

The Honorable John Boozman
Chairman
Subcommittee on Financial Services and
General Government
Room S128, The Capitol
Washington DC, 20510

The Honorable Chris Coons
Ranking Member
Subcommittee on Financial Services and
General Government
Room S128, The Capitol
Washington DC, 20510

The Honorable Jerry Moran
Chairman
Consumer Protection, Product Safety,
Insurance, and Data Security Subcommittee
512 Dirksen Senate Building,
Washington DC, 20510

The Honorable Richard Blumenthal
Ranking Member
Consumer Protection, Product Safety,
Insurance, and Data Security Subcommittee
512 Dirksen Senate Building,
Washington DC, 20510

May 6, 2015

Dear Senator,

We, the undersigned health and safety advocacy groups, health professionals, insurance companies, and individuals who have lost loved ones to off-highway vehicle crashes, write in opposition to S. 1040, the ROV In-Depth Examination Act. This bill would prevent the Consumer Product Safety Commission (CPSC) from setting minimum mandatory safety standards for recreational off-highway vehicles (ROVs) for up to two years. ROVs are motorized vehicles designed for off-highway use with four or more wheels; bench or bucket seats; automotive-type controls; rollover protective structures; occupant restraint; and maximum speed greater than 30 mph.”¹

The CPSC’s proposed rule for ROVs seeks to strengthen the voluntary standard by effectively addressing key issues that pose potential hazards to consumers, including lateral stability, vehicle handling, and occupant protection. The CPSC’s proposed ROV rule would address these issues to better protect the safety of all ROV riders, and must be permitted to move forward.

S. 1040 would draw out a process of technical study that has already been going on for over half a decade at the CPSC.² The bill would require that the National Academy of Sciences (NAS) undertake a new study of the CPSC’s proposed requirements, and would allocate two additional years for this work to be completed.

The consequences of further delaying the ROV rule would be significant. ROV use has resulted in at least 69 deaths since January 2014, including 8 deaths in 2015 alone, according to data compiled by the Consumer Federation of America (CFA) and its partners in a coalition of

¹ CPSC Briefing Package. Pg. 91.

www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2014/SafetyStandardforRecreationalOff-HighwayVehicles-ProposedRule.pdf

² The study would evaluate: the technical validity of the lateral stability and vehicle handling requirements proposed by the CPSC; whether there is a technical basis for the proposal to provide information about a vehicles rollover resistance on a hangtag; and the impact of the proposed rule on ROVs used by the military.

consumer, health and safety advocates concerned with all-terrain vehicle (ATV), utility vehicle (UTV) and ROV safety.

The CPSC has collected extensive research to support the proposed rule. The CPSC should not be thwarted from completing the work it began five years ago: the CPSC has already commissioned extensive independent research to establish the basis for the proposed safety requirements in the mandatory standard. In February 2010 the CPSC contracted with SEA, Limited (a “worldwide leader in forensic analysis, research and testing”)³ “to conduct an in-depth study of vehicle dynamic performance and static rollover measures for ROVs.”⁴ In 2011, SEA designed and built a roll simulator to analyze how occupants respond during quarter turn roll events. As an indicator of how thorough the research behind the proposed rule is, there are nine reports on ROVs from SEA on the CPSC website,⁵ and the September 24, 2014 briefing package for the ROV proposed rule is 593 pages long. The CPSC has ensured that there is a strong, well-established technical basis for its proposed rule over a long process that has lasted five years.

This process has already been repeatedly delayed. The advanced notice of proposed rulemaking (ANPR) was posted in the Federal Register on October 28, 2009.⁶ On December 22, 2009, the comment period for that ANPR was extended 75 days from the original deadline to March 15, 2010.⁷ The CPSC worked on the rule for nearly four years until the notice of proposed rulemaking was published in the Federal Register on November 19, 2014.⁸ Since November 19, the comment period has been extended twice, from February 2, 2015, to April 8, 2015, and then from April 8, 2015, to June 19, 2015.⁹

The death and injury data shows a need for swift action rather than more delay. The CPSC staff is aware of 335 deaths and 506 injuries related to ROV crashes spanning from January 2003 to April 2013. An analysis of ROV crashes reviewed by CPSC staff found that 68% of the crashes involved rollovers and 52% of these rollovers occurred while turning the ROV. Where seat belt use is known for fatal victims, 86% of victims were ejected from an ROV, and 91% of those victims were not wearing a seat belt.¹⁰

³ SEA, Limited website. <http://www.sealimited.com/aboutUs.html>

⁴ U.S. Consumer Product Safety Commission, Proposed Rule: Recreational Off-Highway Vehicles (ROVs), September 24, 2014 at 15, available online at <http://www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2014/SafetyStandardforRecreationalOff-HighwayVehicles-ProposedRule.pdf>.

⁵ ATV and ROV Technical Reports. <http://www.cpsc.gov/en/Research--Statistics/Sports--Recreation/ATVs/Technical-Reports/>

⁶ ANPR, CPSC-2009-0087-0001, 2009. <http://www.regulations.gov/#!documentDetail;D=CPSC-2009-0087-0001>

⁷ Notice of extension of comment period, CPSC-2009-0087-0023, 2009. <http://www.regulations.gov/#!documentDetail;D=CPSC-2009-0087-0023>

⁸ NPR, CPSC-2009-0087-0131, 2014. <http://www.regulations.gov/#!documentDetail;D=CPSC-2009-0087-0131>

⁹ Extension of comment period, CPSC-2009-0087-0338, 2015. <http://www.regulations.gov/#!documentDetail;D=CPSC-2009-0087-0338>

¹⁰ U.S. Consumer Product Safety Commission, Proposed Rule: Recreational Off-Highway Vehicles (ROVs), September 24, 2014 at 6, available online at <http://www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2014/SafetyStandardforRecreationalOff-HighwayVehicles-ProposedRule.pdf>

CFA and its partners have documented at least 61 fatalities associated with ROVs from January 2014 through December 2014. This number may grow further as more data becomes available about additional deaths. From January 2015 through April 9, 2015, CFA and its partners have already identified 8 deaths that involved an ROV. In total, CFA found that from January 1, 2014, through April 9, 2015, there were 69 ROV fatalities.

S. 1040 would add at least two more years to this already protracted process. This additional delay will serve to expose even more consumers to a product that the CPSC has already thoroughly researched and tested. The CPSC's technical research and testing has found that ROVs lack the safety requirements that the CPSC has determined are necessary. Importantly, the CPSC's and other groups' death and injury data supports the need for a strong mandatory standard from the CPSC that addresses the serious risks posed by ROVs as soon as possible.

We look forward to working with you on this important safety issue and if you have any questions please don't hesitate to contact Rachel Weintraub at 202-387-6121 or rweintraub@consumerfed.org.

Sincerely,

Rachel Weintraub
Legislative Director and
General Counsel
Consumer Federation of America
Washington, DC

Katie Kearney
Safety Advocate
Sean's Law
MA

Mary Aitken, MD, MPH
Director, Injury Prevention Center
at Arkansas Children's Hospital
Little Rock, AR

Ben Kelley
Director, Injury Control Policy
The Trauma Foundation
San Francisco General Hospital
San Francisco, CA

Georges C. Benjamin, MD,
MACP, FACEP(E), FNAPA,
Hon FRSPH, Hon FFPH
Executive Director
American Public Health Association
Washington, DC

Alan Maness
Federal Affairs Director
State Farm Insurance Companies
Washington, DC

Michael Best
Policy Advocate
Consumer Federation of America
Washington, DC

Edmund Mierzwinski
Consumer Program Director
U.S. PIRG
Washington, DC

Gerene Denning, PhD
Emergency Medicine
University of Iowa
Iowa ATV Injury Prevention Task Force
Iowa City, IA

John Mullen
President and CEO
Direct General Insurance
Nashville, TN

Jacqueline S. Gillan
President
Advocates for Highway and Auto Safety
Washington, DC

Dean Pappas
Vice President, Government Relations
Nationwide Mutual Insurance Company
Washington, DC

Stephen W. Hargarten, M.D., MPH
Society for the Advancement of Violence and
Injury Research
Medical College of Wisconsin,
Emergency Medicine
Milwaukee, WI

John Sand
Father of the late Ellie Sand
Lebanon, OH

Christine Hines
Consumer and Civil Justice Counsel
Public Citizen
Washington, DC

Robin D. Schier, DNP, APRN,
CPNP AC/PC
Pediatric Emergency Medicine
Texas Children's Hospital
Houston, TX

Benjamin Hoffman, MD, FAAP
Professor of Pediatrics
Medical Director, Doernbecher
Children's Safety Center
Portland, OR

Gary A. Smith, MD, DrPH
President,
Child Injury Prevention Alliance
Columbus, OH

Charles Jennissen, MD
Emergency Medicine
University of Iowa
Iowa ATV Injury Prevention Task Force
Iowa City, IA

William Wallace
Policy Analyst
Consumers Union
Washington, DC

Celia Wexler
Senior Washington Representative
Center for Science and Democracy
at the Union of Concerned Scientists
Washington, DC

cc: Chairman Thune
Ranking Member Nelson
Chairman Chochran
Vice Chairwoman Mikulski
Members of the United States Senate Committee on Commerce, Science,
& Transportation
Members of the United States Senate Committee on Appropriations