

November 21, 2006

**Standing Committee on Fisheries, Intergovernmental Affairs
and Transportation**
First Report of the Fourth Session Sixty-second General Assembly
Proposed Amendments to Off-highway Vehicle Act Regulations

Mr. Speaker and Members of the Legislative Assembly:

The Standing Committee on Fisheries, Intergovernmental Affairs and Transportation presents its report on the subject of proposed amendments to the Off-highway Vehicle Act regulations.

Membership

Permanent members of your Committee are:

Wes MacAler, Chairman (District 14, Charlottetown-Spring Park)
Hon. Philip Brown (District 23, Cascumpec-Grand River)
Hon. Michael Currie (District 3, Georgetown-Baldwin's Road)
Cletus Dunn (District 26, Alberton-Miminegash)
Hon. Robert Ghiz (District 13, Charlottetown-Rochford Square)
Ron MacKinley (District 16, North River-Rice Point)
Fred McCardle (District 19, Borden-Kinkora)
Andy Mooney (District 1, Souris-Elmira)

Substitute members were:

Wilfred Arsenault (District 24, Evangeline-Miscouche)
Hon. Jim Bagnall, (District 4, Montague-Kilmuir)
Richard Brown (District 12, Charlottetown-Kings Square)
Wayne Collins (District 15, Winsloe-West Royalty)

Order of Reference

The Standing Committee on Fisheries, Intergovernmental Affairs and Transportation is charged with matters concerning fisheries, intergovernmental affairs and transportation.

On December 13, 2005, the following motion was passed in the Legislative Assembly of Prince Edward Island referring the matter of proposed changes to the Off-highway Vehicle Act regulations to your Committee:

WHEREAS all-terrain vehicles or ATV's are classified on Prince Edward Island as off-highway vehicles;

AND WHEREAS off-highway vehicles are regulated on Prince Edward Island by the Off-Highway Vehicle Act;

AND WHEREAS such vehicles are used in both recreational and commercial activities, particularly as it relates to primary industry activity such as agriculture and forestry;

AND WHEREAS such vehicles can pose safety risks to users if operated irresponsibly;

AND WHEREAS public concerns have been expressed about both the health risks and community impacts of ATV use, particularly as it relates to the safety of young people operating ATV's;

AND WHEREAS when used responsibly both recreational and commercial ATV use can generate local economic spinoffs;

AND WHEREAS Government has an interest in striking an appropriate balance between safety concerns and economic opportunity;

AND WHEREAS to help further achieve that balance Government has developed draft amendments to the Off-Highway Traffic Act and its regulations;

THEREFORE BE IT RESOLVED that this Assembly request the Standing Committee on Fisheries, Intergovernmental Affairs and Transportation to consult interested Islanders to gauge public opinion upon the proposed draft amendments and report back to the Assembly;

AND BE IT FURTHER RESOLVED that the Standing Committee on Fisheries, Intergovernmental Affairs and Transportation be empowered to sit intersessionally to conduct its public consultations.

Proposed Amendments to the Off-highway Vehicle Act Regulations

The proposed draft amendments to the Off-highway Vehicle Act regulations, as referenced in the motion, were provided to your Committee by the Department of Public Works and Transportation, and are as follows:

1. Subsection 12(2) of the Off-Highway Vehicle Act Regulations (EC96/88) is repealed and the following substituted:

- (2) No person who is the owner or operator of an off-highway vehicle, other than a snowmobile, shall permit it to be operated by
 - (a) a person who is 17 years of age, unless the person has successfully completed a off-highway vehicle safety training course approved by the

Registrar;

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(b) a person who is 14 to 16 years of age, unless

(i) the person is directly supervised by an adult who holds a valid driver's license, and

(ii) the person has successfully completed a off-highway vehicle safety training course approved by the Registrar; or

(c) a person less than 14 years of age.

In summary, the proposed amendment would require the owner or operator of an off-highway vehicle to ensure that it is not operated by a person who is 17 years of age unless the person has completed a safety training course. This amendment also requires the owner or operator of such a vehicle to ensure it is not operated by a person who is less than 14 years of age and it requires the owner or operator to ensure that persons between 14 and 16 years of age are supervised and that they have taken a safety training course.

Current Regulations

For comparison, the relevant current regulation (i.e. Subsection 12(2)) states:

No person who is the owner or operator of an off-highway vehicle, other than a snowmobile, shall permit it to be operated by:

(a) a person between 10 and 14 years of age, unless the person is directly supervised by an adult who holds a valid driver's license; or

(b) a person less than 10 years of age. (EC191/02)

Definitions:

The category of off-highway vehicles includes:

- (A) all-terrain vehicles (ATVs), defined as motorized vehicles with three or four tires, and designed for off-road use on a variety of terrains. The vehicles are used for purposes related to occupations (farming and fishing, for example), recreation and transportation. ATVs are available in a range of sizes, from 50 cc's to 800 cc's engine displacement; and
- (B) dirt bikes, defined as two-wheeled motorized vehicles which have design characteristics that make them suitable for rough terrain. They are used for recreation and sport.

For the purposes of this report, your Committee has excluded from consideration off-highway vehicles designed and used exclusively for husbandry (for example, agricultural or fisheries use) or utility, including ride-on lawn mowers. Also excluded are off-highway vehicles designed for and used exclusively on prepared surfaces (for example, go-carts and golf carts). Snowmobiles, mopeds, and minicycles are not specifically discussed in this report.

Background

According to the Canadian Institute for Health Information, injuries have a major impact on the health and well-being of Canadians, representing a significant burden in terms of mortality, morbidity and economic cost. Injury is the leading cause of death in Canada among those under the age of 45 years and is a serious cause of disability. (*National Trauma Registry 2005 Injury Hospitalizations Highlights Report*; January 25, 2006). Additionally, the emotional burden borne by individuals, families and communities as a result of injuries is enormous.

The most recently published injury statistics related to off-highway vehicle use, for the United States and for Canada, are presented here for information.

<p align="center">ATV Injuries As reported by the U.S. Consumer Product Safety Commission 2001-2004</p>						
	Estimated Number of Injuries All Ages	Rate per 100,000 population in the US All Ages	Estimated Number of Injuries Ages 0-4	Rate per 100,000 population in the US Ages 0-4	Estimated Number of Injuries Ages 5-14	Rate per 100,000 population in the US Ages 5-14
2001	207,856	73.9	4,182	21.8	55,139	134.2
2002	214,952	74.5	3,299	16.8	59,874	145.9
2003	237,896	81.8	3,540	17.9	66,687	162.8
2004	250,767	85.4	4,287	21.4	68,698	168.6

*Consumer Product Safety Review, Vol. 7, No.2; Vol 8, No. 2; Vol. 9, No. 2; Vol 10, No. 2,
(a publication of the U.S. Consumer Product Safety Commission)*

ATV-Related Hospitalizations As reported by the Canadian Institute for Health Information 1996-2002	
1996/1997	1,693
2000/2001	2,535
2001/2002	2,856

*CIHI News Release dated February 5, 2003;
National Trauma Registry 2003 Report Hospital Injury Admissions;
National Trauma Registry 2004 Report Injury Hospitalizations.*

With great regret, your Committee reports that there were several lives lost in this province in connection with off-highway vehicle use during the time period during which public consultations were conducted on this topic. These tragic events served to reinforce to your Committee the crucial nature of its work.

Committee Activity

Your Committee met a total of twelve times to consult with the public and to consider this matter: January 12, February 8, February 9, February 15 (afternoon) February 15 (evening), February 16 (afternoon) and February 16 (evening), February 28, June 15, October 10, October 25, and November 9, 2006.

At its meeting of **January 12, 2006**, your Committee met to formulate its work plan, and to be briefed on the issues by Doug MacEwen, Safety Coordinator with the Highway Safety Division of Transportation and Public Works. Mr. MacEwen provided your Committee on with an overview of current regulations and legislation; and provided some statistical information regarding the prevalence of off-highway vehicles. Your Committee learned that there are approximately 1,200 registered all-terrain vehicles and the Department estimates there are another 3,800 additional unregistered machines in the province.

Your Committee agreed to place an advertisement in the newspapers across the province to request public opinion on the issue. As a result of this decision, an advertisement soliciting the views of the public appeared in the *Guardian*, the *Journal-Pioneer*, the *East Prince Graphic*, the *Western Graphic* and, in a French language version, in *La voix acadienne* on January 18 and January 25, 2006. In conjunction with this effort, comprehensive information concerning the work of your Committee and additional resource information was posted on the website of the Legislative Assembly (www.assembly.pe.ca).

The advertisement indicated that there would be a number of public hearings across the province where interested individuals and groups could present their issues and concerns on the matter to your Committee. The schedule, with dates, times and locations, was as follows:

Wednesday, February 8, at 2 pm - Charlottetown
Thursday, February 9 at 2 pm - Kensington
Wednesday, February 15 at 2 pm - Ellerslie
Wednesday, February 15 at 7 pm - Elmsdale
Thursday, February 16 at 2 pm - Fortune
Thursday, February 16 at 7 pm - Murray River

On **February 8, 2006**, your Committee heard from Dr. David Wong; Sally Lockhart, representing the Island Network for Injury Prevention (INIP); Margaret MacKay; Meagan Gallant, Kelsey MacIsaac and Emma Gallant; Scott Anderson; Robert Ramsay, representing the Canadian All-Terrain Vehicle Distributors Council, and the Motorcycle and Moped Industry Council; Dr. Ian MacQuarrie, representing the Public Forest Council; Scott Livingston; Clifford MacIsaac; Arthur Birt; Chad Howatt; Dr. Katherine Bigsby, representing the Medical Society of Prince Edward Island; Wilma Hambly, representing the board of directors of the IWK Health Centre; Ben Hoteling; Steve Dickieson; and Gary Dunning.

Dr. Wong told your Committee that the Canadian Pediatric Society and the American Academy of Pediatrics, the two organizations that represent pediatricians in Canada and the United States, have published statements recommending that children under 16 should not operate or ride on an ATV. The age of 16 is not an arbitrary number. It was selected after much deliberation based on evidence from injuries and deaths from ATVs in both countries. Sally Lockhart informed your Committee that she appeared as a person who believes in valuing the lives of children and that, as a society, we do need to protect our children so that they can grow up to be healthy and active adults, our future leaders. She also shared the fact that she had family member severely injured in an ATV crash. Ms. Lockhart asserted that allowing children and youth under 16 to operate an ATV is not an acceptable risk.

Margaret MacKay, a walker on the Confederation Trail, presented concerns about ATV use on the Trail and the lack of enforcement of this activity. The next witnesses, Meagan Gallant, Kelsey MacIsaac and Emma Gallant, presented a petition containing 155 signatures to “save the bikes and trails.” Scott Anderson directed his remarks to safety training issues and the details of the Canada Safety Council ATV Rider Course. Offering his opinion on safety training, he stated, “Will it reduce the number of accidents and injuries? It’s hard to say because operating an ATV is dangerous. But if you follow some of these principles I think it will definitely help.”

Robert Ramsay, president of the Canadian All-Terrain Vehicle Distributors Council, as well as the Motorcycle and Moped Industry Council, referred your Committee to the findings of the U.S. Consumer Product Safety Commission concerning rates of ATV injuries. Dr. Ian MacQuarrie,

representing the Public Forest Council, spoke of active government involvement making it easier to establish the norms related to machine size, rider age, supervision, safety equipment, and so on; in summary: Who rides what size machine, where and when? The next presenter, Scott Livingston, put forward his belief that the sport of off-roading, whether it be by motorcycles, go-karts, ATVs, or snowmobiles, is vital to every young person. Your Committee heard similar sentiments from Clifford MacIsaac who told of his children's positive involvement with the sport of motocross. Arthur Birt and his family drive four-wheelers; he spoke about parental supervision and the importance of having children ride machines that are not too big for them. Another parent, Chad Howatt, told about his son's experiences riding and racing motocross bikes. Dr. Katherine Bigsby, a pediatrician at the Queen Elizabeth Hospital, made a presentation on behalf of the Medical Society of Prince Edward Island. She stated that a law banning children from operating and riding potentially lethal motorized machines would send a very strong message to parents and caregivers. Further, Dr. Bigsby argued that the legislation include children up to the age of 16, versus the proposed minimum age of 14 years, because children do not possess the skills and judgement needed to safely operate ATVs. Following the conclusion of this presentation, the Chairman declared a recess.

Your Committee re-convened at 7 pm and heard from Wilma Hambly, a member of the Board of Directors of the IWK Health Centre, who supported the position taken by the PEI Medical Society, specifically that all-terrain vehicles are unsafe for children under the age of 16 to be operating. The next presenter, Ben Hoteling, presented his observations from many ATV safety courses he has taught. He advocated age restrictions by ATV engine size, and licensing requirements, including the successful completion of the Canada Safety Council ATV Safety Course, for all drivers. Steve Dickieson confined his remarks to children riding dirt bikes. Mr. Dickieson shared with your Committee the passion his son has for the sport of motocross racing.

The final presenter at this meeting was Gary Dunning, an owner of a recreational vehicle store. He was in favour of providing a safe environment for children to enjoy riding off-highway vehicles, and for safety training for the drivers.

In Kensington, on **February 9**, appearing before your Committee were Paul Johnson, Alvin MacNeil, Scott Barlow, representing the PEI Motocross Association; Lauren Cardiff-MacDougall, presenting on behalf of the IWK's Child Safety Link Program and presenting on behalf of Dr. Natalie Yanchar of the IWK Health Centre; Gerald MacDougall; and Karen Cobb.

Paul Johnson told your Committee about his son who has been involved with riding all-terrain vehicles, snowmobiles and motocross racing from a very young age. Mr. Johnson credits education and safety awareness, along with parental supervision and riding appropriately-sized vehicles, for keeping his son accident-free. The next presenter, Alvin MacNeil, pointed out the differences between the John Deere Gator, and similar vehicles, and ATVs used for recreational purposes. He suggested that the regulations exclude vehicles such as the John Deere Gator.

Scott Barlow, president of the PEI Motocross Association, gave your Committee an in-depth view of the sport of motocross in the province. He stated that the Association's goal is to promote the growth and recognition of the sport in Prince Edward Island, and emphasized the importance of safety training, personal protective gear and supervision for young riders.

Lauren Cardiff-MacDougall made a presentation on behalf of the IWK's Child Safety Link, and read a statement from Dr. Natalie Yanchar. She put forward the view that age alone plays a large role in the risk of injury and recommended restriction on riders under the age of 16 years. Data from the IWK Health Centre indicate that, on average, hospitalizations of children due to ATV-related injuries have tripled over the last six years. Evidence supports the fact that smaller vehicles do not protect children from injuries. Dr. Yanchar's statement concluded, "The bottom line is that all-terrain vehicles are motorized vehicles requiring adult skills and judgements. No child under the age of 16 should be allowed to operate any all-terrain vehicle, anytime, anywhere."

Gerald MacDougall, representing the Association of Chiefs of Police, was the next presenter at this meeting. He recommended training sessions for enforcement officers regarding current rules and regulations concerning off-highway vehicles. The final presenter, Karen Cobb, spoke of the difficulty of legislating common-sense and also of the regulatory burden faced by farmers in the province.

During the afternoon session on **February 15**, presentations were made to your Committee by Jamie Fox, representing the Central PEI ATV Association; Billy McKendrick; Lorne Sutherland, appearing on behalf of the PEI Motocross Association; Gary Ballem; Carrie Howatt; Brian Dennis; and Nic Howatt.

Mr. Fox put forward several recommendations focusing on supervision and size of machines for various age groups. He indicated that youth between the ages of 12 and 16 years should be supervised by someone at least 16 years of age and be limited to a machines of 300 cc's or smaller; children between the ages of eight and 12 be supervised by someone at least 18 years old and be limited to a machine of no greater than 100 cc's. Finally, he suggested that children between six and eight years be supervised by a parent or guardian and be limited to a machine of not greater than 50 cc's. The next presenter, Billy McKendrick, presented the results of a survey he conducted among 33 farmers in the Northam to North Cape area. All respondents agreed that drivers should wear protective equipment and had no objections to safety training. There were mixed reactions to age restrictions for the under 16 years of age class of drivers. Lorne Sutherland appeared on behalf of the PEI Motocross Association and spoke of his experiences as a parent of children who drove motorcycles. He emphasized the importance of training for young and novice drivers.

Your Committee next heard the views of Gary Ballem on the advantages of having a tip-to-tip trail for off-highway vehicles use. Mr. Ballem also shared some information on liability insurance for operators and landowners. Carrie Howatt, the mother of two young motocross racers, spoke positively of motocross as a sport to involve the whole family. She made a clear distinction between dirt bikes and ATVs, saying that a child cannot mount or start a dirt bike that is too big for him or her, but the same is not true for an ATV. Brian Dennis, appearing as an off-road vehicle dealer, stressed the role of training, education, public awareness, parental guidance, common sense and law enforcement in preventing injuries to young people. As did a previous presenter at this meeting, Mr. Dennis supported the establishment of a province-wide trail system for off-highway vehicles. The final presenter at the afternoon portion of the meeting was Nic Howatt. He brought a number of articles of personal protective equipment to show the members of your Committee.

In the evening of **February 15**, your Committee traveled to Elmsale and met with Michelle Arsenault, Emily Arsenault and Trent Arsenault; Juanita Gaudet; and Jason Greenan.

Michelle Arsenault and Emily Arsenault made a joint presentation as members of the PEI Motocross Association. Emily Arsenault has been riding since she was seven years old and is currently the 60 cc champion for the PEI Motocross series. Michelle Arsenault agreed with a previous presenter that your Committee should consider four-wheelers separately from dirt bikes in making recommendations for regulations. Trent Arsenault gave your Committee an overview of the history of his business, the West Prince Motocross Park. Like the previous presenters, he stressed the precautions motocross riders take in order to safely compete and enjoy their sport.

Juanita Gaudet shared her concerns about all-terrain vehicles damaging the Confederation Trail and causing walkers and cyclists to fear for their safety. For these reasons, she endorses the idea of an alternate route for ATVs. The final presenter at this meeting was Jason Greenan who believes that the Confederation Trail could well be used by four-wheelers, as long as walkers are respected and rules enforced.

At its afternoon meeting of **February 16**, held in the Fortune Community Centre, Jean Eldershaw, John Callaghan, John MacDonald, and Grace Blackette appeared before your Committee.

The first presenter, Jean Eldershaw, is a long-time user of Confederation Trail. Her concerns focused on protecting the trail, and ensuring walkers and cyclists can continue to use it without being disturbed by ATV use. She does not believe that all-terrain vehicles should be able to use the Confederation Trail. The next presenter, John Callaghan, spoke on behalf of the Department of Tourism as the Confederation Trail Co-ordinator. He supports the proposed changes to the Off-highway Vehicle Act regulations, and views increasing the age of and educating those who operate off-highway vehicles as responsible leadership. John MacDonald, a blueberry producer in Kings County, uses a four-wheeler for farm use. He also has four-wheelers that travel on his

property, and he reported that he has a mutually-respectful relationship with the drivers. He believes that the Confederation Trail could be shared among all users. The final presenter at this portion of the meeting was Grace Blackette. Like Ms. Eldershaw, she is a volunteer with Island Trails and has been involved with the Confederation Trail since 1995. She does not believe that ATVs, bicycles and pedestrians can safely share the trail.

On **February 16**, at the evening meeting in Murray River Hall, presentations were made by Adam Arsenault and Tanner Nicholson; Corey McGuigan and Liam Farrell; Kenneth White, Glen Ryan and Barry Ryan, and Chuck White, representing the Eastern PEI ATV Association; and Donna Arsenault.

Adam Arsenault and Tanner Nicholson made a joint presentation to your Committee, representing the PEI Motocross Association. Mr. Arsenault said, "It is the number one focus of the Prince Edward Island Motocross Association to promote safety in motocross on Prince Edward Island. There are three key areas where safety comes into play: proper safety equipment, an appropriate sized machine and a safe operating environment." He also pointed out the differences between dirt bikes and ATVs, as regards their handling characteristics. Corey MacGuigan and his son, Liam Farrell, also spoke about safety equipment and adult supervision for young riders. In addition, Mr. MacGuigan put forward the recommendation that there be designated riding areas for dirt bikes. As had previous presenters, he believed that ATVs and dirt bikes should be considered separately in regulations.

Kenneth White, Glen Ryan, Barry Ryan and Check White presented as a group, representing the Eastern PEI ATV Association, to your Committee. In general, they were supportive of safety training and adult supervision for young drivers. They are also very interested in a trail system for ATV use which could be supervised, and perhaps policed. Donna Arsenault spoke as a mother who has had her two sons involved in motocross racing for many years. She shared her many positive experiences with motocross.

Throughout the public consultation phase of your Committee's consideration of this matter, comments and concerns were received from members of the public by telephone, fax, and email and also by way of the feedback form on the website of the Legislative Assembly. Responses were received from Stephen Stewart, Chance Waite, Nancy Wallace on behalf of the Community of O'Leary, Jim Evans, Gisele Martin, Julie and Robert Affleck, Paul Clinton, Mark Hodson, Sherry Barlow, Craig Bugden, Joey DesRoches, Nelson Gallant, Florence Graham, Ron Keefe, Rose Llewellyn, Joseph MacDonald, Jimmy Sherry, and Phyllis MacDonald.

On February 28, 2006, your Committee met, *in camera*, to begin consideration of its report to the Legislative Assembly. On June 15, October 10, October 24 and November 8, 2006, your Committee met *in camera* to further consider its report.

Recommendations

Throughout its deliberations, your Committee had to consider the questions as to whether there are unacceptable risks of injury and death associated with operating off-highway vehicles, and what actions, either regulatory and non-regulatory, could be taken to reduce off-highway vehicle accident rates.

Your Committee heard testimony directly from those who participate in sports and recreational activities involving off-highway vehicles. They told of their experiences and the benefits that came from ATV or dirt bike riding, such as family togetherness, skills enhancement, enjoyment of nature, positive development for young people, and so on. This was countered by those who were concerned about the growing number of major injuries and deaths attributable to off-highway vehicle use and, in particular, the accident rates among young drivers.

Throughout the public consultation process, the love and concern of parents for their children was clear, and was not confined to proponents of one point of view or another. Your Committee acknowledges the authority of parents to nurture and safeguard their families; however, testimony from medical professionals, and others, emphasized their deep reservations about the safety of off-highway vehicles. Many considered the rate of risk linked to the age of the driver to be intolerably high.

After much debate and reflection, your Committee has concluded that, while there are few satisfactory regulatory methods for guaranteeing the safety of youth and adults who drive off-highway vehicles, there is a definite place for regulation which emphasizes safety considerations. Your Committee considered the measures in place for mandating the use of seatbelts in automobiles, wearing of bike helmets, and also the legislation concerning tobacco sales and access as examples where health and safety have been well-served by legislation.

As a result of its consultations and study, your Committee is pleased to present a number of recommendations for the consideration of the Members of the Legislative Assembly.

In brief, these measures, if adopted, would restrict operation of all-terrain vehicles to those persons aged 14 years and over. In addition, your Committee is proposing the implementation of a new all-terrain vehicle license available to drivers between the ages of the 14 and 18 years which would require the operator to have successfully completed a certified safety training program. Your Committee is recommending that drivers between the ages of 14 and 16 years of age be supervised by an adult, and only operate an all-terrain vehicle that has an appropriate engine size for the age and size of the driver. For all ATV drivers, your Committee recommends that personal protective equipment be mandatory. Finally, your Committee is suggesting efforts continue towards the development of off-highway vehicles routes and is emphasizing registration of off-highway vehicles. Additional recommendations address landowner liability, as well as penalties for non-compliance with the regulations.

Although not a formal recommendation, your Committee believes that all adult drivers, both novice and experienced, would benefit from safety training.

In the case of dirt bikes, your Committee is recommending a structured approach for younger children, with fewer restrictions as the age of the rider increases. Those riders under the age of 14 must be riding for competition, or preparation for competition, be under an adult's supervision, have completed a certified safety training course, be wearing personal protective equipment and be riding an appropriate size of machine for their age and size. Riders who are between the ages of 14 and 16 years must have completed a certified safety training course, be wearing personal protective equipment, and be on a bike that is appropriate for their age and size. For those riders 16 years and older, your Committee is recommending safety training and personal protective equipment.

Your Committee offers the following recommendations for the consideration of the Members of the Legislative Assembly:

1. Three-wheeled and Four-wheeled Motorized Vehicles ("ATVs")

- (A) An off-highway vehicle of a particular class of off-highway vehicle (that is, a three-wheeled motorized off-highway vehicle or a four-wheeled off highway vehicle, commonly called an "ATV" or an "all-terrain vehicle") **may not be operated by a person under the age of 14 years.**
- (B) An off-highway vehicle of a particular class of off-highway vehicle (that is, a three-wheeled motorized off-highway vehicle or a four-wheeled off highway vehicle, commonly called an "ATV" or an "all-terrain vehicle") **may be operated by a person between the ages of 14 and 16 years of age if:**
 - (i) the person holds an ATV driver's license which requires the person to have successfully completed a certified safety training course;
 - (ii) the person is wearing personal protective equipment;
 - (iii) the person is under the direct supervision of an adult;
 - (iv) the vehicle does not have an engine size in excess of that recommended by the manufacturer for an operator of the age and weight of the person between the ages of 14 and 16 years of age.
- (C) An off-highway vehicle of a particular class of off-highway vehicle (that is, a three-wheeled motorized off-highway vehicle or a four-wheeled off-highway vehicle, commonly called an "ATV" or an "all-terrain vehicle") **may be operated by a person between the ages of 16 and 18 years of age if:**

- (i) the person holds an ATV driver's license which requires the person to have successfully completed a certified safety training course; and
 - (ii) the person is wearing personal protective equipment.
- (D) An off-highway vehicle of a particular class of off-highway vehicle (that is, a three-wheeled motorized off-highway vehicle or a four-wheeled off-highway vehicle, commonly called an "ATV" or an "all-terrain vehicle) **may be operated by a person 18 years and older if** the person is wearing personal protective equipment and possesses a valid driver's license.

2. Two-wheeled Motorized Vehicles ("Dirt Bikes")

- (A) An off-highway vehicle of a particular class of off-highway vehicle (that is, a two-wheeled motorized off-highway vehicle, commonly called a "dirt bike") **may be operated by a person under the age of 14 years only for competition, or in preparation for competition, and if:**
- (i) the person is under the direct supervision of an adult;
 - (ii) the person is wearing personal protective safety equipment;
 - (iii) the person has successfully completed a certified safety training course, appropriate for the person's age; and
 - (iv) the vehicle does not have an engine size in excess of that recommended by the manufacturer for an operator of the age and weight of the person under the age of 14 years.
- (B) An off-highway vehicle of a particular class of off-highway vehicle (that is, a two-wheeled motorized off-highway vehicle, commonly called a "dirt bike") **may be operated by a person between the ages of 14 and 16 years if:**
- (i) the person is wearing personal protective equipment;
 - (ii) the person has successfully completed a certified safety training course; and
 - (iii) the vehicle does not have an engine size in excess of that recommended by the manufacturer for an operator of the age and weight of the person between the ages of 14 and 16 years of age.

- (C) An off-highway vehicle of a particular class of off-highway vehicle (that is, a two-wheeled motorized off-highway vehicle, commonly called a “dirt bike”) **may be operated by a person 16 years of age and older if:**
- (i) the person is wearing personal protective equipment; and
 - (ii) the person has successfully completed a certified safety training course.

3. Motocross Racing Events

In addition to the above-listed recommendations, your Committee further recommends that the following apply to the operation of dirt bikes in all **motocross racing events:**

- (A) a trained official must be present;
- (B) a trained first-responder must be present;
- (C) course rules are enforced; and
- (D) the vehicle is operated in a class based upon the person’s age, size and ability.

4. Landowner Liability

Your Committee recommends that a person who owns or operates or is a passenger on an off-highway vehicle on land, with or without permission of the owner or occupier of the land, is deemed to have willingly assumed all risks related to the ownership or operation of or carriage on the off-highway vehicle except a danger created by the owner or occupier of the land with the deliberate intent of doing harm or damage to the person or property of the owner, operator or passenger.

5. Development of Off-highway Vehicle Trail

Your Committee heard from many interveners that there is a need for a dedicated trail for off-highway vehicles. Therefore, your Committee recommends the Minister of Transportation and Public Works, in cooperation with the Minister of Community and Cultural Affairs, and the Minister of Tourism, assist off-highway vehicle user groups to develop alternative trails or routes outside of the Confederation Trail. Further, your Committee recommends that the Minister of Transportation and Public Works also assist off-highway vehicle user groups in developing a management framework for the off-highway vehicle trail network which would include, but not be limited to, acquisition, designation, maintenance, insurance and liability, environmental protection, and usage.

6. Enforcement

Your Committee recommends that the legislation and associated regulations respecting off-highway vehicles be enforced to a greater degree. Compliance in the areas of registration, use of appropriate personal protective equipment, allowable areas for operation, and all other regulations associated with off-highway vehicles must be increased. Your Committee recommends that law enforcement agencies be provided with the tools to effectively deal with the problems created by off-highway vehicle use. To this end, your Committee recommends that training sessions for officers be conducted, and that information concerning regulations and penalties be readily available to officers working in the field. Your Committee also recommends that penalties be increased, including the possibility of vehicle seizure, with the aim of providing genuine deterrent value.

7. Registration of Off-highway Vehicles

- (A) Current regulations state that off-highway vehicles must be registered and display a license plate issues by the Registrar. Your Committee recommends an appropriate increase in the registration fees for off-highway vehicles.
- (B) In further support of your Committee's previous recommendation on enforcement of regulations, it is recommended that there be an increased emphasis on registering all off-highway vehicles. To this end, your Committee recommends the involvement of dealers of off-highway vehicles in the registration of off-highway vehicles, similar to the role of automobile dealers in vehicle registration.

8. Review of the Act and Accident Rates

Your Committee recommends the Minister of Transportation and Public Works, within three years of the adoption of this report, review the effectiveness of the Off-highway Vehicle Act and associated regulations, particularly with respect to accident rates and injuries for the various classes of off-highway vehicles, and report his/her findings. This report should be tabled in the House for the information of all Members.

Conclusion

The deliberations by the Standing Committee on Fisheries, Intergovernmental Affairs and Transportation on the proposed amendments to the Off-highway Vehicle Act regulations were extensive. The Committee met in six different locations across the province; and heard from a total of 73 individuals, appearing on their own behalf and on behalf of various groups and organizations.

There was no doubt that, at times, it was difficult to achieve a consensus of what directions were advisable and achievable. After carefully weighing the information as presented, current research and data, your Committee believes that the recommendations proposed in this report strike a balance, allowing responsible parents and youth to mitigate the risks associated with off-highway vehicles, while still enjoying the pleasures of nature, sport, skill-building and family bonding that they can provide.

At this time, your Committee thanks and acknowledges the people who took the time to present their views. Finally, as chairman, I wish to express my thanks to the members of the Committee who participated in the process for their contribution in carrying out our mandate.

Respectfully submitted,

Wes MacAleer,
Chairman
Standing Committee on Fisheries, Intergovernmental Affairs and Transportation

Appendix A

OFF-HIGHWAY VEHICLE ACT **PROPOSED AMENDMENTS TO REGULATIONS**

DRAFT FOR CONSULTATION PURPOSES ONLY

Pursuant to section 22 of the Off-Highway Vehicle Act R.S.P.E.I. 1988, Cap. O-3, the following amendment is proposed:

1. Subsection 12(2) of the Off-Highway Vehicle Act Regulations (EC96/88) is repealed and the following substituted:

- (2) No person who is the owner or operator of an off-highway vehicle, other than a snowmobile, shall permit it to be operated by
- (a) a person who is 17 years of age, unless the person has successfully completed a off-highway vehicle safety training course approved by the Registrar;
 - (b) a person who is 14 to 16 years of age, unless
 - (i) the person is directly supervised by an adult who holds a valid driver's license, and
 - (ii) the person has successfully completed a off-highway vehicle safety training course approved by the Registrar; or
 - (c) a person less than 14 years of age.

EXPLANATORY NOTE:

This amendment requires the owner or operator of a off-highway vehicle to ensure that it is not operated by a person who is 17 years of age unless the person has completed a safety training course. This amendment also requires the owner or operator of such a vehicle to ensure it is not operated by a person who is less than 14 years of age and it requires the owner or operator to ensure that persons between 14 and 16 years of age are supervised and that they have taken a safety training course.

Appendix B

INTERVENERS

The Standing Committee on Fisheries, Intergovernmental Affairs and Transportation thanks the following individuals for their contributions during the public consultation phase of the Committee's work:

Affleck, Julie	Keefe, Ron
Affleck, Robert	Livingston, Scott
Anderson, Scott	Llewellyn, Rose
Arbing, Phil	Lockhart, Sally
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Arsenault, Donna	MacDonald, Joseph
Arsenault, Emily	MacDonald, Phyllis
Arsenault, Michelle	MacDougall, Gerald
Arsenault, Trent	MacEwen, Doug
Ballem, Gary	MacIsaac, Clifford
Barlow, Scott	MacIsaac, Kelsey
Barlow, Sherry	MacKay, Margaret
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Blackette, Grace	MacQuarrie, Dr. Ian
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Dennis, Brian	Ryan, Glen
DesRoches, Joey	Ryan, Barry
Dickieson, Steve	Sherry, Jimmy
Dunning, Gary	Stewart, Stephen
Evans, James	Sutherland, Lorne
Eldershaw, Jean	Waite, Chance
Farrell, Liam	Wallace, Nancy
Fox, Jamie	White, Chuck
Gallant, Emma	White, Kenneth
Gallant, Meagan	Wong, Dr. David
Gallant, Nelson	Yanchar, Dr. Natalie
Gaudet, Juanita	
Graham, Florence	
Greenan, Jason	
Hambly, Wilma	
Hodson, Mark	
Hoteling, Ben	
Howatt, Carrie	
Howatt, Chad	
Howatt, Nic	
Johnson, Paul	