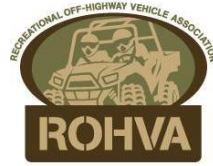




**MOTORCYCLE  
INDUSTRY  
COUNCIL**



February 2, 2024

HB 7356 and SB 2152 Sponsors  
82 Smith Street  
State House  
Providence, RI 02903

**Re: HB 7356 and SB 2152 – Exclude powersports from PFAS requirements**

Dear Sponsors of HB 7356 and SB 2152:

Hundreds of companies represented by the Motorcycle Industry Council (MIC)<sup>1</sup>, the Specialty Vehicle Institute of America (SVIA)<sup>2</sup>, and the Recreational Off-Highway Vehicle Association (ROHVA)<sup>3</sup> strongly urge that **HB 7356 and SB 2152 be amended to specifically:**

- 1. Exclude youth OHVs, including all-terrain vehicles (ATVs), off-highway motorcycles, replacement parts, and protective clothing and equipment used when operating a motorcycle or off-highway vehicle from the “juvenile product” definition.**
- 2. Extend the registration requirement proposed from no later than 30 days before January 1, 2028 to January 1, 2029 for powersports, including motorcycles and off-highway vehicles, replacement parts, and protective clothing and equipment.**
- 3. Include safe harbor provisions for product already in inventory at the time of implementation.**
- 4. Include motorcycle/powersports safety gear in the definition of personal protective equipment.**
- 5. Exclude engine parts that are internal or would not come into contact during normal use of the vehicle, including motorcycles, all-terrain vehicles (ATVs) and recreational off-highway vehicles (commonly referred to as ROVs, UTVs, or side-by-sides)**

In the absence of amendments, our associations oppose the bill.

### **Juvenile Products**

HB 7356 and SB 2152 restrict the use of PFAS in certain covered consumer products, including juvenile products. The bill appears to be targeting products children play and interact with closely and are able to touch with their mouths, with exceptions for certain electronic products. Given these exceptions, your intent is not likely to capture youth OHVs as “juvenile products.” However, we are concerned that the legislation would capture youth OHVs and related products without a specific exemption. We urge the definition of

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<sup>1</sup> The Motorcycle Industry Council (MIC) is a not-for-profit, national trade association representing several hundred manufacturers, distributors, dealers and retailers of motorcycles, scooters, motorcycle parts, accessories and related goods, and allied trades.

<sup>2</sup> The Specialty Vehicle Institute of America (SVIA) is the national not-for-profit trade association representing manufacturers, dealers, and distributors of all-terrain vehicles (ATVs) in the United States. SVIA’s primary goal is to promote safe and responsible use of ATVs.

<sup>3</sup> The Recreational Off-Highway Vehicle Association (ROHVA) is a national, not-for-profit trade association formed to promote the safe and responsible use of recreational off-highway vehicles (ROVs – sometimes referred to as side-by-sides or UTVs) manufactured or distributed in North America. ROHVA is also accredited by the American National Standards Institute (ANSI) to serve as the Standards Developing Organization for ROVs. More information on the standard can be found at <https://rohva.org/ansi-standard/>.

“juvenile product” be amended to specifically exclude off-highway vehicles and related products, which may be accomplished as follows:

*“Juvenile product” does not include any of the following:  
(iv) Any youth off-highway vehicle, replacement part, protective gear, or equipment.*

Manufacturers must ensure our vehicles and safety gear meet durability standards that are sufficient to protect riders. Any potential PFAS free alternates must also meet durability and safe operation standards that are equal to or exceed current quality in order to be deemed a suitable replacement. This takes considerable resources and time that is not available in the legislation. Due to the volume of products requiring testing, manufacturers are not confident they can comply with quick effective date requirements, especially given that our vehicles include hundreds or even thousands of parts and nearly every industry supplier will be competing for product testing under proposed legislation.

Youth OHVs are specifically sized and powered for children. While banning PFAS in children’s products is intended to eliminate potential health risks associated with exposure, PFAS is currently necessary in parts such as gaskets, o-rings, tubing, and other components that are exposed to high heat and to complex chemical blends in fuels and other fluids. These parts may or may not be considered “internal components” and therefore we request the vehicle as a whole be excluded from the ban. If you ban youth-sized OHVs you create a much more immediate health risk due to the potential for children to then operate adult-sized OHVs. Please consider the comments made by the U.S. Consumer Product Safety Commission (CPSC) while discussing the risks associated with lead exposure from youth ATVs pursuant to the passage of the Consumer Product Safety Improvement Act, which banned certain limits of lead in children’s products. Youth ATVs were subsequently excluded from such lead limits by P.L. 112-28 in part due to CPSC’s statement that banning youth ATVs would pose a **“serious and immediate risk of injury or death” for children under 12 who would instead ride larger and faster adult-size ATVs.** (See 74 Fed. Reg. 22154.)

Our member companies are searching for suitable replacements for PFAS in their products, but currently PFAS is an unavoidable use to ensure safety and proper functioning of our vehicles, protective clothing and equipment. Rhode Island must allow manufacturers sufficient time to find replacements and not subject consumers to risk of harm resulting from unavailability of these products.

### **Registration Requirements**

HB 7356 and SB 2152’s registration of PFAS in products requirement starting in 2028 concerns manufacturers and may serve to essentially lead them to cease sales of their products in Rhode Island, forcing residents to purchase those goods from neighboring states instead. The large number of product offerings and components that make up our equipment – many of which are internal or will not come into contact with users – make it extremely difficult for manufacturers to analyze every part to identify the presence of every form of PFAS. Manufacturers take compliance seriously. We ask that you simplify any reporting requirements to only include those items that are in regular direct contact with the individuals using them. We also ask that you provide manufacturers with sufficient time to comply by changing the reporting requirement to 2029.

In 2022, California introduced similar legislation (CA AB 2247) that would have required manufacturers of products containing PFAS to register such products beginning January 1, 2026. Governor Gavin Newsom vetoed the legislation citing the extreme expense associated with implementation of such law. As Governor Newsom stated in his veto message, the proposed registry was “estimated to cost millions of dollars resulting in increased resources for new contract, staff support, and state oversight responsibilities.” Governor Newsom also mentioned that since the U.S. EPA is in the processing of rulemaking to require the reporting of PFAS, such legislation may be premature at the state level.

### **Safe Harbor Provision**

When powersports vehicles are manufactured, we need to also manufacture replacement parts for the anticipated life of the vehicles. Dealerships, aftermarket suppliers, distributors, and parts stores all stock inventory in anticipation of replacements or repairs. For businesses in your state, this could account for a significant amount of inventory that those businesses cannot be expected to just dispose of without

recouping their expenses. As such, we also request a safe harbor provision be added to the legislation to ensure existing inventory may be sold rather than disposed. This could also include a several year window of opportunity to sell the inventory and a labeling requirement stating that the product was put into inventory prior to the ban's implementation date.

### **Internal Part Exclusion**

We understand the need to address the presence of PFAS; however, PFAS is a necessary chemical found in internal components and the engine parts of vehicles, including motorcycles, all-terrain vehicles (ATVs), and recreational off-highway vehicles (commonly referred to as ROVs, UTVs, or side-by-sides). In this instance, PFAS would not come into contact with an individual during normal use of the vehicle. Therefore, we urge HB 7356 and SB 2152 to be amended to exclude engine parts that are internal as follows:

*(20) "Product" means an item manufactured, assembled, packaged or otherwise prepared for sale to consumers, including its product components, sold or distributed for personal, residential, commercial or industrial use, including for use in making other products. "Product" does not mean used products offered for sale or resale and does not apply to components of such products that would not come into direct contact with an individual's skin or mouth during reasonably foreseeable use or abuse of such product.*

Thank you for your consideration of these comments. Should you have any questions, please contact me at 703-416-0444 ext. 3202.

Sincerely,



Scott P. Schloegel  
Senior Vice President, Government Relations

Cc: Senate Environment and Agriculture Committee Members  
House Environment and Natural Resources Committee Members