

09-1-3
Tom Austin

TESTIMONY OF THOMAS C. AUSTIN
REPRESENTING THE MOTORCYCLE INDUSTRY COUNCIL

Agenda Item 09-1-3:

Public Hearing to Consider the Adoption of the Proposed California Evaluation
Procedures for Aftermarket Critical Emission Parts on Highway Motorcycles

January 22, 2009

I am Tom Austin, a Senior Partner at Sierra Research. I am testifying today on behalf of the Motorcycle Industry Council, a trade association that I have been consulting with for over ten years. MIC member companies include all major motorcycle manufacturers, except Harley-Davidson, and many manufacturers of aftermarket parts and accessories. MIC's position on this issue has the support of both its OEM and aftermarket members.

MIC has only one concern with the proposed evaluation procedures. Section (c)(2)(D)(ii) requires installers and retailers of aftermarket critical emission control parts to document the name and address of the purchaser and the vehicle identification number of the motorcycle for which the part is being purchased.

We believe this provision needs to be revised for three reasons.

First, we are reasonably certain that most of the dealers will never realize that they are supposed to record the VIN before selling a catalyst-equipped exhaust system.

Second, we don't think this provision is really necessary because the combination of warranty card returns, the collection of customer information by most dealers, and, if necessary, advertising will be sufficient to track down owners in the unlikely event of a recall. (I say unlikely because all catalyst-equipped exhaust systems sold pursuant to this regulation are going to undergo the same durability testing required of OEM systems before they are approved for sale.)

Third, the few dealers that understand the VIN recording requirement and abide by it will clearly be required to turn away customers because most purchasers of aftermarket exhaust systems are not going to have their motorcycles with them when they purchase a new exhaust system. Most will show up at the dealership in a passenger car or a light-duty truck so they can carry the product home. They will seldom have their motorcycle registration with them. The more customers that are turned away, the more likely they are to end up using non-catalyst systems.

To make this provision more practical, we are suggesting that the requirement for recording the VIN be deleted. We think the specific language suggested by the California Motorcycle Dealers Association (CMDA) is reasonable and we encourage the board to accept CMDA's recommendation.

I would be pleased to answer any questions the board might have.