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Statement of Sean Hilbert
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U.S. House of Representatives Subcommittee on Investigations and Oversight of
the Committee on Small Business

Hearing on
"How the Consumer Product Safety Improvement Act Impacts Small Businesses"

May 14, 2009

Chairman Altmire, Ranking Member Fallin and members of the Subcommittee, thank you for the opportunity to provide comment on the Consumer Product Safety Improvement Act of 2008 (CPSIA).

Founded in 1993, Cobra Motorcycle Manufacturing is the world's premier manufacturer of youth competition motorcycles and all-terrain vehicles (ATVs). Cobra moved to Michigan in 2006 with the aid of a Michigan Mega Grant through the Michigan Economic Development Corporation (MEDC). We proudly design, develop, and manufacture our products in the USA using over 150 local companies to supply services, components, and raw materials. Additionally, Cobra has grown considerably over the past five years, and we currently export our products to fourteen countries. For the sake of our employees, suppliers, and customers, we urge Congress to amend the CPSIA to exclude products like ours that pose absolutely no lead risk to children.

As you know, the CPSIA was signed into law on August 14, 2008 and went into effect February 10, 2009. It subjects any consumer product that is designed or intended primarily for a youth age 12 years or under to the new limits on lead content (Section 101). While the CPSIA was passed with laudable intent, it has created, according to House and Senate bipartisan letters dated April 2 to the Consumer Product Safety Commission (CPSC), "a well-documented safety hazard for children, a severe and unwarranted disruption to families who recreate together, and a deleterious effect on youth amateur racing. Additionally, the inclusion of OHVs has created an economic disaster for an industry which is already reeling from the recession, is facing countless lay-offs and is estimated to be losing three million dollars per day due the Act."

If large companies like Honda are being dramatically affected by the CPSIA, then small businesses are experiencing hemorrhages that are unrecoverable. In the case of Cobra, the most damaging part of this law is the cost of compliance. We

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are facing a price tag of nearly half of one year's revenue to comply, and that is estimating initial testing costs only. This equates to adding roughly \$2,000 to the price of a \$3,500 unit and doubling the cost of spare parts, which the market will simply not bear. Furthermore, the administration of continually testing approximately 4,000 separate components is a task we have not even begun to get our arms around. As with other small companies, we fear that the burden of compliance will simply cause us to close our doors. This means, in the case of Cobra, I must lay off 35 full-time and 4 part-time employees from our factory located in Michigan, which has the unfortunate distinction of already having the highest unemployment in the Union.

In an effort to alleviate some of the devastating effects of the CPSIA, the youth-model motorcycle and ATV industry sought an exclusion from the Lead Content Limits under Section 101. While the CPSC voted unanimously to deny the request for exclusion they ultimately voted on May 1, 2009, to support a stay of enforcement of Section 101 of the CPSIA regarding youth-model off-highway motorcycles and ATVs. The stay of enforcement is effective from May 12, 2009 through May 1, 2011.

Acting Chairman Nancy Nord stated on April 3, 2009, that she could not support an exclusion "because the clear language of the law requires this result, not because it advances consumer safety." In fact, Acting Chairman Nord said that the "application of the lead content mandates of the CPSIA to the products made by the petitioners may have the perverse effect of actually endangering children by forcing youth-sized vehicles off the market and resulting in children riding the far more dangerous adult-sized ATVs."

While the CPSC Commissioners' vote to stay enforcement of the law, this does not solve the real issue, which is the law itself. Despite the stay, it is unclear whether state attorneys general will also decline to enforce the CPSIA. The sale of youth-model motorcycles and ATVs is still technically illegal. Even though a stay means that small business owners will not be subject to fines or penalties imposed by the CPSC, state attorneys general can still prosecute violators if they chose to do so. Youth-model motorcycles and ATVs should be exempt from the law, and Congress needs to act to make that happen.

The most sensible way forward for Congress to help small companies like Cobra is to have the law repealed or to somehow exclude youth-model motorcycles and ATVs from the law. H.R. 1587, introduced by Rep. Denny Rehberg (R-MT), will do just this and I urge any Representative that has not yet cosponsored this bill to please do so. By cosponsoring H.R. 1587, you will send a clear message of your support for small businesses and youth safety.

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Finally, it is my sincere hope that this Subcommittee continues to engage the public in their deliberations regarding the CPSIA's impact to small businesses. Cobra and many dealers, who are also small businesses, stand ready to serve as a resource for you and your staff as you further consider the impacts of the CPSIA.

Again, I wish to thank the Chairman, the Ranking Member and the Subcommittee for holding this hearing on "How the Consumer Product Safety Improvement Act Impacts Small Businesses."

Regards,

A handwritten signature in black ink that reads "Sean Hilbert". The signature is written in a cursive style with a large initial "S" and "H".

Sean Hilbert
President – Cobra Motorcycle Mfg. Inc.