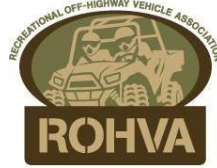




**MOTORCYCLE
INDUSTRY
COUNCIL**



May 15, 2023

The Honorable Chip Curry
Chair, Jt. IDEA Committee
3 State House Station
Augusta, ME 04333-0003

The Honorable Tiffany Roberts
Chair, Jt. IDEA Committee
2 State House Station
Augusta, ME 04333-0002

RE: Exclude Motorcycles and Off-Highway Vehicles from LD 1911

Dear Chair Curry and Chair Roberts:

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 you follow the lead of Massachusetts and New York by amending LD 1911 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 LD 1911:

1. Not all motorcycles, ATVs or ROVs have the prescribed SAE or ISO interfaces.
2. Franchised dealers, which are Maine 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 Maine.

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

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/>.

hardware, and would take several years to implement (unlike autos which already have the connectors). Off-highway motorcycles, ATVs and ROVs are not required to have the prescribed adaptors.

LD 1911 would harm economically Maine 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 LD 1911, motorcycles would not be able to be offered for sale in Maine. This would cause franchised dealers to lose all new motorcycle sales and income and force Maine residents to purchase new motorcycles in neighboring states – further harming the Maine economy. In 2022, the value of the powersports retail marketplace in Maine was \$351 million with an estimated 10,500 new powersports retail sales in the state.⁴

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. Environmental or safety override attempts could 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.⁵ 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. New York also recently passed Right to Repair legislation which specifically excluded motorcycles, ATVs and off-highway vehicles. We urge Maine to follow the lead of Massachusetts and New York by excluding motorcycles and off-highway vehicles from the provisions of LD 1911 as follows:

⁴ 2022 Motorcycle Industry Council “Economic Impact of the Powersports Industry”

⁵ 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.

1. *“Automobile” has the same meaning as in section 101, subsection 7, but does not include:*
 - A. *A motor vehicle with a gross vehicle weight over 14,000 pounds; ~~or~~*
 - B. *A recreational vehicle or a motor vehicle originally designed or permanently altered and equipped for human habitation that is not used to transport property other than that property used for human habitation or camping purposes; or*
 - C. *A motorcycle, motorized bicycle, all-terrain vehicle, and off-highway recreational vehicle.*

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

Sincerely,



Scott P. Schloegel
Senior Vice President, Government Relations

cc: Jt. Innovation, Development, Economic Advancement, and Business Committee Members