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**Report and Recommendation to the Minnesota
Legislature Concerning the Use of All Terrain
Vehicles by Persons Under 12 Years of Age**

**Joseph N. Alexander
Commissioner of Natural Resources**

February 15, 1990

Contents

Report and Recommendation page 2

Attachment 1

- Sample - Publicity Public Comment Meeting page 4

- News Release page 5

- Public Comment Introduction page 6

Attachment 2

- Consent Decree Recommendation page 7

- Summary - All Terrain Vehicle Issues page 8

**REPORT TO THE MINNESOTA LEGISLATURE EVALUATING THE USE OF
ALL-TERRAIN VEHICLES BY PERSONS UNDER 12 YEARS OF
AGE WITHIN FAMILY GROUPS**

During the 1989 Legislative session the Commissioner of Natural Resources was directed to evaluate family all-terrain vehicle use, including all-terrain vehicle use by persons under 12 years of age on public lands and waters. The public policy implications of this issue had been given a comprehensive discussion within the Department prior to the introduction of the bill which became Chapter 331 of Laws of Minnesota 1989. These discussions lead the Department to conclude that persons under 12 years of age should not be allowed to operate all-terrain vehicles on public lands and waters. The following points were considered:

- Concurrence with the industry recommendation (attached) that persons under 12 years of age should not operate all-terrain vehicles.
- The serious potential for injury or death to young inexperienced riders who operate all-terrain vehicles.
- The potential for state, county, or municipal agencies to be held liable for accidents, injuries, or deaths resulting from allowing persons under 12 years of age to operate all-terrain vehicles.
- Whether the state should provide an all-terrain vehicle safety training program for young persons in light of the industry recommendation, potential for harm to young persons, and serious liability questions.

A determination was made that the industry recommendation be adhered to and subsequent proposed regulatory changes be brought into conformance with it.

Discussion

Three public meetings were held during December, 1989 and January, 1990 to solicit public input for the evaluation. All meetings were publicized utilizing newspaper, radio and television announcements. (See attachment #1). Public comment was also solicited in writing.

Meetings were held in Grand Rapids, New Ulm and St. Paul. They were sparsely attended. One written comment was received. Though public response was limited, no individual or group favored the operation of all-terrain vehicles on public lands and waters by persons under 12 years of age. Notably absent from the public comment meetings were representatives of interest groups even though they were extended a personal invitation to participate.

In formulating its recommendation, the Department considered the following:

- Public comment;
- the inherent danger involved in the operation of an all-terrain vehicle;
- the serious liability concerns surrounding all-terrain vehicle use.
- the benefits of all-terrain vehicle use by families including use by children under 12 years of age;
- the physical and mental capabilities of children under 12 years of age;
- the Department of Natural Resources role in providing recreational opportunities for all-terrain vehicle users;
- the Final Consent Decree issued in the case of the United States of America v. American Honda Motor Company et. al.;
- the Report and Recommendations of the National Association of Attorneys General All-Terrain Vehicle Task Force;
- the Department's previous public policy discussions concerning the use of all-terrain vehicles.

In reviewing the above factors, concerns, and information, it became apparent that no substantive changes had occurred, either as a result of the actions of the federal government or as a result of judicial review, since the Department's previous policy discussions took place during late 1988. The terms of the U.S. v. American Honda, et. al. consent decree will remain in effect until April 28, 1998. The manufacturer's recommendation (attachment #2) indicates that a child under 12 years of age should never drive an all-terrain vehicle with an engine size of 70 cc or greater. Such limited displacement machines are not generally available at this time. Additionally, the National Association of Attorneys General ATV Task Force report recommends that children under age 16 not be allowed to operate all-terrain vehicles. Based on these recommendations, the department's previous deliberations, public comment, and concern for public safety, the following is the Department's recommendation:

Recommendation:

Based upon an evaluation of all-terrain vehicle use by persons under 12 years of age in family units, the Commissioner of Natural Resources recommends no change in the existing statute.

PUBLIC HEARING ON ALL TERRAIN
VEHICLE (ATVs) USE BY PERSONS UNDER
THE AGE OF 12 OPERATING AS PART OF
OF A FAMILY UNIT

This public hearing was held at the Itasca Community College Theatre located in Davies Hall on Tuesday, December 5, 1989 at 6:40 p.m.

Notice of this hearing was given to the following news media:

- GRAND RAPIDS HERALD REVIEW
A bi-weekly local newspaper
- HIBBING DAILY TRIBUNE
A daily newspaper
- RADIO STATION KAXE
- RADIO STATION KOZY
- RADIO STATION KNNS
- RADIO STATION WKKQ
- RADIO STATION WTBX
- RADIO STATION WEVE

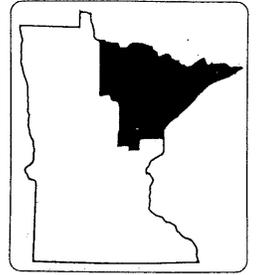
Department of Natural Resources

Attachment 1



REGION II NEWS

1201 East Highway 2
Grand Rapids, MN 55744



November 29, 1989

FOR IMMEDIATE RELEASE

ATV Hearing To Be Held In Grand Rapids

For more information, contact: Craig Backer at 327-4424

The Department of Natural Resources, Division of Enforcement, will conduct a public hearing on Tuesday, December 5th, starting at 6:30 p.m.

The focus of the hearing will be ATV use by persons under age 12 operating as part of a family group.

The hearing will be held at the Davies Hall Theater on the Itasca Community College campus in Grand Rapids. The hearing will begin at 6:30 p.m. and continue until 9:30. All interested persons are urged to attend.

* * * * *

Evaluation of Family Use of ATVs Including Children under 12 Years of Age

During the 1989 Legislative Session, the use of All Terrain Vehicles (ATVs) by persons under age 12 on public lands or waters was severely restricted. The restriction resulted from the ATV manufacturers' recommendation that persons under age 16 be restricted in the use of ATVs because they are "unreasonably dangerous" especially to children under 16 years of age.

The 1989 ATV Legislation contained a provision requiring the commissioner of natural resources to evaluate family ATV use, including ATV use by persons under 12 year of age on public lands and waters. The commissioner's recommendation may include any additional restrictions that may be deemed necessary to ensure the safety of ATV operators under 12 years of age.

In order to accurately reflect the opinions of all concerned parties, the Department of Natural Resources has initiated a series of public input meetings. Comments may also be submitted in writing to:

DNR Enforcement Division
Box 47, 500 Lafayette Road
St. Paul, MN 55155-4047

HONDA

AMERICAN HONDA MOTOR CO., INC.
 P.O. BOX 50 - 100 W. ALONDRA BLVD., GARDENA, CALIF. 90247
 CABLE ADDRESS - AMEHON, GARDENA, CALIF. (213) 327 - 8280

January, 1988

ATV SAFETY ALERT

The Consumer Product Safety Commission has concluded that ALL-TERRAIN VEHICLES (ATVs) may present a risk of DEATH or SEVERE INJURY in certain circumstances. While accidents may occur for many reasons:

- Over 900 people, including many children, have died in accidents associated with ATVs since 1982.
- Many people have become severely paralyzed or suffered severe internal injuries as a result of accidents associated with ATVs.
- Thousands of people have been treated in hospital emergency rooms every month for injuries received while riding an ATV.

Because of this, the United States Government has filed a lawsuit against all manufacturers and distributors of ATVs asking the Court to declare that ATVs are hazardous and to order the manufacturers and distributors to take actions to protect ATV riders. The distributors, while contesting the validity of the allegations made by the government, are presently engaged in discussions with the government to resolve these issues without litigation.

You should be aware that an ATV IS NOT A TOY AND MAY BE DANGEROUS TO OPERATE. An ATV handles differently from other vehicles, including motorcycles and cars. According to the Consumer Product Safety Commission, an ATV can roll over on the rider or violently throw the rider without warning and even hitting a small rock, bump, or hole at low speed can upset the ATV.

TO AVOID DEATH OR SEVERE PERSONAL INJURY:

- NEVER DRIVE AN ATV WITHOUT PROPER INSTRUCTION. TAKE A TRAINING COURSE. BEGINNING DRIVERS SHOULD RECEIVE TRAINING FROM A CERTIFIED INSTRUCTOR. Call 1-800-447-4700 to find out about training courses nearest you.
- NEVER LEND YOUR ATV TO ANYONE WHO HAS NOT TAKEN A TRAINING COURSE OR HAS NOT BEEN DRIVING AN ATV FOR AT LEAST A YEAR.
- ALWAYS FOLLOW THESE AGE RECOMMENDATIONS:
 - A CHILD UNDER 12 YEARS OLD SHOULD NEVER DRIVE AN ATV WITH ENGINE SIZE 70 CCD OR GREATER.
 - A CHILD UNDER 16 YEARS OLD SHOULD NEVER DRIVE AN ATV WITH ENGINE SIZE GREATER THAN 90 CCD.
- NEVER ALLOW A CHILD UNDER 16 YEARS OLD TO DRIVE AN ATV WITHOUT ADULT SUPERVISION. CHILDREN NEED TO BE OBSERVED CAREFULLY BECAUSE NOT ALL CHILDREN HAVE THE STRENGTH, SIZE, SKILLS OR JUDGMENT NEEDED TO DRIVE AN ATV SAFELY.
- NEVER DRIVE AN ATV AFTER CONSUMING ALCOHOL OR DRUGS.

(over)

- NEVER CARRY A PASSENGER ON AN ATV. CARRYING A PASSENGER MAY UPSET THE BALANCE OF THE ATV AND MAY CAUSE IT TO GO OUT OF CONTROL.
- NEVER DRIVE AN ATV ON PAVEMENT. THE VEHICLE IS NOT DESIGNED TO BE USED ON PAVED SURFACES AND MAY BE DIFFICULT TO CONTROL.
- NEVER DRIVE AN ATV ON A PUBLIC ROAD, EVEN A DIRT OR GRAVEL ONE, BECAUSE YOU MAY NOT BE ABLE TO AVOID COLLIDING WITH OTHER VEHICLES. ALSO, DRIVING ON A PUBLIC ROAD WITH AN ATV MAY BE AGAINST THE LAW.
- NEVER ATTEMPT TO DO "WHEELIES", JUMPS OR OTHER STUNTS.
- NEVER DRIVE AN ATV WITHOUT A GOOD HELMET AND GOGGLES. YOU SHOULD ALSO WEAR BOOTS, GLOVES, HEAVY TROUSERS AND A LONG SLEEVE SHIRT.
- NEVER DRIVE AN ATV AT EXCESSIVE SPEEDS.
- ALWAYS BE EXTREMELY CAREFUL WHEN DRIVING AN ATV, ESPECIALLY WHEN APPROACHING HILLS, TURNS, AND OBSTACLES AND WHEN DRIVING ON UNFAMILIAR OR ROUGH TERRAIN.
- ALWAYS READ THE OWNER'S MANUAL CAREFULLY AND FOLLOW THE OPERATING PROCEDURES DESCRIBED.

FOR MORE INFORMATION ABOUT ATV SAFETY, CALL THE CONSUMER PRODUCT SAFETY COMMISSION AT 1-800-638-2772, OR THE ATV DISTRIBUTORS' SAFETY HOTLINE AT 1-800-447-4700.

ALL TERRAIN VEHICLE ISSUES

This is intended to be a brief summary of current issues facing the State and Department on all terrain vehicle (ATV). While these issues have generally been of continuing standing, some have been made more urgent by recent litigation of the U. S. Government against ATV manufacturers resulting in a stipulated consent decree.

1. The primary present concern involves the safety of ATV's. The consent decree in U. S. v. American Honda Motor Co., et al. included new warnings and safety recommendations for ATV use that the manufacturers have agreed to communicate to buyers. In addition, the National Association of Attorneys General ATV task force has declared ATV's "unreasonably dangerous," with children under sixteen at greatest risk. The consent decree recommends that a child under 16 should never drive an ATV without adult supervision and with engine size greater than 90 cc displacement. It also recommends that passengers never be carried. Minn. Stat. §§ 84.925 and 84.9256 (1986) do not prohibit such activity. The first issue is whether state law should allow activity that appears so dangerous that even the manufacturers have agreed to warn against such activity.

2. Section 84.925, subd. 1, provides for training by state personnel and volunteers to persons under 16 without reference to the new warnings and recommendations above. This issue is whether, as a matter of policy, the state should undertake to train and certify child operators in accordance with statute, which does not conform to the new safety recommendations.

3. The next issue is whether the state, by providing training inconsistent with the new safety recommendations, may be incurring liability in the event that any certified trainees suffer or cause injury or other damage through ATV operation during or after the completion of training.

4. A related but arguably more remote issue is whether the state may be incurring liability as a result of any trainee suffering or causing injury or other damage during or after training simply because ATV's are so inherently dangerous that no amount of training will make them accident-free or that they may be judicially labeled ultrahazardous.

5. Another aspect of liability is whether the state's construction, maintenance and promotion of trails for ATV use on public property create unusual and unrealistic maintenance requirements since the now-known tendency for ATV's to tip over would require trails without bumps or steep climbs.

6. A prime concern for environmentalists is that uncontrolled or unlawful use of ATV's can cause severe and long-lasting damage to public resources, especially sensitive areas like stream beds.

7. There also may be opposition to the use of noisy ATV's in some areas.

