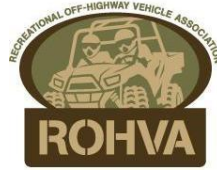




**MOTORCYCLE
INDUSTRY
COUNCIL**



March 6, 2023

The Honorable Kevin Hornberger
6 Bladen Street
Lowe House Office Building
Room 410
Annapolis, MD 21401-1912

RE: Exclude Motorcycles and Off-Highway Vehicles from HB 1193

Dear Delegate Hornberger:

The Motorcycle Industry Council (MIC)¹, the Specialty Vehicle Institute of America (SVIA)², and the Recreational Off-Highway Vehicle Association (ROHVA)³ represent several hundred companies in the powersports industry. We urge that HB 1193 be amended to specifically exclude motorcycles and off-highway vehicles from the scope of the provisions. In the absence of an amendment our organizations oppose the bill.

Our member companies have several problems and concerns with HB 1193:

1. Not all motorcycles, ATVs or ROVs have the prescribed SAE or ISO interfaces.
2. Franchised dealers, which are Maryland small businesses, will be economically harmed by your legislation.
3. Non-factory trained technicians working on motorcycles is a serious safety concern as is the litigation risk of untrained individuals performing work on such vehicles.
4. Without a specific exclusion, motorcycles and off-highway vehicles may no longer be sold in Maryland.

Not all motorcycles, ATVs or ROVs have the prescribed SAE or ISO interfaces. These interfaces were developed for the United States EPA emission standards mandate for cars and trucks equipped with on-board diagnostic (OBD) systems. On-highway motorcycles are not subject to EPA requirements for on-board diagnostic systems. The SAE J1962 (connector standard) mandated by J2534 for “diagnostic connector” specifically applies to passenger cars, light and medium duty trucks, and heavy trucks. This standard does not apply to motorcycles and compliance would require major engineering changes for motorcycles, both software and hardware. Off-highway motorcycles, ATVs and ROVs are not required to have the prescribed adaptors.

¹ 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.

² 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.

³ 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/>.

HB 1193 would harm economically Maryland small business franchised dealers. Dealers have invested heavily in training, special tooling, and equipment to service vehicles. Franchised dealers sign a dealer agreement giving them access to service information, technical expertise, and special tools required to diagnose and repair original equipment products. This investment is substantial in terms of a monetary commitment. If tools and technical information are provided to customers and unauthorized independent repair shops, the franchised dealer's investment is compromised.

In addition to lost service revenue, if motorcycle manufacturers are unable to comply with the mandates of HB 1193, motorcycles would not be able to be offered for sale in Maryland. This would cause franchised dealers to lose all new motorcycle sales and income and force Maryland residents to purchase new motorcycles in neighboring states – further harming the Maryland economy. In 2022, the value of the powersports retail marketplace in Maryland was \$465 million with an estimated 14,724 new powersports retail sales in the state.

We have serious safety concerns relating to the inherent danger of allowing non-factory trained technicians, untrained mechanics, and owners to perform certain work on motorcycles and off-highway vehicles if they are captured under right to repair legislation. Manipulating of powersports emissions or safety controls, whether intentionally or unintentionally, could lead to clean air violations, product failure, and possibly cause injury or death. Manufacturers require dealers to attend two technical training programs per year to instruct them on how to use the website and specialty tools and receive highly technical training. This training and knowledge is extensive and vital to ensure the correct repair of the product line.

Litigation risk is another concern associated with allowing non-factory trained technicians to perform certain work on motorcycles and off-highway vehicles. If environmental or safety override attempts result in clean air violations, destruction of property, injury, or death, and manufacturers are likely to be swept up in lawsuits, regardless of who may be liable for such damage and injuries.

Massachusetts enacted similar right to repair legislation and recognized the need for an exclusion for motorcycles.⁴ As a result, motorcycles and off-highway vehicles such as dirt bikes, all-terrain vehicles, and recreational off-highway vehicles are not subject to the right to repair provisions in the Massachusetts right to repair law or the automobile Memorandum of Understanding. We urge Maryland to follow the lead of Massachusetts and exclude motorcycles and off-highway vehicles from the provisions of HB 1193 as follows:

(h) "Motor vehicle" has the meaning stated in § 11-135 of the Transportation Article, but excludes motorcycle, motorized bicycle, all-terrain vehicle, and off-highway recreational vehicle.

⁴ The definition of motor vehicle in digital right to repair legislation appears to be drawn from state legislation that deals specifically with motor vehicle "right to repair" (originating in Massachusetts as part of their motor vehicle right to repair law which has been used as a model for other states and for a national Memorandum of Understanding). Motorcycles were ultimately excluded from the Massachusetts right to repair law (and automobile MOU) because they are different than automobiles in terms of the diagnostic connector standard mandated by motor vehicle right to repair laws. Motorcycles cannot comply with provisions typically included in motor vehicle right to repair legislation. Therefore, Massachusetts legislators specifically excluded motorcycles from the definition of motor vehicle for purposes of the right to repair law. Off-highway vehicles are also excluded from the Massachusetts law because it applies only to on-highway motor vehicles.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Scott P. Schloegel". The signature is written in a cursive style with a large, sweeping initial 'S'.

Scott P. Schloegel
Senior Vice President, Government Relations

cc: House Economic Matters Committee Members