

MICHAEL K. HANNA, MEMBER

29 BELLEFONTE AVENUE
LOCK HAVEN, PENNSYLVANIA 17746
PHONE: (610) 748-6480
TOLL-FREE: 1 (800) 645-7046

102 TURNPIKE STREET
P.O. BOX 1134
MILESBURG, PENNSYLVANIA 16853
PHONE: (814) 353-8780

ROOM 102-B EAST WING
HOUSE BOX 202020
HARRISBURG, PENNSYLVANIA 17120-2020
PHONE: (717) 772-2283



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

FINANCE
GAME AND FISHERIES
TOURISM AND RECREATIONAL
DEVELOPMENT

CAUCUSES

NORTHWEST CAUCUS
RURAL PENNSYLVANIA
CENTRAL PENNSYLVANIA
TIMBER
FIREFIGHTERS
IRISH

Original: 2284

November 26, 2002

Independent Regulatory Review Commission
14th Floor Harrisstown 2
333 Market Street
Harrisburg, PA 17101

Dear Executive Director Nyce:

Attached is correspondence from PA OHU. I whole heartedly agree with
Legislative Director Jack Clark. I strongly object to the provisions of § 51.72. We
in the legislator addressed this when we debated the bill. We deleted any restriction
on passengers from the legislation and did so intentionally.

Please insure that DCNR does not contradict the legislative intent with their
regulations.

Very Truly Yours

Michael K. Hanna
76th Legislative District

cc: Jack Clark
Fred Brown

**PENNSYLVANIA OFF HIGHWAY VEHICLE ASSOCIATION**

Jack Clark, Legislative Director
24 East Market Street
Bethlehem, PA 18018-5926
610-865-8513
jackclark@juno.com

November 5, 2002

Bill Slippey, Chief, Recreation Section
Operations and Recreation Division, Bureau of Forestry
Department of Conservation and Natural Resources
PO Box 8552
Harrisburg, PA 17105-8552

Dear Mr. Slippey,

We recently became aware of the changes which you have proposed for the Snowmobile and ATV Regulations as printed in the September 7th issue of the Pennsylvania Bulletin. We are particularly concerned with the changes listed as § 51.72 which will now read "Operation of ATV with a passenger." instead of "Operation in a safe manner." The current regulations prohibit operation of a snowmobile or ATV in a fashion inconsistent with 75 Pa.C.S. § 7726 (Vehicle Code) which already devotes more than one page addressing various aspects of this specific topic. Your regulation now addresses only ATVs and does so in a zero tolerance fashion.

It is our belief that the current regulations address the situation you are trying to correct without any modification. § 7726 of the Vehicle Code gives you all the force you need. We disagree with your statement that "It is generally recognized that carrying a passenger on an ATV that was not designed to carry a passenger is a reckless and dangerous practice." This is not "generally recognized" and while it is far from recommended, it certainly is not unilaterally "reckless and dangerous" and should not be prohibited. The behavior you are trying to stop typically involves an unreasonable rate of speed, no helmets, and operation in a careless fashion. These are already specifically addressed in the code and require very little interpretation to enforce. Your zero tolerance proposal would merely harass a large group of people who are trying to comply with current law and would continue to be ignored by the group you need to address. You need to enforce your current law instead of adding additional layers as if it will solve the problems.

We are even more upset with the approach you have taken to introduce this new regulation in light of our brief discussion during the May 7th Snowmobile and ATV Advisory Committee Meeting. The discussion was brief (as so noted in the minutes) and some of the objections to this point were also noted in the minutes. The agenda listed it as an "Overview and Discussion" but, in fact, there was very little discussion and no request for official comment on the proposals. At that meeting we did review a 3/26/02 draft of proposed rules and Susan Wood's 4/9/02 memo on the topic. Our objections pointed out why this approach was inappropriate, ineffective as well as being antagonistic to the ATV community. We mentioned that it had initially been included in Act 68 but was removed after the legislators reviewed and reconsidered these same issues.

Given these objections, as well as an offer to help you re-word the regulation to attain your desired result, it was most disturbing to see it appear unchanged in the Pennsylvania Bulletin two days before our

September 9th Snowmobile and ATV Advisory Committee Meeting. At this meeting there was no mention of the issue, even though you knew of the objections, and there were no copies provided of the final version of your proposal for a formal response from the committee. You also never shared § 7726 of the Vehicle Code with the group so they could consider your proposal in light of existing law and your final date to receive public comment has been set for the day before our next SAAC meeting.

I would like to share with you an excerpt from Act 68 relating to the Snowmobile and ATV Advisory Committee. It's in the law and was also reviewed with the committee through Susan Wood's January 7th memo when we were discussing the Adverse Interest Act:

"Powers and duties.—The powers and duties of the committee (SAAC) shall be to advise the Secretary of Conservation and Natural Resources on matters concerning the implementation of this chapter, including existing and proposed regulations, standards, policies and practices; use and operation of snowmobiles and ATVs on public and private land; acquisition, construction, development and maintenance of trails; enforcement; and allocation of fees collected by the department pursuant to this chapter."

PAOHV has made and will continue to make a concerted effort to work with the Department to address and resolve issues related to ATVs and Snowmobiles in Pennsylvania. When the SAAC started it was stated that the Secretary recognized the above charge and took it seriously. This was emphasized by his staff and also by Secretary Oliver himself when he met with our group. I am very much aware of the meaning and limitation of the word "advise" in the above text and can assure you that you didn't even come close. The additional issue this brings up is not just the proposed regulation, but the continued positive relationship of the Department with an advisory committee created by the legislature.

We ask you to leave § 51.72 as it currently reads and work with your field staff to address enforcing the real problems. We also request that you spend more time discussing these issues with the Snowmobile and ATV Advisory Committee at its regular meetings and explain the nuances relating to the issues so that you can receive viable input from those of us directly involved with the sport. We can attain a much safer environment for the sport in Pennsylvania by working together.

Thank you for your consideration of this request and for all you continue to do for recreation in Pennsylvania.

Sincerely,

Jack Clark

Jack Clark, Legislative Director, PAOHV
Vice-Chair, Snowmobile and ATV Advisory Committee
Board Chairman, Lehigh Valley ATV Association

CC: John Oliver, Secretary DCNR
Snowmobile and ATV Advisory Committee Members
Mike Babusci, Director, PAOHV
Sen. Mary Jo White, Environmental Resources and Energy
Sen. Raphael Musto, Environmental Resources and Energy
Sen. Jake Corman, Centre County
Rep. Art Hershey, Environmental Resources and Energy
Rep. Camille George, Environmental Resources and Energy
Rep. Robert Godshall, Tourism and Recreational Development
Rep. Mike Hanna, Centre and Clinton Counties