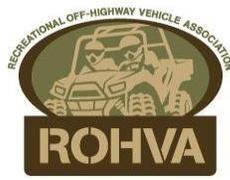




**MOTORCYCLE
INDUSTRY
COUNCIL®**



January 31, 2022

The Honorable Zach Stephenson
Chairman, House Commerce Finance and Policy Committee
100 Rev. Dr. Martin Luther King Jr. Blvd.
State Office Building, Room 509
St. Paul, MN 55155-1232

RE: Exclude Motorcycles and Off-Highway Vehicles from HF 1156

Dear Chairman Stephenson:

As we noted in correspondence to you last year regarding similar legislation, hundreds of companies represented by the Motorcycle Industry Council (MIC)¹, the Specialty Vehicle Institute of America (SVIA)², and the Recreational Off-Highway Vehicle Association (ROHVA)³ urge that HF 1156 be amended to specifically exclude motorcycles and off-highway vehicles from the scope of its provisions. In the absence of an amendment, our associations oppose the bill.

HF 1156 appears to be targeting electronics that contain embedded software and may be targeting handheld personal electronic devices. It doesn't appear to be your intent to capture powersports in your digital right to repair bill, but due to the definition of "motor vehicles" used in the bill, powersports are captured.

While "motor vehicles" are specifically excluded from this legislation, the definition of "motor vehicle" used in the bill (which is common to many states' definitions of motor vehicles) specifically excludes motorcycles⁴ and, in doing so, motorcycles are thereby included and subject to the provisions of HF 1156. Additionally, the definition of motor vehicle applies only to on-highway motor vehicles which also results in the unintended consequence of capturing off-highway vehicles such as dirt bikes, all-terrain vehicles, and recreational off-highway vehicles in the bill.

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 the legislation. For example, a manufacturer requires dealers to attend two technical training programs per year to instruct them on how to use the website and specialty tools and additional on-going training. This training is vital to ensure the correct repair of the product line and the safety of customers.

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/>.

⁴ The definition of motor vehicle in your bill 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.

Therefore, we urge that the proposed definition of “motor vehicle” be amended as follows:

(j) "Motor vehicle" means a vehicle that is designed to transport persons or property on a street or highway and is certified by the manufacturer under all applicable federal safety and emissions standards and requirements for distribution and sale in the United States.

The term also includes a:

- (1) motorcycle;
- (2) motorized bicycle;
- (3) all-terrain vehicle; and
- (4) off-highway recreational vehicle.

Motor vehicle does not include:

- (1) a motorcycle; or
- (2) a recreational vehicle or an auto home equipped for habitation.

In similar bills that have been introduced in other states, the sponsor has either incorporated these suggested edits or they have edited the bill to clarify that it applies only to personal electronic devices. In the absence of either of those edits, our associations will continue to actively oppose the bill.

Thank you for your consideration of these comments. The technical nuances and legislative history regarding this issue can be confusing, so should you have any questions please do not hesitate to contact me at 703-416-0444 (x3202) to further discuss the issue.

Sincerely,



Scott P. Schloegel
Senior Vice President, Government Relations
MIC, SVIA and ROHVA

cc: House Commerce Finance and Policy Committee Members