



## U.S. CONSUMER PRODUCT SAFETY COMMISSION

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### TESTIMONY OF ELIZABETH LELAND PROJECT MANAGER, ATV SAFETY REVIEW TEAM U.S. CONSUMER PRODUCT SAFETY COMMISSION SUBMITTED TO THE SENATE SUBCOMMITTEE ON CONSUMER AFFAIRS, PRODUCT SAFETY, AND INSURANCE

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Good morning, and thank you for this opportunity to speak to the Subcommittee today on the work of the U.S. Consumer Product Safety Commission in addressing safety issues related to all terrain vehicles, or ATVs. My name is Elizabeth Leland, and I am the Project Manager for the ATV Safety Review Team.

The Consumer Product Safety Commission, or CPSC, is a small, bipartisan and independent agency charged with protecting the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products under the agency's jurisdiction. Since its inception, CPSC has delivered critical safety benefits to America's families and contributed significantly to the reduction in the national rate of deaths and injuries related to hazardous consumer products. At CPSC we are proud of our safety mission and we are proud of our record of achievement in reducing consumer product hazards to American families over the years.

ATV safety is a subject of ongoing concern and activity at CPSC. Most recently, CPSC staff presented to the Commissioners a briefing paper outlining a number of recommendations including a recommendation to issue a formal notice of proposed rulemaking, or NPR, to address the risk of injury and death associated with this product. I will discuss these recommendations later in my statement, and I ask the Chairman's permission to submit the staff briefing paper and draft NPR to the committee for the record.

Since this product has been one of activity and concern to CPSC for over twenty years, I would like to start by giving the Senators a brief background of the agency's previous work on ATV safety. As early as 1985, the Commission stated its safety concerns regarding ATVs in an advance notice of proposed rulemaking which outlined options that the Commission was considering to address ATV-related hazards. In 1987, CPSC filed a lawsuit against five companies that were the major ATV distributors at that time.

In 1988 that lawsuit was settled with the companies by Consent Decrees that stayed in effect for ten years. In those Consent Decrees, the distributors agreed to halt the distribution of three-wheel ATVs; to provide warning labels, point-of-purchase safety materials, and improved owners'

manuals; to offer rider training; to conduct a nationwide public awareness campaign; and to attempt to devise a voluntary performance standard. When the Consent Decrees expired in 1998, the Commission entered into voluntary "Action Plans", or Letters of Undertaking, with the five companies that had been parties to the Consent Decree and three others that had since entered the market. In those Letters of Undertaking, or LOUs, the companies agreed to continue many of the actions that the Consent Decrees had required.

Since that time almost ten years ago when those LOUs were signed with the companies, much has changed with regard to ATVs. Sales have increased dramatically. U.S. retail sales of ATVs by major distributors have increased from an estimated 293,000 ATVs sold in 1995 to an estimated 921,000 ATVs sold in 2005.

CPSC staff estimates that since 1997, the number of ATV drivers has increased by 36 percent, from 12 million to over 16 million operators. During that same time period, the number of ATVs has increased by 40 percent, from 4 million to 5.6 million, and the number of driving hours has risen by 50 percent.

Looking at this extraordinary growth, it is not surprising that we are also seeing increases in deaths and injuries reported from ATV use. Based on injury and exposure studies conducted in 1997 and again in 2001, the estimated number of ATV-related injuries treated in hospital emergency rooms rose during that four year period alone from 53,000 to 110,000.

Additionally, the number of ATV imports from new entrants to the market has increased markedly in recent years. CPSC staff has identified over 80 importers of ATVs. A recent trade report estimated that 100 to 150 Chinese manufacturers and an estimated 22 Taiwanese firms exported ATVs worldwide in 2005. We estimate that almost 100,000 ATVs were imported to the U.S. in 2004.

These new imports are generally less expensive. CPSC's 2004 market study noted that the median suggested retail price for ATVs sold by major distributors was \$5,150. As a subgroup, the median price for their youth ATVs was about \$2,300. In contrast, a recent staff Internet search of new ATVs with brand names other than those of traditional distributors found that the average retail price of their larger ATVs was only \$1,340 while their youth ATVs had an average price of only about \$630.

The major distributors have traditionally marketed ATVs through established dealers and franchises, but many of these new entrants market their products through U.S. importer/wholesalers who in turn may market to retail stores. Others offer ATVs for sale directly to consumers through import brokers who transship imported units to retailers, often without ever taking physical control of the products. A recent CPSC surveillance effort reported that there were literally hundreds of websites offering these ATVs for sale.

Clearly, the ATV market has grown significantly and changed substantially over the past ten years. In 2003, the Commission and CPSC Chairman Hal Stratton held a series of regional field hearings that included one in New Mexico covering six Western states, one in West Virginia with representation from seven states, and one in Alaska, to hear directly from distributors, law enforcement and medical personnel, consumers, state and local government officials and others who had personal and professional knowledge of ATVs and related safety issues. Subsequently, Chairman Stratton directed the staff to initiate a comprehensive review of all ATV safety actions and make recommendations to the Commission on a number of issues. The directive specifically requested a review of the adequacy or inadequacy of current voluntary standards and

LOUs, and also an exhaustive study of other ATV safety-related proposals including pre-sale training and certification requirements, enhanced warning labels, formal notification of safety rules by dealers to buyers, the addition of a youth ATV model, and written notification of child injury data at the point of sale.

In October of 2005, the Commission issued an advance notice of proposed rulemaking, or ANPR, to initiate a regulatory proceeding under its authority granted by the Consumer Product Safety Act and the Federal Hazardous Substances Act. The ANPR was issued as part of staff's comprehensive review of regulatory and non-regulatory options for addressing the risks associated with ATVs.

Based on its evaluation of regulatory alternatives and the public comments that were submitted in response to the ANPR, the CPSC staff briefing paper presented to the Commission last week recommends issuing a notice of proposed rulemaking that would establish the following mandatory requirements:

- that adult, youth and tandem ATVs meet specific mechanical performance requirements;
- that specific safety warnings be provided to the purchaser of any ATV through hang tags, labels, a safety video, and the owner's instruction manual;
- that a means for reporting safety-related complaints to the manufacturer be provided to the purchaser;
- that a disclosure statement warning against the use of adult ATVs by children and describing the possible consequences of children riding adult ATVs be provided to and signed by purchasers of all adult ATVs at the time of purchase;
- that an acknowledgement-of-age statement be provided to and signed by purchasers of children's ATVs;
- that a certificate offering free training to each member of a purchaser's immediate family for which the ATV is age-appropriate be provided to all purchasers;
- that three-wheeled ATVs be banned.

In addition to these mandatory requirements, the staff also recommends that the Commission implement a series of non-regulatory activities to enhance ATV safety including an ATV databank with information on legislative and regulatory activity by the states and a two-phase information and education drive that would also launch a web site dedicated solely to ATV safety.

In 2003 there were an estimated 740 deaths associated with ATVs. In 2001, the most recent year for which death data collection is complete, 26 percent of reported deaths were of children under 16 years old. Based on these numbers, the non-fatal injury numbers I mentioned earlier, and an evaluation of regulatory alternatives, CPSC staff is recommending to the Commission that they approve the staff's draft proposed mandatory standards as a significant step forward in improving the safety of ATVs for the children and adults who ride them.

Thank you again for calling attention to this important safety issue. I look forward to answering your questions.

