

SCR10, As Adopted by Senate, March 31, 2009

Senators Brown, Jelinek, Van Woerkom, Cropsey and Jansen offered the following concurrent resolution:

Senate Concurrent Resolution No. 10.

A concurrent resolution to urge Congress to enact a waiver or exclusion for youth motorcycles and all-terrain vehicles from the lead requirements of the Consumer Product Safety Improvement Act and to encourage the Consumer Product Safety Commission to exclude those products under their regulatory authority.

Whereas, In the aftermath of highly-publicized recalls of children's toys and products containing toxic substances, most notably lead, Congress enacted H.R. 4040 in 2008 to reform and strengthen the authority of the U.S. Consumer Product Safety Commission to monitor the safety of goods sold in the global marketplace. The act prohibits the manufacture and sale of children's products containing lead. "Containing lead" is considered as more than 600 parts per million (ppm) by February 10, 2009, whether the lead is in the paint or content of the product; and

Whereas, Under the newly-enacted law, "children's product" means a consumer product designed or intended primarily for children 12 years of age or younger. This law has had the unintended consequence of halting nationwide sales of off-road motorcycles, all-terrain vehicles (ATV), and after-market parts manufactured for young riders; and

Whereas, Off-road cycling and power sports involving youths is a multimillion-dollar industry. An estimated 100,000 youth bikes were sold in the United States in 2008, and current inventory aimed at children under the age of 12 is valued at \$100 million; and

Whereas, Under the doctrine enunciated in *Chevron, U.S.A., Inc. v. Natural Res. Def. Council*, 467 U.S. 837, 842-45 (1984), a regulatory agency is permitted to adopt a reasonable interpretation of a statute that Congress entrusts that agency to administer. In choosing among reasonable interpretations, an agency may consider their policy implications. (*Chevron*, 467 U.S. at 843.) Here, substantial policy implications point in favor of staying the effective date of Section 101(a)(2) until the final substantive rules and interpretative regulations can be established and regulated entities can, as a practical matter, determine whether particular new and existing products are in compliance with the lead content requirements; and

Whereas, The components, parts, and accessories of the youth motor vehicles that have been targeted by the lead law include lead battery terminals, fittings and connectors, engine housings, chassis parts, tire valve stems, brake levers, clutch levers, and many others. Yet the industry points out that lead-containing parts and accessories are highly unlikely to be touched by children, and any contact that may occur poses no risk to children ages 12 and younger; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we urge Congress to enact a waiver or exclusion for youth motorcycles, all-terrain, and snowmobiles vehicles from the lead requirements of the Consumer Product Safety Improvement Act; and be it further

Resolved, That we also urge the Consumer Products Safety Commission under the doctrine enunciated in *Chevron, U.S.A., Inc. v. Natural Res. Def. Council*, 467 U.S. 837, 842-45 (1984), to issue a regulation exempting youth motorcycles, all-terrain vehicles, and snowmobiles from the lead requirements of the Consumer Product Safety Improvement Act; and be it further

Resolved, That copies of this resolution be transmitted to the Consumer Product Safety Commission, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.