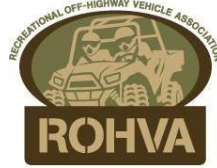




**MOTORCYCLE  
INDUSTRY  
COUNCIL**



February 24, 2023

The Honorable Robert Kupec  
95 University Avenue W.  
Minnesota Senate Building  
Room 3101  
St. Paul, MN 55155

The Honorable Ron Latz  
95 University Avenue W.  
Minnesota Senate Building  
Room 3105  
St. Paul, MN 55155

The Honorable Matt Klein  
95 University Avenue W.  
Minnesota Senate Building  
Room 2105  
St. Paul, MN 55155

The Honorable John Marty  
95 University Avenue W.  
Minnesota Senate Building  
Room 3235  
St. Paul, MN 55155

The Honorable Mark Koran  
95 University Avenue W.  
Minnesota Senate Building  
Room 2203  
St. Paul, MN 55155

## **RE: Exclude Motorcycles and Off-Highway Vehicles from SF 1598**

Dear Senators:

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> represent several hundred companies in the powersports industry. We urge that SF 1598 be amended to specifically exclude motorcycles and off-highway vehicles from the scope of the provisions.

SF 1598 appears to be targeting digital electronics that contain embedded software such as phones and electronic games. It doesn't appear to be your intent to capture powersports in this legislation. Motor vehicles are appropriately excluded from SF 1598. However, the "motor vehicle" definition used in such legislation is drawn from right to repair legislation in Massachusetts, which excludes motorcycles and off-highway vehicles.<sup>4</sup> As a result, motorcycles and off-highway vehicles such

---

<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/>.

<sup>4</sup> 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).

as dirt bikes, all-terrain vehicles, and recreational off-highway vehicles are thereby captured and subject to the provisions of this digital right to repair legislation.

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 any digital right to repair legislation. Unlike typical digital electronics such as cellphones, manipulating of powersports emissions or safety controls, whether intentionally or unintentionally, could lead to product failure and even 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, manufacturers are likely to be swept up in lawsuits, regardless of who may be liable for such damage and injuries.

Recently, New York enacted digital right to repair legislation (AB 7006 and SB 4104) that specifically excluded both motorcycles and off-highway vehicles from the digital right to repair provisions. We urge that SF 1598 be amended to exclude motorcycles and off-highway vehicles, similar to what New York has enacted:

*(j) “Motor vehicle” means a vehicle that is: (1) designed to transport persons or property on a street or highway; and (2) certified by the manufacturer under (i) all applicable federal safety and emissions standards, and (ii) all requirements for distribution and sale in the United States. ~~Motor vehicle does not include a motorcycle, a recreational vehicle, or an auto home equipped for habitation.~~*

*Subd. 6. Exclusions. (a) Nothing in this section applies to: (1) a motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer acting in that capacity; ~~or~~ (2) any product or service of a motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer acting in that capacity; ~~or a manufacturer, distributor, importer, or dealer of any off-road (non-road) equipment, including but not limited to, all-terrain sports and recreational vehicles (including racing vehicles).~~*

Sponsors of similar bills in other states have incorporated these suggested edits, including the bill that was just signed into law in New York. It is inappropriate to include any type of motor vehicle, off-highway vehicle, or recreational vehicle in the scope of a law designed to address the digital right to repair of consumer electronics.

---

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: Senate Commerce and Consumer Protection Committee Members