 1982 and 2001, 1,714 children under age 16 – including 799 under the age of 12 – were killed in ATV incidents. Furthermore, between 1993 and 2001, the number of ATV-related injuries by children under the age of 16 increased 94 percent to 34,800. The CPSC data also revealed that while only 14 percent of all ATV riders were children under the age of 16, these children disproportionately suffered approximately 37 percent of all injured and 38 percent of total fatalities between 1985 and 2001. We believe that the data speaks loudly to support the proposed ban and education about the dangers of ATV use by children.

In Pennsylvania, there are 26 accredited trauma centers, of which our Children's Hospital is one of them. In the past nine months, there have been over 100 children treated for ATV related injuries. One case was a child who was 6 years of age as the driver. Injuries we have treated are severe head injuries, abdominal trauma and debilitating orthopedic injuries. The Penn State Children's Hospital, as the lead agency for the Dauphin County SAFE KIDS Coalition, provides the expertise to care for injured children. However, we are equally

ATV
Coalition 43

Page 2
December 10, 2002

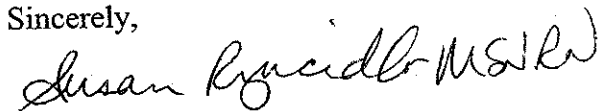
committed to preventing injuries. This ban of the use of ATV by children under 16 will prevent injuries.

In our view, banning ATVs for children would not require removal of the products from the marketplace, but simply preclude ATV manufacturers and retailers from marketing their products to children. Additionally, ATV salespeople would be required to warn potential purchasers about the dangers of the product and ask parents if the ATV was being bought for a child under age 16. These measures, if properly enforced, would pass on vital safety information to parents as well as help to prevent child ATV-related incidents from occurring in the first place by preventing the sale of the vehicle if it is known or reasonably believed that the product will be used by children under 16. Additionally, Dauphin County SAFE KIDS Coalition supports increased educational efforts, labeling and instructions – targeted at current owners of ATVs to remind them of the potential dangers of these devices.

If you would like any additional information on Dauphin County SAFE KIDS Coalition or our affiliation with the National SAFE KIDS Campaign, please don't hesitate to contact me at 717-531-7161 or email srzucidlo@psu.edu.

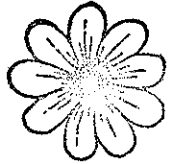
Please support the petition submitted by the Consumer Federation of America to ban all-terrain vehicles for use by children under age 16.

Sincerely,



Susan Rzucidlo, MSN, RN
Pediatric Trauma Nurse Coordinator
Penn State Shock Trauma Center
Penn State Children's Hospital

Coordinator, Dauphin County SAFE KIDS Coalition



Bonnie Hiniker

1286 Shadywood Shores Dr. NW , Pine River, Minnesota 56474-6030
December 08, 2002 02:42 PM

Office of the Secretary Consumer Product Safety Commission
Consumer Product Safety Commission
Washington, DC 20207

Subject: Petition CP-02-4/HP-02-1, Petition on ATVs and Nature
Dear Office of the Secretary Consumer Product Safety Commission:

I urge the Commission to issue a regulation that prohibits the sale of adult-size four-wheel all-terrain vehicles (ATVs) for use by children under 16 years old as requested in the above referenced petition. The growing number of ATV-related injuries and fatalities demonstrates that the Commission must take proactive steps to address a serious product safety problem.

* While they are at it they can also consider the damage these machines and their drivers do to the great outdoors. The ATV's should be restricted to the land of atv owners or public land designated for their use only not other public lands where people want to see and hear wildlife with fur and feathers not on wheels.

The Commission is aware of of injuries and deaths caused by ATV-related accidents. The upward trend throughout the 1990s demonstrates that the Commission can no longer defer to the ATV industry when it comes to safety. The current voluntary approach, is failing in every respect. The core tenet of this approach is the pledge by manufacturers not to sell adult-size ATVs (defined as machines with engines larger than 90 cc) for use by children under 16. A recent investigation by Good Morning America (GMA) raises serious questions about this approach. As reported on November 8, GMA visited or called 10 randomly selected ATV dealers and asked salespeople to recommend an ATV for a 14-year-old child. Nine of the ten dealerships recommended an adult-size ATV with knowledge that it was being purchased in violation of the industry's age limits. Many dealers recommended the adult-size machines without caveats while one explained the age restrictions, then proceeded to tell the reporter how to evade them.

The evidence available to the Commission through annual surveys and comprehensive studies proves the industry-dominated approach to ATV safety is ineffective. It is time to set a new direction at the national level. This effort must be led by the Commission and begins with the issuance of a regulation that prohibits the sale of adult-size four-wheel ATVs for use by children under 16.

Thank-You for your consideration.

Sincerely,
Bonnie J. Hiniker
Bonnie J. Hiniker

Stevenson, Todd A.

From: gpo@open.org
Sent: Monday, December 23, 2002 12:59 AM
To: cpssc-os@cpssc.gov
Subject: Petition CP-02-4/HP-02-1, Petition on ATVs

Office of the Secretary Consumer Product Safety Commission
Consumer Product Safety Commission
Washington, DC 20207

Dear Office of the Secretary Consumer Product Safety Commission,

I urge the Commission to leave the ATVs alone, I was raised around ATVs & motorcycles since I was 9, my kids have been riding since they were 4. I was taught to have respect for the land and also for the machines and have a great time but don't do anything stupid. Its like tools, not using them properly they will hurt you. My kids learned a lot from riding off road, they learned some great mechanical skills plus I believe it made them better drivers when they were old enough to get their license. It gave us a chance to as a family to do activities that kept us together. I now have 6 grand kids and 4 of them all have bikes. What a great way for a family to bond together and enjoy the great country that we have. They could be out smoking dope like so many of them do but this keeps them busy and gives them something to look forward to.

Sincerely Yours

Gary P. Olsen 5578 Dumore Dr SE Aumsville, Or 97325

Sincerely,

Gary Olsen
5578 Dumore Dr SE
Aumsville, Oregon 97325

Stevenson, Todd A.

46

From: jstolp@hotmail.com
Sent: Monday, December 23, 2002 8:11 PM
To: cpsc-os@cpsc.gov
Subject: Petition on behalf of ATV users

Office of the Secretary Consumer Product Safety Commission
Consumer Product Safety Commission
Washington, DC 20207

Dear Office of the Secretary Consumer Product Safety Commission,

I urge the commission to avoid legislation restricting the use of ATV's. By the way, why do you think the Wilderness Society is interested in youth ATV use? I'll tell you why, it is because of their agenda to lock up our public land except for recreation.... their idea of recreation (hiking/backpacking/counting flora and fauna).

Regards,

Jess Stolp

Sincerely,

Jess Stolp
235 S.W. Braly St.
McMinnville, Oregon 97128

Stevenson, Todd A.

47

From: bultaco123@greatnorthern.net
Sent: Tuesday, December 24, 2002 3:38 PM
To: cpssc-os@cpssc.gov
Subject: Petition CP-02-4/HP-02-1, Petition on ATVs

Office of the Secretary Consumer Product Safety Commission
Consumer Product Safety Commission
Washington, DC 20207

Dear Office of the Secretary Consumer Product Safety Commission,

I oppose the above petition as unnecessary and wrong minded.

The Commission is well aware of the growing use of ATV's by young and old for both work and recreation. The industry approach is appropriate and as effective as parents will make it.

It is far past time for the government to quit trying to mandate parental responsibility and for it to quit doing a knee-jerk reaction to those who see more regulations as a way to solve problems.

Sincerely,

R. MORGENTHALER
906 MTN HM LANE
CAMANO ISLAND, Washington 98282



Publisher of Consumer Reports

The Office of the Secretary
Consumer Product Safety Commission
Room 501
4330 East-west Highway
Bethesda, Maryland 20814
Email: cpsc-os@cpsc.gov

COMMENTS OF CONSUMERS UNION
to the
CONSUMER PRODUCT SAFETY COMMISSION
on

Petition Requesting Ban of **All-Terrain Vehicles** Sold for Use by Children Under
16 Years Old
Petition CP-02-4/HP-02-1
Petition on ATVs
***64353**

Consumers Union submits these comments in response to the Commission's request for comments on the petition filed with it by the Consumer Federation of America (CFA), the Natural Trails and Waters Coalition (NTWC), and other groups requesting that the Commission ban the sale of adult-size four wheel all-terrain vehicles ("ATVs") sold for the use of children under 16 years of age.

I. Introduction

Consumers Union, publisher of *Consumer Reports*, believes that the steady increase in the number of injuries and deaths to users of ATVs over the past two decades is alarming and must be addressed by the Consumer Product Safety Commission, the federal agency responsible for reducing or eliminating unreasonable risk to consumers from the use of consumer products under its jurisdiction. In our view, the petitioners have done the public a valuable service in conducting extensive research and analysis (using the agency's own statistics) to demonstrate in stark relief what we believe is a growing public health crisis for ATV users. The facts highlighted below illustrate all too clearly that the tragic injuries and deaths among all ATV users, but especially young people, will only increase unless some action is taken to reverse these unmistakable trends:

- Between 1993 and 2001, the number of injuries caused by ATV-related accidents more than doubled, with 111,700 ATV accidents occurring in 2001.
- Between 1993 and 2001, the number of ATV-related injuries suffered by children under sixteen increased 94% to 34,800 in 2001.
- Although children under sixteen account for only some 14% of all ATV drivers, they

suffer 37% of all injuries and 38% total fatalities.

- Between 1982 and 2001, 1,714 children under age 16 (38% of the total) have been killed in ATV incidents. 799 of those were youngsters under 12 years of age.
- Consumers injured while driving ATVs required hospitalization four times more frequently than the average for injured users of all other consumer products—nearly 16% compared to 4% respectively.
- According to CPSC data, the risk of injury for riders of four-wheel ATVs increased from 164.7 injuries per 10,000 ATVs in 1993 to 261.8 injuries per 10,000 in 2001. The 2001 injury rate is nearly as high as it was in 1988 (275.8 injuries per 10,000), when the consent agreement (discussed at length below) between CPSC and the ATV manufacturers was entered into. The consent agreement came about, in large part, because of the alarm about injuries to riders of three-wheel ATVs.
- ATV manufacturers, including a handful of newcomers entering the market since the expiration of the 1988 CPSC-ATV industry consent agreement, have manufactured and marketed bigger and faster ATVs, with no special features to reduce the hazards such machines pose to riders, particularly young riders.
- Between 1993 and 2001, ATV-related advertising jumped nearly 6.5-fold from \$5.8 million to \$37.3 million.
- In 1988, only 2.3 million ATVs were in use. That number has more than tripled, with 7 million ATVs estimated to be in use today and the industry expecting to sell one million ATVs per year by 2004.

II. ATVs and those who ride them are subject to few safety requirements

In contrast to ATVs, while the number of automobiles on the road and millions of miles driven have increased significantly, auto injury and death rates have fallen.¹ In fact, automobiles have become increasingly safer, with safer designs, mandatory safety standards, new safety equipment and rigorous testing by the National Highway Traffic Safety Administration (NHTSA)—all of which have helped reduce the injuries and fatalities per vehicle mile driven. The inverse is true for ATVs: the more ATVs in the marketplace, with greater speed and size than ever before, the higher the numbers of injuries and deaths.

Riders of ATVs enjoy none of the safety benefits experienced by drivers and passengers in automobiles. There are no mandatory safety standards that apply to ATVs to reduce or eliminate the serious risks associated with their use. In contrast, automobile occupants enjoy protection from reinforced doors, roofs or windshields (each of which is subject to mandatory safety standards set and enforced by NHTSA), use safety belts to prevent them from being thrown from the vehicle, and have the safety benefit and protection from air bags. Indeed, considerable attention has been paid to reducing death and injury. Yet, ATV drivers are operating vehicles that are inherently unstable,² and navigated over rough, unfamiliar terrain, which only heightens

¹ The overall fatality rate from motor vehicle crashes declined from 1.7 deaths per million VMT (Vehicle Miles Traveled) in 1994 to 1.5 deaths per million in 2000. This is the latest available data from NHTSA's Report, "The Economic Impact of Motor Vehicle Crashes 2000."

² See footnote 7 for the Department of Justice description of the notorious instability of ATVs.

the danger of flipping backward or rolling over. And most importantly, many of the deaths and injuries occur to consumers too young and too small to control their own safety or the safe use by others.

Every state in America requires automobile drivers to pass written and performance-based driving tests to receive a driver's license. 43 states and the District of Columbia require drivers to be at least 16 years old to obtain a license. Those rules are in sharp contrast to the dearth of safety rules and regulations covering the competence and ability of users of ATVs:

- 24 states have no minimum age limit for operating an ATV
- 42 states do not require a license to drive an ATV
- 35 states do not require any special training to drive an ATV

III. The CPSC-ATV Industry Consent Decree

In 1988, CPSC entered into a consent decree with ATV manufacturers in lieu of continuing a lawsuit against them. CPSC's suit had asked a federal court to declare ATVs to be "imminently dangerous consumer products," and sought to require manufacturers to 1) end production of three-wheel ATVs, 2) repurchase all three-wheel ATVs from dealer inventory, 3) offer financial incentives to encourage owners of three wheel ATVs to return them, and 4) provide safety education.

The consent decree, which was approved by the federal district court, included the following major elements:

- Manufacturers would cease production of any new three-wheel ATVs—an action they had largely already taken by the time the decree was approved;
- Manufacturers would recommend that ATVs with engine sizes greater than 70cc be sold only for children 12 and older, and that "adult-size" ATVs, with engines greater than 90cc, be sold only for individuals 16 and older;
- ATVs would be labeled to warn purchasers that children should not ride adult-size ATVs;
- Manufacturers would ensure that their dealers make available to actual and prospective buyers a CPSC-approved video on ATV safety, and a display a four foot by four foot poster showing updated ATV death statistics;
- Manufacturers would use their best efforts to ensure that dealers complied with the age recommendations and communicate them to prospective purchasers; and
- Manufacturers would launch a public awareness campaign designed to alert consumers to the hazards associated with ATVs.

The final decree did not include key elements of the CPSC lawsuit, including encouraging owners of three-wheel ATVs to return them to dealers or requiring owners to repurchase all three-wheel ATVs from dealer inventory.

IV. Consumers Union's History of Concern About Hazards of All-Terrain Vehicles

Consumers Union, publisher of *Consumer Reports*, has long expressed concerns about the injuries and deaths resulting from use of ATVs. In January of 1988, the *Washington Post* published a Letter to the Editor³ from Dr. R. David Pittle, one of the signatories of these comments, and former Consumer Product Safety Commissioner, and, in 1988, the Technical Director of Consumers Union. In his letter, Dr. Pittle, on behalf of Consumers Union, called the consent decree "no bargain for consumers," and argued that:

. . . [I]nstead of filing its lawsuit seeking recall of ATVs as imminent hazards, it [CPSC] entered into a preliminary settlement with manufacturers. Unfortunately, the deal the commission made was as poorly designed and dangerous for consumers as the ATVs themselves. And Terrence Scanlon's [CPSC Chairman at the time the agreement was struck] defense of the agreement offered little justification for such a weak settlement.

Pittle's letter also noted that:

. . . [B]ecause of several unique design characteristics, ATVs can veer out of control without warning, hurling rider and machine at speeds up to 50 mph helter-skelter into an unforgiving environment full of bumps, potholes, rocks and tree stumps. . . Amid all the claims of fun, the down side has been devastating: 900 deaths and 330,000 injuries (requiring emergency room care) alone since 1982, almost half to kids younger than 16.

Dr. Pittle's letter argued that the consent agreement was weak.

This agreement has no teeth—no required measures of performance and no sanctions for noncompliance by retailers—and only vague promises by manufacturers to use 'best efforts' in carrying out its terms.

The letter concluded by saying the program was likely to be ineffective, especially on a continuing basis, in reducing the injuries and deaths to ATV riders, particularly children under 16.

. . . [I]t's hard to imagine thousands of riders, many between 10 and 16 years old, herding into classes across the country. It is patently naïve—indeed irresponsible—to believe such a strategy can substantially reduce the continuing rate of death and injury. Sadly, the same population that has already suffered hundreds of deaths and thousands of injuries remains at risk and can't help piling up more gruesome statistics.

³ "Those ATVs Should Have Been Recalled," R. David Pittle, *Washington Post*, January 23, 1988.

The current statistics highlighted herein—indicating an alarming increase in deaths and injuries from ATV use over the last nine years—demonstrate that CU's concerns expressed in 1988 have, unfortunately, come to pass. In 1993, when ATV injuries and deaths began their steep rise,⁴ there were 211 deaths. In 2000, that number was at least 547, according to CPSC statistics. That is a 159% increase. As noted above, the number of injuries during this same period doubled to 111,700 by 2001.

CU has continued to express its concerns publicly about ATV hazards in the pages of *Consumer Reports (CR)*.

In June 1994, CR published an article titled "All-terrain vehicles: Still a danger," describing the failure of the CPSC consent agreement. "But in the six years since the CPSC acted, deaths of children under 16 have dropped only 9%, to 416. ATVs injure some 24,000 children under 16 each year, according to CPSC data. And if our experience is any indication, some dealers wink at the safety warnings." The CR article quoted the CPSC as estimating that "80-85% of dealers are now in compliance, up from 56% in 1989." But CR had sent a reporter out to an ATV dealership and the salesperson tried to sell him a 195cc, 320-pound ATV for his 10-year-old son, telling the reporter, "he'll grow into it." More recently, in November 8, 2002, *Good Morning America's* investigative report titled "Rough Ride: Adult-Sized ATVs Pose Dangers to Children," found nine of ten dealers recommending sales of adult-size ATVs to children.

- In June 1998, CR reported that 1,100 children under 16 had been killed and some 400,000 injured on ATVs in the last 15 years, accounting for "just under half the deaths and injuries on ATVs." The magazine advised that "stronger protections are needed." CR also suggested that ATV riders heed these rules:

- ◆ Do not ride a 3-wheeled ATV—they're too unstable. The industry agreed to stop making them, but old ones are still out there.
- ◆ There are several sizes of ATV, some with engines as large as 500cc. No child under 16 should be on a vehicle with a 90cc engine or larger.
- ◆ Don't carry passengers.
- ◆ Wear a bike helmet.
- ◆ Take the free training course manufacturers offer new owners and their families.

April 1998 marked the expiration of the federal consent decree with all six⁵ ATV manufacturers. In 1998, CU's Washington DC office issued a press release noting that "new government data"⁶ show the decree has not worked well" and called on Congress

⁴ Neither CPSC nor the authors of the petition before the CPSC have a definitive explanation for why injuries and deaths began to rise after 1993. CPSC has made it clear that increased usage alone does not account for the higher numbers. Among the possible explanations is the increase in bigger, faster and more powerful ATVs coming onto the market around 1993.

⁵ More manufacturers are now making ATVs than in 1998.

⁶ The study, *ATV Exposure, Injury, Death and Risk Studies*, showed that injuries to children under 16 may be as high as 47% of all injuries, comparable to the percent of injury reported in 1985, prior to the implementation of the consent decree. The study also showed that 95% of children were driving vehicles

to provide incentives for states to ban use of ATVs children under 16. We made clear in our press release:

[S]ince the 1988 consent decree on ATVs was signed, an estimated 2040 users have died and an estimated 637,000 people were injured seriously enough using these machines to require emergency room treatment.

CU, while acknowledging that consumers would be even worse off without the consent decree, noted that the decree was most effective in its early years, bringing injuries and deaths down significantly:

The overall number of ATVs in use has doubled from 1985. . . Over that time, the number of injuries has dropped 50%. . . Unfortunately, in the past four years, the consent decree hasn't managed to further reduce the number of injuries and deaths, which have remained constant each year over that period.

In short, the safety benefits of the consent decree were not nearly enough and not enduring. The problem increased dramatically once the luster of the consent decree wore off.

V. Recommendations for Consumer Product Safety Commission Action

Overall, the safety history of ATVs is a sad one, characterized by an unreasonable risk born by consumers too young, too small, and not mature enough to fend for themselves. We believe this history is of great significance to the current petition before CPSC, and have thus taken pains to recount it in some detail above. This problem is not new, and we have all gained considerable experience—in what works and what does not work—in reducing the rates of injury and death on a sustained and permanent basis.

We agree with petitioners that the alarming increase in deaths and injuries associated with ATV use calls for a new and strong response from the CPSC. Petitioners specifically request that the Commission ban the sale of adult-size four wheel all-terrain vehicles for the use of children under sixteen years of age. This proposed “youth ban” on the use of ATVs is not a new proposal. Recent data on ATV injuries and deaths, considered in the context of a prior federal court of appeals decision⁷ on this very issue, provide fertile ground for the CPSC to give serious consideration to a youth ban once again. We review this court case and its impact on this petition below.

larger than those recommended for their age, demonstrating that the Consent Decree proviso to manufacturers that they recommend that ATVs with engines greater than 90cc not be sold for use by children was totally ineffective.

⁷ Consumer Federation of America vs. the Consumer Product Safety Commission, 990 F.2d 1298, 1993.

A. Ban on the sale of adult-size four wheel all-terrain vehicles sold for the use of children under sixteen years of age: 1993 D.C. Federal Court of Appeals decision

When CPSC entered into the consent decree with ATV manufacturers in 1988,⁸ it declined to pursue a key protection that consumer groups and the state attorneys general, among others, believed was of critical importance: a ban on the sale of adult size ATVs for use by youngsters under 16 years of age. This is, of course, the same issue that forms of the basis of the petition currently before the Commission.

CFA and U.S. PIRG challenged this weakness of the consent decree in federal court in a lawsuit seeking review of CPSC's decision. On April 9, 1993, the Court of Appeals for the District of Columbia rendered its decision in the case of Consumer Federation of America vs. the Consumer Product Safety Commission⁹. The court, in a decision written by current U.S. Supreme Court Justice Ruth Bader Ginsburg, sitting at that time on the DC Circuit, denied the petition for review of the CPSC's decision. Judge Ginsburg wrote: "In view of the Commission's ongoing efforts to check ATV safety hazards by other means, and CPSC's indication that it would reconsider the rulemaking route if responses to ATV hazards proved inadequate, we deny the petition for review."¹⁰ (emphasis added).

In reaching its decision, the court was relying on a CPSC staff report presented in March 1991. This report found that ATV-related injuries treated in emergency rooms in U.S. hospitals, though "still relatively high," had declined from about 86,000 in 1986 to about 52,000 in 1990.¹¹ Injuries on three-wheeled vehicles—not marketed since the consent decree—had declined sharply, and even the injury rate for four-wheel ATVs in use had declined from 2.76 in vehicles in 1986 to 1.92 in vehicles in 1990. Total ATV deaths had declined from an estimated 347 in 1986 to about 250 in 1989. For riders under 16 years old, CPSC data showed a marked drop in deaths in three-wheel ATV use—however, there was no statistically significant decrease associated with four-wheel vehicles.

⁸ The Department of Justice (DOJ), representing CPSC and in view of the alarming rise in deaths and injuries from ATVs in the mid-1980s, filed an "imminent hazard" lawsuit against the major distributors of ATVs on December 30, 1987. In its suit, the Justice Department argued that the appearance of ATVs creates "the illusion of safe, stable easy-to-operate vehicle," giving riders "no hint of the crippling or fatal accidents that can suddenly occur, even while attempting to execute unexceptional, simple riding maneuvers." The government also charged defendants with misleading the public, especially children, by advertising ATVs as products easily operated without training or protective gear and on all types of terrain. That same day, however, the Commission and the defendant ATV distributors entered into the Consent Decree. The Final Consent Decree was filed in the federal court on April 28, 1988.

⁹ 990 F.2d 1298, 1993.

¹⁰ Five ATV distributors, American Honda Motor Co., Inc, American Suzuki Motor Corp., Polaris Industries, Yamaha Motor Corp., USA, and Kawasaki Motors Corp, intervened in this case in support of the CPSC's decision to terminate the rulemaking. Seventeen state attorneys general, on the other hand, appearing as amici curiae, urged the court to grant the consumer groups' petition.

¹¹ 990 F.2d 1298, at 1302.

The staff presented four regulatory options. 1) banning all new ATVs; 2) banning all new adult size ATVs for use by children under 16 years old (described as a "youth ban"); 3) developing new performance standards for four-wheeled ATVs; and 4) withdrawing the ANPR published in May 1985.

The staff recommended withdrawing the ANPR, citing "significant reduction in ATV-related injuries and deaths since 1985," the absence of "currently feasible performance standards for four-wheel ATVs with significant demonstrable injury-reduction potential," and the "lack of cost/benefit findings to support the issuance of the proposed bans." (CPSC's Office of Compliance and Enforcement opposed withdrawal of the ANPR, arguing that it would "end the wrong message to the public.")¹²

With respect to the youth ban, CPSC staff said that the prohibition could function as a strong warning to parents against purchasing adult-size ATVs for use by their children.

In April 1991, the three member Commission, in accord with the staff recommendations, decided to impose no new restraints and terminate the rulemaking. The CPSC set out its reasoning: "Although current injury rates leave no doubt that ATV riding can be a dangerous activity, the rate of injury has been reduced significantly over the span of the Commission's involvement."¹³

The Commission cited staff predictions of **further declines in ATV injury rates and noted it was too soon to gauge the effectiveness of the consent decree.** (emphasis added).

CPSC addressed the youth ban option:

It is not clear ... that such a ban will be any more effective in preventing injuries to children than are the age recommendations in the consent decrees...In addition, such a ban would be extremely difficult to enforce and would likely shift much of the burden of monitoring compliance from the distributors to the Commission ...The distributors have assured the CPSC that they are monitoring the dealers' conformance with the age recommendations. While serious concerns have been raised in the past about the level of conformance, the distributors have declared their intention to monitor and enforce this requirement through their franchise agreements. Therefore, it can be expected that future buyers will be better advised that children should not ride adult-sized ATVs.¹⁴

Finally, the Commission noted that, unlike the states, CPSC lacks "statutory authority to prohibit children from riding adult size ATVs."¹⁵ CPSC argued that a youth ban would be

¹² Id.

¹³ 56 Fed.Reg. 47,266 (Sept. 18, 1991).

¹⁴ See id. at 47,171-2.

¹⁵ Id. at 47,172.

distinct from a ban on the sale of lawn darts¹⁶, an example of a CPSC partial product ban, because CPSC would be required to conduct ongoing supervision of dealer communications with potential customers.

The Commission did direct its staff to examine the feasibility of developing model state legislation and of other means to promote ATV safety at the state level. The staff subsequently developed such model legislation and reached out to states to get it enacted, though none too successfully, as we note above.¹⁷ We note that the American Academy of Pediatrics (AAP) has developed a comprehensive model statute for adoption by the states that CU fully supports. The AAP bill requires riders to be at least 16 years old unless they have had training and received an operator's license from the state; lays out procedures for a state system of licensing ATV riders; requires ATV riders to carry liability insurance; prohibits using ATVs recklessly; requires all riders to wear safety helmets and eye protection; prohibits the carrying of passengers; makes it illegal for ATV operators to be under the influence of alcohol or drugs; requires ATVs to have good brake, muffler, and spark arrester systems; and sets up penalties for violations of these provisions. We believe this model law, if widely adopted, would be hugely effective in reducing the injury and death rates associated with ATVs.

The consumer groups bringing the appeals case argued that a youth ban would make it possible for the Commission, state attorneys general, and private persons to proceed directly against nonconforming dealers. Further, state attorneys general had been extremely active in urging CPSC to take stronger measures to protect children from ATVs, and the appeals court petitioners argued the Commission should have taken into account the ability of those offices to enforce a youth ban.

After reviewing these arguments and noting that the D.C. Circuit would “. . . apply an extremely deferential standard of review to an agency's refusal to institute rulemaking proceedings,”¹⁸ the court upheld the Commission's decision not to institute rulemaking but to adopt the consent decree instead. In reaching its findings, however, the court emphasized the importance of the Commission's stated willingness to resume consideration of a youth ban **“if subsequent information indicates that the actions taken under the consent decree are insufficient.”**¹⁹ The court went on to say that the Commission's “repeated acknowledgement indicates that CPSC sees the partial product ban as a **potential supplement to, and not a displacement of the consent decree provisions.**” The court also stated, **“Nothing in this opinion allows the Commission ultimately to avoid deciding whether, notwithstanding improvements attributable to the consent decree or other causes, adult-size ATVs present an**

¹⁶ See 16 C.F.R Sections 1500.18(a)(4), 1500.86(a)(3) (1988). Ban on sale of lawn darts in toy stores or toy departments if improperly labeled.

¹⁷ 24 states have no minimum age limit for operating an ATV, and 19 more allow children 12 years old or younger to drive them; 42 states do not require a license to drive an ATV; 35 states do not require any special training to drive an ATV. Utah allows children as young as 8 to drive ATVs while a 10 year old can drive them in New York, Maine and Pennsylvania.

¹⁸ Id. at 1304.

¹⁹ Id. at 1306. The court here quoted from the Commission's findings at 56 Fed.Reg.at 47,167.

“unreasonable risk” to children.”²⁰(emphasis added).

Finally, the court stated that “the Consent Decree regime should be tried out for a reasonable time before further measures are added to the regulatory agenda.” It added, “In view of the Commission’s representations that it will ‘continue to monitor the effectiveness of the Consent Decree program’ and ‘consider whether a ban of ATVs for use by children is warranted if the distributors [efforts under the Consent Decree] prove ineffective,’ we deny the instant petition for review.”²¹ (emphasis added).

B. The rise in injuries and deaths from ATV use demonstrate that the Consent Decree entered into in 1988 and the voluntary agreements between CPSC and the ATV industry after the consent decree’s expiration in 1998 have failed, and the CPSC should consider banning the use of ATVs by children, or take such other action that accomplishes that same goal.

We have set out at length the data demonstrating that there have been significant increases in deaths and injuries from ATV use. 174 children were killed last year on ATVs, and more than 34,800 were seriously injured. 95% of children who were hurt or killed were riding adult size ATVs at the time—despite the manufacturers agreement not to sell adult size ATVs for use by children under 16, despite the warning labels on the machines, and despite industry pledges to disseminate information and educate ATV riders. These numbers have increased continuously over the past nine years.²²

The CPSC’s undercover survey in December 1988 revealed that about 70% of Virginia ATV dealers were making age recommendations inconsistent with the consent decree. The problem of ATVs being sold for use by children under 16 has not improved since then.

As described above, when a *Consumer Reports* reporter went to an ATV dealership in 1994, the salesperson tried to sell him a 195 cc, 320 pound ATV for his 10 year old son, telling the reporter, “he’ll grow into it.” Similarly, when *Good Morning America* visited a series of ATV dealerships in November of this year, one salesman recommended an adult size ATV when the buyer asked what machine would be best for a 14 year old, even telling the buyer, “No, it’s not too big for him.” A second salesman also recommended an adult size ATV, adding that his 13 year old sister rides the same one. A third salesman mentioned the age limits but recommended a way to skirt the rules, telling the buyer to purchase the “vehicle as if it was for yourself.” All told, nine of 10 ATV dealers contacted at random in person or by phone recommended adult-sized ATVs for a child.

²⁰ Id. at 1306.

²¹ Id. at 1308.

²² Between 1993 and 2001, the injury rate associated with ATVs more than doubled to 111,700 in 2001; between 1993 and 2001, the number of ATV-related injuries suffered by children under sixteen increased 94% to 34,800. Although children under sixteen account for approximately 14% of all ATV riders, they suffer 37 percent of all injuries and 38% of total fatalities.

We think the evidence makes clear that far too many ATV dealers are selling adult-sized machines for use by children, the prevention of which was a central tenet of the Consent Agreement. Moreover, coincidental with the end of the Consent Agreement, this problem appears to be getting worse, not better, and clearly demonstrates that the industry's efforts at self-regulation of ATV sales have been and continue to be a dismal failure. And we must underscore that regardless of whose use the ATV is sold for, young children are using these machines and are being injured or killed at increasing rates each year.

The court of appeals in its 1993 decision relied on CPSC's pledge to continue to monitor the effectiveness of voluntary industry regulation embodied in the Consent Decree.²³ It noted that CPSC promised to consider whether a ban on ATVs for use by children is warranted if the voluntary regulation efforts prove ineffective. CU believes there is more than ample evidence that industry voluntary programs have simply not worked—the dramatic and increasing injury and death rates underscore the failure.

C. Regulatory and Other Options for CPSC Consideration

We think now is the time for CPSC to reconsider the youth ban or find another means to effectively bring about a youth ban. We recognize the difficulty of implementing and enforcing such a ban, but we urge the Commission to consider appealing to its congressional oversight committees for broad support. We also urge the Commission to enlist the cooperation and support of state attorneys general to enforce such a ban in their states.

Notwithstanding the Commission's decision on the petition, we believe there are other actions the Commission should take:

- The Chairman of the CPSC should take the lead in asking Congress to hold hearings on ATV safety based on its own injury data, and the report from the CFA, Bluewater Network, and Natural Trails and Waters Coalition, All-Terrain Vehicle ATV Safety Crisis: America's Children At Risk and the petition, whose data come almost entirely from the Commission's own records. CPSC should press upon members of Congress the need for stronger laws in the states, using the American Academy of Pediatrics Model Statute (see description, page 7 as a good example of a comprehensive law), and urge Congress to provide incentives to states to adopt the model law.

There is precedent for this approach. In 2000, Congress passed and President Clinton signed a law requiring that states enact a 0.08% BAC (blood alcohol content level) law by October 1, 2003 or lose a portion of highway funding. Federal law currently offers financial incentives to the states to adopt a 0.08% permissible blood alcohol level for drivers and has been successful in persuading states to adopt this

²³ While it is true that the Consent Decree expired in 1998, it was replaced by informal agreement between manufacturers and the CPSC wherein these manufacturers were to abide by the same rules in the Consent Decree (with the exception of Honda, which declined to be bound by the informal agreement).

provision. Prior to this law, 18 states and the District of Columbia had passed 0.08% BAC laws. In the two years since, the total number of states with 0.08% BAC laws has increased to 33 and the District of Columbia.

- CPSC should enlist the expertise of automotive engineers and other technical experts to review the design of ATVs. There is no question about the hazardous nature of even ordinary use of these machines. The Justice Department described ATVs as an "imminent hazard" in its 1987 case, arguing that they give "the illusion of safe, stable easy-to-operate vehicle," and give "no hint of the crippling or fatal accidents that can suddenly occur, even while attempting to execute unexceptional, simple riding maneuvers." DOJ recommend mandatory safety standards in its 1987 complaint.

Conclusion

We urge the Commission to move decisively to implement the youth ban, as requested by the petitioners, as its first step. Banning ATVs for use by the young would prevent untold tragedies and ruined lives.

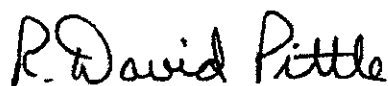
We understand the Commission has extended the deadline for submission of comments for an additional 90 days until completion of a CPSC study that will include exposure data for ATV usage. While we are filing these comments today, we respectfully reserve the right to submit an addendum to them after reviewing any new data from the Commission's report that we believe is relevant to this petition.

Whatever actions the Commission chooses to take, we believe it is imperative that it take definitive steps to reverse the tragic trend that has emerged with regard to injuries and deaths from ATV use. Indeed, there is no other product under CPSC's jurisdiction that has as many deaths each year to children as ATVs—and these deaths are preventable.

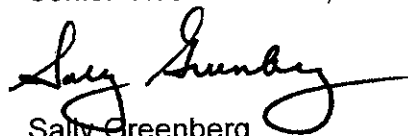
December 23, 2002

Respectfully submitted,

CONSUMERS UNION
1666 Connecticut Avenue, NW
Washington, DC 20009
202-462-6262



R. David Pittle
Senior Vice President, Technical Policy



Sally Greenberg
Senior Product Safety Counsel



Publisher of Consumer Reports

Attachment A

NEWS

FOR IMMEDIATE RELEASE
April 28, 1998

CONTACT: 202/462-6262
Sally Greenberg, greesa@consumer.org
Kathleen McShea, mcshka@consumer.org

CU Calls for Congressional Crackdown on All-Terrain-Vehicles

WASHINGTON – Today marks the expiration of a ten year old federal consent decree with all six all-terrain vehicle (ATV) manufacturers, Consumers Union said new government data shows the decree has not worked well enough and called on Congress to provide incentives for states to ban ATVs for use by children under 16.

“The Consumer Product Safety Commission’s limited resources constrain its ability regulate ATVs effectively,” said Dr. David Pittle, Technical Director and Vice President of Consumers Union, publisher of Consumer Reports magazine. “The only effective response would be a Congressional inquiry into the many dangers these vehicles pose, with an eye toward banning their sale and use by children under 16. Children under 16 have no more business driving an ATV than they have driving an automobile.”

A Consumer Product Safety Commission (CPSC) review of the impact of the ten year consent decree released yesterday shows a startling number of deaths and injuries linked to ATV use, many involving children. The study, *“ATV Exposure, Injury, Death and Risk Studies,”* includes a special injury survey which suggests that injuries to children under sixteen may be as high as 47 percent of all injuries. This rate is comparable to the percent of injury reported in 1985, prior to the consent decree being implemented. The new study also shows that 95 percent of the children injured were driving vehicles larger than those recommended for their age.

Because of several unique design characteristics, ATVs can veer out of control without warning, hurling rider and machines up to 50 mph helter-skelter into unforgiving terrain, full of rocks, bumps and tree stumps.

“Since the 1988 consent decree on ATVs was signed, an estimated 2,040 users have died and an estimated 637,000 people were injured seriously enough using these machines to require emergency room treatment. At least one third of those children under 16,” said Dr. Pittle. “These products were designed for fun, but the price for many has been too high, especially for young children.”

MORE-MORE-MORE

The 1988 decree, which substituted for formal agency rule-making by the Consumer Product Safety Commission, required that large warning labels be placed on ATVs by manufacturers cautioning consumers about the hazards of sharp turns and advising against use by children under 16 years. Dealers were also required to offer training incentives for first time buyers and manufacturers were required to monitor and prevent sale of larger ATVs for use by children under 16. In addition, the manufacturers of ATVs voluntarily agreed to stop production of the more dangerous 3-wheel vehicle. The CPSC is expected to extend many of the provisions in the current consent decree.

"There is no question that without the consent decree we would be much worse off," said Pittle. The overall number of ATVs in use has doubled from 1985, when they numbered 1,942,000 to 1997, with 3,660,000 in use. Over that time, the number of injuries has dropped by 50 percent. According to Pittle, "The consent decree was most effective in its early years, bringing injuries and deaths down significantly. Unfortunately, in the past four years, the consent decree hasn't made a further dent in the numbers of injuries and deaths, which have remained constant each year over that period."

The effectiveness of certain aspects of the consent decree are called into the question by the report. For example, though manufacturers agreed under the consent decree not to sell the larger ATVs to consumers for use by children under 16, the CPSC report shows that 95 percent of the injuries to children take place when they are riding the larger vehicles. The report also indicates that only 11 percent of ATV drivers have ever participated in a training program, despite the ATV driver training incentives required under the decree.

Furthermore, the new CPSC review shows at least 20 percent of ATVs in use today are the most dangerous kind: three-wheelers, whose manufacture was banned under the consent decree of 1988. At that time, manufacturers predicted that the vehicles would have only a seven year life. Instead, ten years later, one-fifth of all ATVs in use today are three wheelers.

"Amid all of the claims of fun, these machines have caused paraplegia, permanent brain injuries and other untold tragedies. With injuries in 1997 numbering 54,500, a new strategy is needed to reduce the dangers of ATVs to consumers," said Sally Greenberg, Senior Product Safety Counsel for CU's Washington office.

Among the manufacturers of ATVs are Yamaha, Suzuki, Kawasaki, Honda, and Polaris.

-30-

NOTE: State by state data on deaths associated with ATV use is available upon request

Consumers Union, Publisher of Consumer Reports magazine, is an independent nonprofit testing, educational and information organization serving only the consumers. We are a comprehensive source of unbiased advice about products and services, personal finance, health, nutrition and other consumer concerns. Since 1936, our mission has been to test products, inform the public and protect consumers.

Protect

Union in action

All-terrain vehicles put children at risk

In May, on the eve of her eighth birthday, Julie Johnson took a ride on an all-terrain vehicle that a 14-year-old friend was driving near the Ocala National Forest in Florida. "I turned around and it had already happened," says her cousin Edward Clay Haerter, who rode ahead of them. After hitting a pothole, Julie's ATV flipped over, landing on her. She died en route to the hospital.

With their oversized tires and handlebars, ATVs look like fun, and roughly 4 million are in use. Young people like them because they don't require a driver's license. But 1,100 children under 16 have been killed and some 372,000 injured on ATVs in the last 15 years. They account for roughly 40 percent of all deaths and injuries on ATVs, despite the fact that large ATVs (97 percent of those sold) carry warnings that children under 16 shouldn't be riding them.

Even for adults, all-terrain vehicles are inherently tricky. Make a wrong turn, and an ATV can veer out of control. The gas engine can easily do 40 mph, and they're used on terrain that includes the unexpected and the unforgiving—like tree roots and rocks.

For 10 years, a federal consent decree with ATV manufacturers required,

among other things, that ATVs with an engine of 90 cc (cubic centimeters) or larger carry a label warning that they were not to be used by children under 16. The decree expired in April, although manufacturers have continued to use the label anyway.

But stronger protections are needed, Consumers Union urges. "We believe Congress needs to come up with incentives to get states to make it illegal for children to be on large ATVs," says Technical Director R. David Pittle. States should consider mandatory licensing, safety classes, and helmet use.

In the meantime, all ATV riders should:

- Avoid riding three-wheeled ATVs—they're too unstable. The industry doesn't make them anymore, but old ones are still out there.
- Never allow a child under 16 to ride a vehicle with an engine of 90 cc or larger.
- Never carry passengers; ATVs aren't designed for them.
- Always wear a motorcycle helmet.
- Take the free training that manufacturers offer owners and their families. Call 800 887-2887 to find a course near you.

Adults only Large ATVs, which account for 97 percent of the market, aren't safe for children under 16. Warning labels are used, but they aren't required.



Those ATVs Should Have Been Recalled (Cont'd.)

At the height of the Christmas clearance sales, the Consumer Product Safety Commission announced a deal that was no bargain for consumers; instead of filing its lawsuit seeking the recall of ATVs ("all-terrain vehicles") as imminent hazards, it entered into a preliminary settlement with the manufacturers (final consideration by CPSC is scheduled for mid-February). Unfortunately, the deal the commission made was as poorly designed and dangerous for consumers as the ATVs themselves. And Terrence Scamton's defense of the agreement [free for All, Jan. 16] offered little justification for such a weak settlement.

We've all seen one of these colorful three- or four-wheeled vehicles meandering down a dirt path alongside the highway as we headed to the beach, or watched commercials featuring smiling kids tearing around in the rugged outdoors. Large, puffy balloon tires, fresh air, no traffic—what safer fun could a kid have? Already 2.3 million of these vehicles have found their way into American homes, most with youngsters under 16.

The commission's staff examined the vehicles and found them far less friendly than they look. Because of several unique design characteristics, ATVs can wear out of control without warning, hurling rider and machine at speeds up to 50 mph before skidding into an unforgiving environment full of bumps, potholes, rocks and tree stumps. Too often, the 300-pound vehicle lands on top of the rider. Amid all the claims of fun, the down side has been devastating: 900 deaths and 330,000 injuries (requiring emergency room care) alone since 1982, almost half to kids younger than 16.

The commission studied the problem so long it came dangerously close to suffering paralysis by analysis. Finally, in December 1986, it voted (Scamton dissenting) to curb the carnage by asking the Justice Department to seek, among other things, a recall of all three-wheeled models

and four-wheelers sold for use by kids under 16. But no legal action has taken place since the vote.

Now, one year later, a settlement has been reached. Scamton boasts that CPSC "sought—and, thankfully, got—a halt to [the] sale of the three-wheeled models." Actually, manufacturers simply agreed to encourage retailers to not sell last year's three-wheelers left in stock. The industry had already stopped manufacturing these products. The commission can hardly call this a concession.

Unfortunately, the agreement does not include recall, even though one manufacturer made such an offer. Instead of offering to design less hazardous new products or recalling the known hazard, the industry promises to set up a nationwide program to teach new and recent owners how to survive the risks of using an ATV. Even though the classes are free, they are voluntary.

It's hard to imagine hundreds of thousands of riders, many between 10 and 16 years old, herding into classes across the country. It is patently naive—indeed, irresponsible—to believe such a strategy can substantially reduce the continuing rate of death and injury.

So what happens to the 1 million or so consumers who bought an ATV thinking it was a great toy for their youngsters? Without a substantial incentive to return the product, few consumers are likely to park their \$1,500 to \$2,000 investment in the garage until junior gets old enough to ride it properly. Sadly, the same population that has already suffered hundreds of deaths and thousands of injuries remains at risk and can't help piling up more gruesome statistics.

Perhaps the most troubling part of the agreement is the provision that new buyers sign a declaration that they fully understand the dangers and will abide by 12 safety precautions. It's reasonable enough to advise consumers never to drive at "excessive speeds"; never do "wheelies,

jumps or other stunts"; never drive an ATV without proper instruction; and always be "extremely careful when approaching hills, turns and obstacles." But having the parent sign a promise to comply with each and every warning as well as a statement acknowledging "that failure to obey these warnings could result in death or severe bodily injury" will do little to affect how a 12-year-old will actually use the machine. Worse, instead of protecting the consumer, the signed declaration will help protect the manufacturer from liability when injury does occur. Federal endorsement of such a scheme will only make it more damaging.

This agreement has no teeth—no required measures of performance and no sanctions for noncompliance by retailers—and only vague promises by manufacturers to use "best efforts" in carrying out its terms. Industry's offer was, however, entirely predictable. After all, the program doesn't cost much, and the manufacturers blame the kids' behavior to begin with.

But for a majority of the commissioners to accept such a pathetic remedy is deeply disturbing. As leaders of the principal agency responsible for product safety, they have both the authority and the resources to carry out their mandate vigorously—what they lack is the will to act. Scamton's hand-wringing over the threat of a prolonged battle to protect consumers is no excuse for the agency to shrink from its responsibility. Given the serious and widespread nature of the hazard, the preliminary settlement is unacceptable. Should it become final, the public will be poorly served.

—R. David Pittle
The writer, a former Consumer Product Safety commissioner, is technical director of Consumers Union, publisher of Consumer Reports.

The Washington Post
Saturday, Jan. 23, 1988

All-terrain vehicles: Still a danger

Between 1982 and 1988, 456 children were killed riding all-terrain vehicles, three- and four-wheeled motorized carts that can tip or flip over all too easily. Some highly publicized lawsuits gave ATVs considerable notoriety and forced the U.S. Consumer Product Safety Commission to take action.

The agency worked out a consent agreement with manufacturers, who agreed to stop selling three-wheeled ATVs and to label four-wheeled models with a warning that only ATVs with an engine of 90cc or less be used by children under 16.

But in the six years since the CPSC acted, deaths of children under 16 have dropped only 9 percent, to 416. ATVs injure some 24,000 children under 16 each year, according to CPSC data. And if our experience is any indication, some dealers wink at the safety warnings.

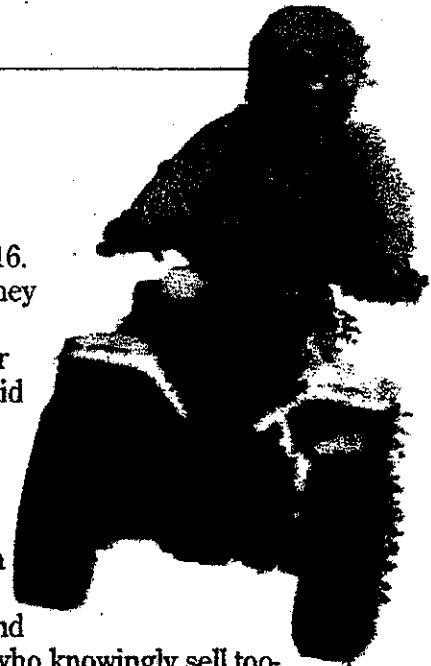
The salesperson at one Connecticut dealership tried to sell our reporter a 195cc, 320-pound ATV for his 10-year-old child. "Doesn't this seem kind of big for a kid?" our reporter asked. "He'll grow into it," the salesperson replied. A large sticker on the machine said: "Never operate this vehicle if you are under 16."

Consumer organizations, including the U.S. Public Interest Research Group, are urging the CPSC to enforce an outright ban on the sale of ATVs for use by

children under 16.

A CPSC attorney downplayed the need for tougher remedies. He said the agency will continue to enforce the consent agreement through random undercover investigations and punish dealers who knowingly sell too-powerful ATVs for use by youngsters. Since 1990, he said, 20 to 25 dealers have lost their franchise agreements for violating the agreement. The agency estimates that 80 to 85 percent of dealers are now in compliance, up from 56 percent in 1989. The attorney added that the agency will probably be looking at the ATV problem once again because of the ongoing deaths and injuries.

The American Academy of Pediatrics and several consumer groups went to Federal court in 1992 seeking to force the CPSC to modify and enforce its 1988 consent agreement. A judge turned back that effort, but stated that the commission's refusal to implement more stringent regulations "represents an unwillingness or inability to recognize what appears to be an obvious need of its expertise." Well put.



Stevenson, Todd A.

From: KnoxCa@consumer.org
Sent: Monday, December 23, 2002 11:41 AM
To: cpsc-os@cpsc.gov
Subject: ATV Comments



1223 ATV comments
12-02.pdf

Attached are comments from Consumers Union in PDF.



Barren River District Health Department

District Offices • 1109 State Street • PO Box 1157
 Bowling Green, Kentucky 42102-1157
 PH 270.781.8039 • FAX 270.796.8946
 E-mail: ChristineE.Hanshaw@mail.state.ky.us

December 13, 2002

Todd Stevenson
 Secretary
 U.S. Consumer Product Safety Commission
 4330 East-West Highway
 Bethesda, MD 20207

Dear Mr. Stevenson,

I am writing to support a petition, submitted to the U.S. Consumer Product Safety Commission (CPSC) by the Consumer Federation of America (CFA) and other parties, which requests a ban of adult all-terrain vehicles (ATVs) for use by children under the age of 16.

According to the National Children's Center for Rural and Agricultural Health and Safety, from 1995 to 1999 the estimated number of U.S. youth under age 16 who received emergency department treatment for ATV-related injuries grew annually from 19,300 to 28,700, a 33% increase. In our health department's 8-county district, 88 children under 16 have been injured severely enough to warrant hospital emergency department visits during the previous 2 years.

ATV's are powerful, motorized vehicles that require strength and maturity to maneuver. I do not believe that most children have the strength or maturity to drive ATV's safely. ATVs pose an unreasonable risk of death and injury to children. Thank you.

Sincerely,

Christine Hanshaw RN

Christine Hanshaw, RN, BSN
 Project Director, Safe Communities
 Health Information Department



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Jan Stegelman

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Dennis Cooley, MD
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Chapter

Lt. John Eichkorn
Kansas Highway Patrol

Sally Finney
Kansas Public Health
Association

Cindy Hermes
State Capitol Area
Firefighters Association

Ami Hyten
Kansas Trial Lawyers
Association

James Keating
Kansas Fire Service

Roseanne Rutkowski
Kansas State Nurses
Association

December 18, 2002

Todd Stevenson
Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20207

**RE: Petition to Ban All-Terrain Vehicles for Use by Children Under Age 16:
CP-02-4/HP-02-1**

Dear Mr. Stevenson:

On behalf of Kansas SAFE KIDS, I am writing to support a petition, submitted to the U.S. Consumer Product Safety Commission (CPSC) by the Consumer Federation of America (CFA) and other parties, which requests a ban of adult all-terrain vehicles (ATVs) for use by children under the age of 16. As ATVs pose an unreasonable risk of death and injury to children in our state, Kansas SAFE KIDS supports most of the provisions of this petition.

Kansas SAFE KIDS, Inc., is a nonprofit organization composed of over seventy statewide and regional organization and businesses (list attached). The mission of the Coalition is to protect Kansas children ages 0-14 from unintentional injury. The Kansas SAFE KIDS Coalition is part of the National SAFE KIDS Campaign. As you may know, farmers and hunters use ATV's extensively in Kansas. Unfortunately, Kansas children are frequently passengers and even drivers of adult ATV's (see attached newspaper article regarding child's death in Kansas).

Kansas SAFE KIDS believes that ATVs should not be operated by children ages 15 and under. ATVs are inherently difficult for adults to operate and beyond the developmental capability of children to control. This concept, coupled with the increased number of associated injuries and fatalities, show that there are inherent dangers to children driving adult ATVs. In fact, many of the conclusions found in the CPSC's most recent research (*Consumer Product Safety Commission, Annual Report: 2001 All-terrain Vehicle [ATV]-related Deaths and Injuries, August 2002*) clearly demonstrate that there is presently a substantial risk of death and injury. Significantly, between 1982 and 2001, 1,714 children under age 16 – including 799 under the age of 12 – were killed in ATV incidents. Furthermore, between 1993 and 2001, the number of ATV-related injuries by children under age 16 increased 94 percent to 34,800. The CPSC data also revealed that while only 14 percent of all ATV riders were children under the age of 16, these children disproportionately suffered approximately 37 percent of all injuries and 38 percent of total fatalities between 1985 and 2001. Unfortunately, Kansas children are not immune to this trend.

In our view, banning ATVs for children would not require removal of the products from the marketplace, but simply preclude ATV manufacturers and retailers from marketing their products to children. Additionally, ATV salespeople would be required to warn potential purchasers about the dangers of the product and ask parents if the ATV was being bought for a child under age 16. These measures, if properly enforced, would pass on vital safety information to parents as well as help to prevent child ATV-related



Kansas
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KIDS
★ ★ ★ ★ ★
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State Capitol Area
Firefighters Association

Ami Hyten
Kansas Trial Lawyers
Association

James Keating
Kansas Fire Service

Roseanne Rutkowski
Kansas State Nurses
Association

incidents from occurring in the first place by preventing the sale of the vehicle if it is known or reasonably believed that the product will be used by children under 16. Additionally, Kansas SAFE KIDS supports increased educational efforts, labeling, and instructions – targeted at current owners of ATVs to remind them of the potential dangers of these devices.

If you would like any addition information on Kansas SAFE KIDS or our affiliation with the National SAFE KID Campaign, please don't hesitate to contact our Coordinator, Jan Stegelman, at 785-296-1223. or jstegelm@kdhe.state.ks.us.

Sincerely,



Jim Keating, Chair
Kansas SAFE KIDS Coalition

Pc: Jan Stegelman, Coordinator
Alan Korn, National SAFE KIDS Campaign



Child's death spotlights lack of ATV regulations

Sister also injured in Jefferson County tragedy.

ANDREA ALBRIGHT
Capital-Journal

WINCHESTER — Even if it were required, the recent victim of an all-terrain vehicle accident probably would have been too young to understand safety training.

Six-year-old Sawyer Christian Welch died at a Jefferson County hospital Saturday night after the ATV he was driving struck a tree south of Winchester, Jefferson County Sheriff Roy Dunnaway said. Sawyer's 9-year-old sister, Amanda, was riding on the back and injured her eye in the accident. The children were visiting relatives in Jefferson County from their home in Fraser, Colo.

Dunnaway said he couldn't imagine the shock

of losing such a young child in an accident.

"This is one of those things you don't even want to think about," he said.

Dunnaway said because the children were riding on private property and not a roadway, no laws had been broken. But even if the children had been on public land, Kansas has few laws regulating ATVs.

"Our understanding is you don't have to be licensed if you're not on a roadway," he said. "I'm not aware of any requirements on private land."

Jan Stegelman, coordinator for the Kansas Safe Kids Coalition in Topeka, said laws regulating ATVs vary from state to state, but only suggestions exist in Kansas.

"Many states do have requirements, but Kansas really has none," she said. "We try and use other strategies. I think if we can find other ways, the Legislature appreciates that."

One of the methods the advocacy group to encourage ATV distributors to encourage safety instruction before

Continued on page 14-A

ATV

Continued from page 1-A

purchases equipment.

Salesman Don Brown said it is policy at American Lawn and Leisure to show a 15-minute safety film and demonstrate the vehicle's limitations in the parking lot before selling an ATV at the Topeka store.

"We run them through quite a rigmarole," Brown said. "We stress safety, but once they leave here, we have no control."

The requirements that do exist for ATV riders are applicable only in parks where employees can police trail riders.

Frank Funk, operations manager at Lake Perry, said there are just a few rules at the ATV park south of the office at the lake. Riders may use the park only in daylight and only on established trails. ATVs are the only vehicles allowed in the park, and they must stay within its boundaries. There is no age requirement.

But protective gear and helmets

are merely suggested at the park. Also suggested are riding without a passenger but with another person. Regardless of precautions, Funk said, injuries aren't uncommon.

"We have accidents out there," he said. "Every year somebody gets hurt."

Stegelman said part of the problem legislating control over ATVs is that few of the vehicles are used on public property, and police would have difficulty enforcing the laws.

"The first question would be: How are we going to regulate this?" she said.

Many of the vehicles sold today are being used by farmers and hunters, Brown said.

Although sales to sports enthusiasts have leveled off some, sales remain brisk for utilitarian vehicles.

Stegelman said many of these ATVs are winding up on private land being used by children who aren't sufficiently supervised. Because the vehicles are built to carry an adult, children have an especially difficult time

controlling ATVs. The coalition, she said, recommends that no one under age 16 operate an ATV.

"They aren't large enough physically or able to make quick judgments and have quick reactions," she said. "They're for adults; they're not made for kids."

According to information compiled by the National SAFE KIDS Campaign, in 1996 more than 55 children under the age of 14 died as a result of ATV-related injuries. In 1997, more than 19,000 were treated in emergency rooms from ATV injuries.

However, automobile, fire and bicycle injuries remain the focus of most safety legislation.

"The issue hasn't risen because the numbers aren't high enough," Stegelman said. "Certainly that's not to say this couldn't be looked at in the future, but it hasn't come up as a major issue for us yet. It may.

"Sometimes it takes an injury or death of a child to galvanize people to say yes, this is something we need to do."



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Kansas Fire Service

Roseanne Rutkowski
Kansas State Nurses
Association

AAA Kansas
American Academy of Pediatrics
American Red Cross - Wichita
Anderson County SAFE KIDS Chapter
Attorney General of Kansas
Barber County SAFE KIDS Chapter
Board of Emergency Medical Services
Brain Injury Association of Kansas
Children's Mercy Hospital
Chanute SAFE KIDS Chapter
Clay County SAFE KIDS Chapter
Dillon Stores
Doniphan County SAFE KIDS Chapter
Fire Education Association of Kansas
Fire Marshal's Association of Kansas
Ford County SAFE KIDS Chapter
Hutchinson SAFE KIDS Chapter
Johnson County SAFE KIDS Coalition
Kansas Academy of Family Pract. Phy.
Kansas Association of Counties
Kansas Assoc. of Local Health Dept.
Kansas Assoc. of Osteopathic Medicine
Kansas Association of School Boards
Kansas Chapter Int'l Assoc. Arson Invest.
Kansas Chiropractic Association
Kansas Congress of Parents and Teachers
Kansas Cooperative Extension 4-H
Kansas Dental Association
Kansas Dept. of Health & Environment
Kansas Dept. of Human Resources
Kansas Dept. of Transportation
Kansas District of Kiwanis International
Kansas Emergency Medical Servcs Assoc.
Kansas Emergency Nurses Association
Kansas Farm Bureau
Kansas Head Start Association
Kansas Healthy Start Home Visitors
Kansas Highway Patrol
Kansas Hospital Association
Kansas Insurance Department
Kansas MADD
Kansas Medical Society
Kansas Nat'l Employers for Traffic Safety
Kansas Public Health Association
Kansas Recreation & Park Association
Kansas Rehabilitation Hospital
Kansas SADD
Kansas Safety Belt Education Office
Kansas School Nurses Organization
Kansas State Association of Fire Chiefs
Kansas State Board of Education
Kansas State Fire Marshal
Kansas State Firefighters Assoc.
Kansas State Nurses Association
Kansas Trial Lawyers Association
Kaw Valley Girl Scout Council
KNEA
KUMC Burn Center
KUMC Child Development Unit
Lawrence SAFE KIDS Coalition
Leavenworth SAFE KIDS Chapter
Manhattan SAFE KIDS Chapter
Marion County SAFE KIDS Chapter
Montgomery County SAFE KIDS Chapter
NHTSA Regional Office
Norton SAFE KIDS Chapter
Office of the Governor
Osage County SAFE KIDS Chapter
Pittsburg SAFE KIDS Chapter
Pottawatomie County SAFE KIDS
Rice County SAFE KIDS Chapter
Safety & Health Council Western MO&KS
Salina SAFE KIDS Chapter
Shawnee County SAFE KIDS Coalition
State Farm Insurance Companies
State Capitol Area Fire Fighters Assoc.
Stormont-Vail Regional Medical Center
Think First
United School Administrators of Kansas
Via Christi - St. Francis Burn & Trauma
Western Resources
Wichita Area SAFE KIDS Coalition

1/02





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Cindy Hermes
State Capitol Area
Firefighters Association

Ami Hyten
Kansas Trial Lawyers
Association

James Keating
Kansas Fire Service

Roseanne Rutkowski
Kansas State Nurses
Association

Kansas SAFE KIDS Coalition

The Kansas SAFE KIDS Coalition, Inc., is a nonprofit organization composed of over seventy statewide and regional organizations and businesses that have joined together to protect Kansas children ages 0-14 from unintentional injury. The Kansas SAFE KIDS Coalition is part of the National SAFE KIDS Campaign.

Injuries are the leading killer of Kansas kids. This year, one child in four will suffer a preventable injury that is serious enough to require medical attention. The great tragedy is that most of these injuries can be prevented.

The primary programs of the Kansas SAFE KIDS Coalition include:

BUCKLE UP

The BUCKLE UP program is designed to increase the number of children properly protected by a child safety seat, booster seat or seat belt. Since the program began, 4050 child safety seats and booster seats have been distributed by the Coalition to low income families. The Coalition operates a Mobile Child Safety Seat Check Up Van to facilitate child safety seat checks in local communities. In the last three years, 5687 seats have been checked at over 170 van and community check up events. In addition to scheduled events, Kansas now boasts 80 permanent fitting stations for child seat checks. Over 1200 volunteers have been trained to assist with child passenger safety check-up events. The BUCKLE UP program has been credited with 8 documented lives saved in the past two years.

CYCLE SMART

The CYCLE SMART program is designed to increase the number of children protected by bicycle helmets by making reduced-price helmets and an educational program available to Kansas children. Since the program's inception in 1993, more than 57,000 helmets have been distributed to Kansas children. The program has been credited with at least 8 documented lives saved. The program is a recipient of both the National 2000 Bell Sportsmanship Award from Bell Sports and the Secretary's Award for Excellence from Health and Human Services.

SAFE KIDS Walk This Way

One of the major events in this pedestrian safety program is Walk Your Child to School Day, an annual statewide safe pedestrian event targeting K-3 age children that encourages adults and children to walk to or from school together. Community Action Kits are made available to communities and schools wishing to participate in the event. Over 19,000 incentives are provided to participating students each year during the event.

Over



Stevenson, Todd A.

From: PSD [yellowsub1962@sbcglobal.net]
Sent: Friday, December 27, 2002 4:57 PM
To: cpsc-os@cpsc.gov
Subject: CPSC petition for ATV ban

To Whomever keeps trampling my rights,

Re:
[Federal Register: December 26, 2002 (Volume 67, Number 248)]
[Notices]
[Page 78776]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr26de02-42]

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CONSUMER PRODUCT SAFETY COMMISSION

Petition Requesting Ban of All-Terrain Vehicles Sold for Use by
Children Under 16 Years Old; Extension of Comment Period

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of extension of comment period.

This is the most ridiculous intrusion on my rights you have come up with to date!! Now you're trying to make it ILLEGAL for my kids to ride ATVs if they're under 16?? Why do you insist that the actions of an irresponsible few necessitate a new law? How about having parents and kids take a safety class together when purchasing an ATV? I have a novel idea for you, how about holding people accountable for their actions instead of making a completely senseless law.... maybe you should start a petition to ban matches, after all, look at all the fires they start....

Sincerely,

Peter S. Di Primo

Simi Valley Ca 93065

"The American people will never knowingly adopt socialism, but under the name of liberalism they will adopt every fragment of the socialist program until one day America will be a socialist nation without ever knowing how it happened".

--Norman Thomas, Socialist Party presidential candidate and one of the founders of the ACLU---

Peter S. Di Primo
EA Officer -
Ventura County Axle Snappers 4WDC
Land Use Moderator - www.pirate4x4.com
www.axlesnappers.com

12/30/2002

To: U.S. Consumer Products Safety Commission
Washington D.C. 20207

Attn: Secretary

From: W. S. Woodland
2760 East Sun Vista Cir.
Clinton WA. 98236
E-mail pataw@whidbey.com
(360) 321 9322

Sub: Petition CP-02-4/HP-02-1, Petition on ATV's

Dear Sirs:

I urge the commission "Not" to issue regulations that prohibits the sale of adult-size four-wheel all-terrain vehicles (ATV's) for use by children under the age of 16.

The above petition is not valid and it would be impossible to enforce.

ATV's are sold to adult's, not 15 year old or younger children. The manufacturers and or dealers have no control over what the adult does with the unit after the adult drives away with the ATV in the back of his or her pickup.

The upward trend in the increase in accidents involving children throughout the 1990s is a direct result of an overall increase in the total numbers of ATV's being sold and currently in use. A recommendation has been issued by "all" manufactures of ATV's regarding children. Warnings are currently included in all the owner's manuals, spec. sheets etc. that come with or advertise the units. The manufactures and or dealers would much rather sell the additional smaller version ATV's than have the children ride the adults units.

It is the total responsibility of the owning parent or controlling adult who they allow to operate their units, not the manufacturer or dealer.

Thank you for your consideration:



STAMP

Ian Thomas

104 Valley View Rd. , Media, Pennsylvania 19063

December 16, 2002 04:46 PM

Office of the Secretary Consumer Product Safety Commission
Consumer Product Safety Commission
Washington, DC 20207

Subject: Petition CP-02-4/HP-02-1, Petition on ATVs

Dear Office of the Secretary Consumer Product Safety Commission:

I urge the Commission to issue a regulation that prohibits the sale of adult-size four-wheel all-terrain vehicles (ATVs) for use by children under 16 years old as requested in the above referenced petition. The growing number of ATV-related injuries and fatalities demonstrates that the Commission must take proactive steps to address a serious product safety problem.

The Commission is well aware of the rising tide of injuries and deaths caused by ATV-related accidents. The consistent, and troubling, upward trend throughout the 1990s demonstrates that the Commission can no longer defer to the ATV industry when it comes to safety. The current voluntary approach, embodied in the *ATV Action Plans* is failing in every respect. The core tenet of this approach is the pledge by manufacturers not to sell adult-size ATVs (defined as machines with engines larger than 90 cc) for use by children under 16. A recent investigation by Good Morning America (GMA) raises serious questions about the effectiveness of this approach.

As reported on November 8, GMA visited or called 10 randomly selected ATV dealers nationwide and asked salespeople to recommend an ATV for a 14-year-old child. Nine of the ten dealerships recommended an adult-size ATV with full knowledge that it was being purchased in violation of the industry's age limits. Many dealers recommended the adult-size machines without caveats while one explained the age restrictions, then proceeded to tell the reporter how to evade them.

The evidence available to the Commission through annual surveys and more comprehensive studies proves that the industry-dominated approach to ATV safety is ineffective. It is time to set a new direction at the national level. This effort must be led by the Commission and begins with the issuance of a regulation that prohibits the sale of adult-size four-wheel ATVs for use by children under 16.

Sincerely,


Ian Thomas

The Greater Dayton Area
**SAFE
KIDS**
Coalition

January 6, 2003

Todd Stevenson
Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20207

RE: Petition to Ban All-Terrain Vehicles for Use by Children Under Age 16:
CP-02-4/HP-02-1

Dear Mr. Stevenson:

On behalf of The Greater Dayton Area SAFE KIDS Coalition, I am writing to support a petition, submitted to the U.S. Consumer Product Safety Commission (CPSC) by the Consumer Federation of America (CFA) and other parties, which requests a ban of adult all-terrain vehicles (ATVs) for use by children under the age of 16. As ATVs pose an unreasonable risk of death and injury to children, The Greater Dayton Area SAFE KIDS Coalition supports most of the provisions of this petition.

As you may know, the mission of the Coalition is to reduce and prevent the unintentional injuries to children in the Greater Miami Valley through service and education. Our coalition was established in 1996, our lead agency being a children's hospital. The Coalition has grown to about 50 members strong including local police, fire, health care administrations as well as other community members and agencies dedicated to the safety of our children. We are proud to serve under the National SAFE KIDS Campaign as one in more than 300 coalitions in the United States dedicated to reducing and preventing injuries the safety of children.

The Greater Dayton Area SAFE KIDS Coalition believes that ATVs should not be operated by children ages 15 and under. ATVs are inherently difficult for adults to operate and beyond the developmental capability of children to control. This concept, coupled with the increased number of associated injuries and fatalities, show that there are inherent dangers to children driving adult ATVs. In fact, many of the conclusions found in the CPSC's most recent research (*Consumer Product Safety Commission, Annual Report: 2001 All-terrain Vehicle [ATV]-related Deaths and Injuries, August 2002*) clearly demonstrate that there is presently a substantial risk of death and injury. Death and injury that was to be addressed by consent decrees, action plans and consumer education and labeling. Significantly, between 1982 and 2001, 1,714 children under age 16 - including 799 under the age of 12 - were killed in ATV incidents. Furthermore, between 1993 and 2001, the number of ATV-related injuries by children under age 16 increased 94 percent to 34,800. The CPSC data also revealed that while only 14 percent of all ATV riders were children under the age of 16, these children disproportionately suffered approximately 37 percent of all injuries and 38 percent of total fatalities between 1985 and 2001. According to The Children's Medical Center of Dayton's injury data (data collected through children seen in the emergency department), injuries from ATVs to young operators have doubled.

In our view, banning ATVs for children would not require removal of the products from the marketplace, but simply preclude ATV manufacturers and retailers from marketing their products to children. Additionally, ATV salespeople would be required to warn potential purchasers about the dangers of the product and ask parents if the ATV was being bought for a child under age 16. These measures, if properly enforced, would pass on vital safety information to parents as well as help to prevent child ATV-related incidents from occurring in the first place by preventing the sale of the vehicle if it is known or reasonably believed that the

Honorary Chair
Mrs. Fran DeWine

Medical Advisor
Thomas R. Krzmarzick, MD
The Children's Medical Center

Coordinator
Michelle Brown
Communications Specialist
The Children's Medical Center

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Dayton Association for Young Children
Dayton Public Schools
Easter Seals
Epilepsy Foundation of Western Ohio
Fairborn Fire Department
Girl Scouts of Buckeye Trails
Greene County Combined Health District
KeyBank
Miami County Sheriffs Department
Miami County Safe Communities
Miami Township Police Department
Miami Valley Hospital
Miamisburg Fire Department
Ohio Coalition Against Gun Violence
Sinclair Community College
State Farm Insurance
Troy Police Department
Washington Township Fire Department



c/o The Children's Medical Center
Marketing Communications
One Children's Plaza
Dayton, Ohio 45404-1815

Greater Dayton Area SAFE KIDS
Phone: 937/641-3666

product will be used by children under 16. Additionally, The Greater Dayton Area SAFE KIDS Coalition supports increased educational efforts, labeling, and instructions – targeted at current owners of ATVs to remind them of the potential dangers of these devices.

If you would like any addition information on The Greater Dayton Area SAFE KIDS Coalition or our affiliation with the National SAFE KIDS Campaign, please don't hesitate to contact me at 937-641-3385 or brownml@childrensdayton.org.

Sincerely,

A handwritten signature in black ink that reads "Michelle Brown". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Michelle Brown
Community Relations Specialist
The Greater Dayton Area SAFE KIDS Coalition Coordinator

Summit County
**SAFE
KIDS** Chapter
A member of the

**National
SAFE
KIDS**
Campaign

January 6, 2003

Todd Stevenson
Secretary
U. S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20207

**Re: Petition to Ban all-Terrain Vehicles for Use by Children under the Age of 16:
CP-02-4/HP-02-1**

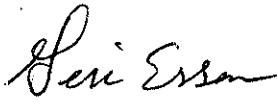
Dear Mr. Stevenson:

On behalf of the Summit Safe Kids Chapter of the Utah Safe Kids Coalition, I am writing to support a petition, submitted to the U.S. Consumer Product Safety Commission (CPSC) by the Consumer Federation of America (CFA) and other parties, which requests a ban of adult all-terrain vehicles (ATVs) for use by children under the age of 16. As ATVs pose an unreasonable risk of death and injury to children Summit Safe Kids supports most of the provisions of this petition.

Our Coalition is made up of a variety of community members including law enforcement, teachers, health educators, emergency response personnel and general community members. Each year our small rural community faces the fact that children are being injured on ATVs as they cross county roads or misjudge speed on farm terrain and overturn their ATV. Community education classes are offered in hopes of reducing injury rates. Unfortunately, attendance is very low.

Summit Safe Kids Coalition members believe that ATVs should not be operated by children ages 15 and under/ ATVs are inherently difficult for adults to operate and beyond the developmental capability of children to control. This concept, coupled with the increased number of associated injuries and fatalities, show that there are inherent dangers to children driving adult ATVs. In fact, many of the conclusions found in the CPSC's most recent research clearly demonstrate that there is presently a substantial risk of death and injury. Data from this research revealed that while only 14 percent of all ATV riders were children under the age of 16, these children disproportionately suffered approximately 37 percent of all injuries and 38 percent of total fatalities between 1985 and 2001.

In our view, banning ATVs for children would not require removal of the products from the market place, but simply preclude ATV manufacturers and retailers from marketing their products to children. Additionally, our Coalition supports increased educational efforts, labeling and instructions –targeted at current owners of ATVs to remind them of the potential dangers of these devices.

Sincerely,

Geri Essen
Coalition Coordinator



200 Henry Clay Avenue
New Orleans, La. 70118
(504) 896-3986
(504) 568-2508
FAX (504) 896-3934
FAX (504) 568-7312
safekids@chnola.org

Director
Kerry Chausmer, MPH, LCSW

January 8, 2003

Todd Stevenson
Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20207

U.S. OFFICE OF
THE SECRETARY
2003 JAN 14 P 12:11

**RE: Petition to Ban All-Terrain Vehicles for Use by Children Under Age 16:
CP-02-4/HP-02-1**

Dear Mr. Stevenson:

On behalf of Louisiana SAFE KIDS, Inc. I am writing to support a petition, submitted to the U.S. Consumer Product Safety Commission (CPSC) by the Consumer Federation of America (CFA) and other parties, which requests a ban of adult all-terrain vehicles (ATVs) for use by children under the age of 16. As ATVs pose an unreasonable risk of death and injury to children, Louisiana SAFE KIDS supports most of the provisions of this petition.

Louisiana SAFE KIDS was established in 1994 through the joint, cooperative efforts of Children's Hospital and the Louisiana Office of Public Health. We have grown strong roots and with 9 local chapters/coalitions, and over 70 committee members representing local, regional and statewide groups, we cover much of Louisiana.

Louisiana SAFE KIDS believes that ATVs should not be operated by children ages 15 and under. ATVs are inherently difficult for adults to operate and beyond the developmental capability of children to control. This concept, coupled with the increased number of associated injuries and fatalities, show that there are inherent dangers to children driving adult ATVs. In fact, many of the conclusions found in the CPSC's most recent research (*Consumer Product Safety Commission, Annual Report: 2001 All-terrain Vehicle [ATV]-related Deaths and Injuries, August 2002*) clearly demonstrate that there is presently a substantial risk of death and injury. Death and injury that was to be addressed by consent decrees, action plans and consumer education and labeling. Significantly, between 1982 and 2001, 1,714 children under age 16 – including 799 under the age of 12 – were killed in ATV incidents. Furthermore, between 1993 and 2001, the number of ATV-related injuries by children under age 16 increased 94 percent to 34,800. The CPSC data also revealed that while only 14 percent of all ATV riders were children under the age of 16, these children disproportionately suffered approximately 37 percent of all injuries and 38 percent of total fatalities between 1985 and 2001.

In Louisiana from 1996-1999, there were 117 identified cases of ATV related TBI and SCI and an estimated 127-286 additional Louisiana residents sustained other types of injuries (not TBI or SCI) related to ATV use. More than half of these injuries occurred among children aged 16 years and younger. The state epidemiologist in charge of these registries, Dr. Mona Doshani, believes, "Hence children should use motorized ATV's only after they receive instructions under adult supervision, for even though a child may be a recommended age to ride a particular size ATV, not all youngsters have the strength, skill or judgment needed to operate one."

Local Chapters
Acadiana • Central Louisiana
Hammond • Lafourche
New Orleans • Slidell
St. John

Local Coalitions
Baton Rouge • Lake Charles
Northwest LA



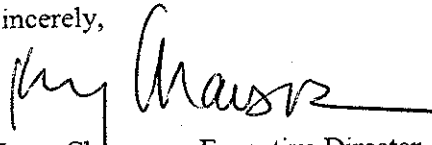
Founding Sponsors



In our view, banning ATVs for children would not require removal of the products from the marketplace, but simply preclude ATV manufacturers and retailers from marketing their products to children. Additionally, ATV salespeople would be required to warn potential purchasers about the dangers of the product and ask parents if the ATV was being bought for a child under age 16. These measures, if properly enforced, would pass on vital safety information to parents as well as help to prevent child ATV-related incidents from occurring in the first place by preventing the sale of the vehicle if it is known or reasonably believed that the product will be used by children under 16. Additionally, Louisiana SAFE KIDS, Inc. supports increased educational efforts, labeling, and instructions – targeted at current owners of ATVs to remind them of the potential dangers of these devices.

If you would like any addition information on Louisiana SAFE KIDS or our affiliation with the National SAFE KIDS Campaign, please don't hesitate to contact me (504) 568-2308 or safekids@chnola.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Kerry Chausmer", with a long horizontal flourish extending to the right.

Kerry Chausmer, Executive Director
Louisiana SAFE KIDS, Inc.

57

Robeson County
SAFE KIDS Coalition



Robeson County SAFE KIDS Coalition

RCHD 460 Country Club Road Lumberton North Carolina 28360
(910) 737-5008 Fax: (910) 671-3484 Email: linda.hughes@hth.co.robeson.nc.us
Lead Agency: Robeson County Health Department
January 9, 2003

Todd Stevenson
Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20207

RE: Petition to Ban All-Terrain Vehicles for use by Children Under Age 16: CP-O2-4/HP-02-1

Dear Mr. Stevenson:

On behalf of the Robeson County SAFE KIDS Coalition, I am writing to support a petition, submitted to the US Consumer Product Safety Commission by the Consumer Federation of America and other parties which requests a ban of adult all-terrain vehicles (ATVs) for use by children under the age of 16. As ATVs pose an unreasonable risk of death and injury to children, the Robeson County SAFE KIDS Coalition members support the provisions of this petition.

As you can see by the footer of our letterhead, Robeson County SAFE KIDS Coalition has a broad and varied membership from our communities. We also have the terrible loss of over a dozen citizens due to ATV crashes. Most of these deaths were to children under age 16. This is unacceptable and not even the total problem. Injuries, both minor and major, and life-threatening continue to occur. We have done public announcements, newspaper and TV spots. Still our children are observed on ATV's, sometimes not only as a driver, but as the second passenger on the lap or sitting behind the driver

Robeson County SAFE KIDS Coalition members believe ATVs should NOT be operated by children. ATVs, by their very nature, are difficult vehicles to operate, and are far beyond the developmental capability of children to control. According to your own annual report for 2001, ATVs constitute a substantial risk of death and injury. Between 1993 and 2001 injuries to children increased 94% and from 1982 to 2001 1,714 children died. Twelve were our own and we've had enough.

You have the power to influence and change policies of manufactures who market and sell ATVs. In our view, banning ATVs for children would not require the removal of the product from the marketplace, but serve notice to manufactures and retailers, not to market their product to children. Salespersons could be required to warn potential purchasers. By inquiring if a child under 16 might use the ATV, they could then pass on vital safety information to parents to help prevent child ATV-related injuries. If enforced adequately, perhaps retailers could prevent the sale of the ATVs when the ATV could be reasonably believed to be used by children under 16. Additionally, Robeson County SAFE KIDS Coalition supports increased educational efforts, bold labeling, and safety instruction before sale and targeted educational efforts at current owners to remind them of the potential dangers of these devices.

If you would like any information about our coalition or our affiliation with the National SAFE KIDS Campaign, please do not hesitate to contact me at (910) 737-5008 or email me at Linda.Hughes@hth.co.robeson.nc.us.

Sincerely,

Linda R. Hughes,
Robeson County SAFE KIDS Coalition Coordinator

Participating Agencies Lumberton Children's Clinic- Healthy Steps- Southeastern Family Violence Center- North Carolina National Guard- Robeson County Partnership for Children- Lumberton Fire Department- Child Care Directions- Lowe's Home Improvement Warehouse of Lumberton - NC Agriculture Cooperative Extension- Robeson County Council of Hope -Palmer Drug- NC State Highway Patrol - Women's Life Center- Robeson County Center of Child and Family Health- WBTW TV Lumberton Office - Robeson Health Care Corp.- UNCP- Healthy Start- Robeson County Sheriff's Department- Neighborhood Improvement Team - Southeast Regional Medical Center- Reggie Smith. Geico Insurance Investigator- Robeson County Public Schools- Boys and Girls Club - Rape Crisis Center of Robeson County - Department of Social Services - Red Springs Youth Opportunity Center - Robeson County Mental Health - Courtney Lowe, Regional State Farm Insurance Specialist- Mitchell Taylor, State Farm Insurance Agent- Weed and Seed Program- Lumberton Housing Authority- UNCP Triumph Scholars Program - Exploration Station- Myra McLees - Robeson County Infant Mortality Task Force - Robeson County Health Dept.