



MER/PRV/BR NOTIFIED 12/13/09  
COMMENTS: YES NO  
OVERRULED; ATTACHED  
EXCISIONS/FOIA Hrs. ;  
DO NOT RE-NOTIFY RE-NOTIFY

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Submitted on July 13, 2009

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Office of the General Counsel  
U.S. Consumer Product Safety Commission  
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## Tomoto ATV Action Plan

Tomoto Industries Inc. ("Tomoto") is fully committed to the goal of reducing ATV-related accidents. We have implemented new policies in accordance with the rules set forth by Section 232 of the Consumer Product Safety Improvement Act of 2008. The actions outlined below are part of our continuing effort to promote safe and responsible use of our ATVs.

In order to provide our consumers the safest ATVs from Tomoto, Tomoto Industries Inc. is committed to execute the following terms and conditions:

### A. Age Recommendations:

Tomoto will only recommend, market, and sell ATVs for use under the age category/speed guidelines specified at Section 6 of the ANSI/SVIA 1-2007 Standard for ATVs ("the ATV standard"). Tomoto will not recommend, market, advertise, or sell adult sized ATVs for the use of persons less than 16 years of age. Tomoto will use its best efforts to ensure that our dealers comply with these requirements.

### B. Supervision on Tomoto's Dealers:

Tomoto requires that its dealers verify the intended ATV rider's age prior to selling that rider or his/her guardian an ATV. Tomoto warranty registration cards require the identification of the intended rider's name and date of birth to ensure that dealers do not sell Tomoto ATVs to under-aged riders.

Tomoto will use its best efforts to obtain dealer compliance with the age recommendation requirements of the ATV Standard. Tomoto will conduct a minimum of 50 on-site, undercover inspections per year of our authorized ATV dealers by means of independent, undercover investigators (also known as "secret shoppers") to ensure that these dealers follow age requirements and other safety related practices during sales or promotional functions. The initial annual goal of the inspection program will be to inspect the dealers who sell 75% of the Tomoto ATVs sold in the United States. This will be augmented by annual random testing of dealers who are not in the initial inspection group. Tomoto will also modify the visitation criteria of its field support staff so that inspecting for dealer compliance becomes a normal function of the dealer visit.

When Tomoto learns of dealers who do not abide by the age requirements of the ATV Standard, it will arrange follow-up inspections. If Tomoto finds evidence of continued violations, Tomoto will take remedial action, up to and including possible termination or non-renewal of the dealer's contract with Tomoto.

### **C. Training:**

Tomoto Industries Inc. is one of the members of the national non-profit trade association Specialty Vehicle Institute of America (SVIA). Tomoto will offer free training to all purchasers of our ATVs and qualifying members of their immediate families. Our training program is provided by the ATV Safety Institute (ASI). Children under age 16 will only be trained on appropriately-sized youth models. Tomoto will provide all our purchasers a telephone number to get more information about the training program and the availability of a training course in their area. Tomoto will offer an incentive to any first time purchasers who complete the training program. One incentive will be offered per one VIN# upon the completion of the training program. After completion of the ASI course, the rider will qualify for an incentive worth \$100. The \$100 incentive for training will include at least \$50 in cash, with the balance offered (at the consumer's choice) as a rebate for already purchased safety equipment or a credit towards the purchase of new safety equipment.

### **D. Point-of-Sales Communications:**

#### **1. Point-of-Sales Oral Communication:**

- Tomoto will try our best to ensure all our dealers, agents or representatives who sell Tomoto ATVs to consumers will not provide false information that is not consistent with all safety-related requirements of this action plan.
- Tomoto agrees to provide safety information that is consistent with this action plan in written, oral, and video materials that relate to the promotions and sales of Tomoto ATVs by our dealers, agents or representatives.

## **2. Point-of-Sales Mandatory Safety Materials:**

- **ATV Hang Tags:** Tomoto will provide to all our dealers and retailers hang tags that are attached to all Tomoto ATV. The hang tags will comply with Section 4.24 of the ANSI/SVIA 1-2007 standard for ATV. The tags will only be removed by the first purchaser of the ATV. The tags must be replaced if lost or damaged.
- **ATV Safety Video:** Tomoto will provide a Safety Video to its distributors for dissemination to all retail purchasers of Tomoto ATV. The video shall comply with all requirements described at Section H.3.b.(4)(b) and Appendix I of the 1988 ATV Consent Decrees.
- **ATV Safety Alert:** Tomoto will provide to its distributors, for dissemination to all prospective purchasers, an ATV Safety Alert that conveys all of the safety messages specified at Section H.3.b.(4)(c) and Appendix J of the 1988 ATV Consent Decree. The information will include injury and death statistics for ATV, safety rules, age recommendations, and information about the availability of the ATV training course.
- **ATV Safety Poster:** Tomoto will supply all our dealers, retailers or representatives ATV Safety Poster. Tomoto will make the best effort to ensure our dealers, retailers or representatives will distribute this ATV Safety Poster to all actual and prospective ATV customers. The content of the ATV Safety Poster will include:
  - Read the user manual carefully; follow the procedure as described; pay close attention to the content of the manual, the warning labels and warning stickers on the ATVs.
  - Please do not in any way operate the ATV without a clear understanding of the proper way to operate the ATV. New and first time ATV driver should follow proper direction and complete training course before driving the ATV.
  - No one under the age of 16 should be allowed to drive adult type of ATVs; Teenagers under the age of 16 should not be allowed to drive teenage type ATVs unless an adult supervision is present. Please refer to the age recommendation of the ATVs before operation.
  - Tomoto ATVs are intended for off-road use only. Please do not operate ATVs for on road driving.
  - Please wear proper safety helmet, goggles and protective clothing when driving ATVs.
  - No speeding when driving ATVs.
  - Please drive only when there is good visibility.
  - Never carry passengers on ATVs.
  - Please do not try to wheel, jump or perform any stunts with the ATVs.
  - Please alert when driving near slopes, curvy and uneven roads.
  - Never lend your ATVs to anyone who has not completed the training course. Never lend your ATVs to anyone who has less

than 1 year of ATV driving experience.

**E. 24 Hour Toll-Free Safety Hotline:**

Tomoto will provide a 24 hour toll-free consumer hotline that meets all requirements of Section H.4 of the 1988 ATV Consent Decree. The hotline will serve to provide safety and training information, including age recommendations. The hotline is administered by SVIA. The hotline number will be included in Tomoto's brochures and print advertisements.

**F. Media and Marketing:**

1. All advertising and marketing of Tomoto ATVs shall include the substance of the safety messages that are described at Section J.1 and Appendix K of the 1988 ATV Consent Decree.
2. All ATV riders that appear in commercials and advertisements must wear helmets, goggles, and full-body protective equipments.
3. There will be age recommendation on every model of Tomoto ATVs. No commercials or advertisements should express directly or indirectly any indication that it's okay for teenagers or children to ride adult size ATVs.
4. All commercials and advertisements must emphasize the importance of training. No commercials and advertisements should express directly or indirectly that it is acceptable to neglect proper training.
5. All commercials and advertisements must emphasize all Tomoto ATVs are for off-road use only. No Tomoto ATVs should be used for on-road purposes. Commercials and advertisements must not show any street, road or highway driving of ATVs.
6. Weight recommendations and weight limits should be emphasized in all commercials and advertisements. It is not acceptable to exceed the weight limits of the ATV.
7. Tomoto will put the greatest effort to promote to our distributors and dealers the importance of following all rules and guidelines in this action plan. Tomoto will use its best efforts to ensure that all communications between our distributors and dealers and actual and prospective ATV buyers will be consistent with the requirements of this action plan.

### **G. Information and Education Program:**

Tomoto Industries is currently participating in information and education efforts designed to promote a safe and responsible use of our ATVs through the SVIA. These efforts include video distribution; school related campaigns; partnerships with state safety programs and organizations such as 4H, NOHVCC, and Tread Lightly. The messages included in these campaigns address the identified behaviors important to ATV safety that includes the importance and support of training and following age recommendations. This program is suited to reaching individuals most likely to use the ATV products that Tomoto will be selling.

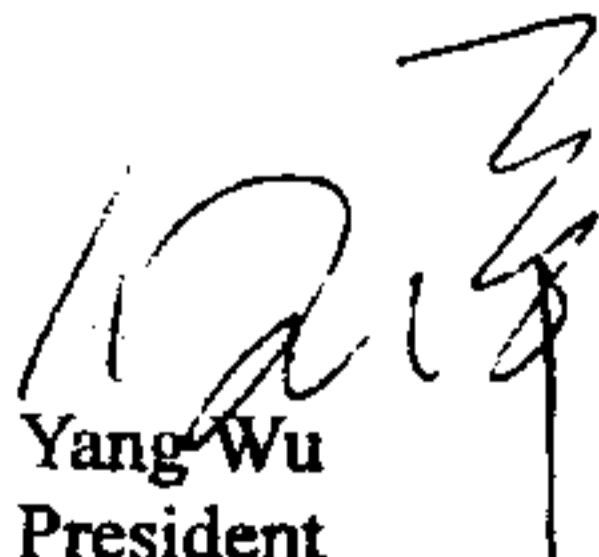
Tomoto will create and disseminate a safety poster to all our distributors and dealers for posting. This poster will feature safety and educational information containing ATV safe riding messages and encouraging correct ATV sizing and the need to take hands-on training.

Also, through our distributors and dealers, Tomoto will perform random surveys of consumers about their experience on our ATVs and ask them for suggestions on how Tomoto can help to promote and improve ATVs safety. The random surveys will be conducted every 6 months. Tomoto will keep a record of all the surveys and make evaluations. Tomoto will share the evaluations with the SVIA to add to their research on ATV safety.

### **H. Action Plan Termination Notice:**

Tomoto Industries Inc. is committed to follow all rules and guidelines written in this action plan. If Tomoto Industries Inc. decides to terminate or revise this action plan, a written notice will be sent to CPSC at least 60 days prior.

Yours Sincerely,

  
Yang Wu  
President  
Tomoto Industries Inc.

7/13/09