

MAR 12 2021

SENATE CONCURRENT RESOLUTION

URGING THE UNITED STATES CONGRESS, THE FEDERAL AVIATION
ADMINISTRATION, AND THE HAWAII DEPARTMENT OF
TRANSPORTATION TO TAKE EVERY ACTION NECESSARY TO ADDRESS
RAPIDLY INCREASING SAFETY RISKS AND COMMUNITY DISRUPTION
RESULTING FROM INSUFFICIENT REGULATION OF RAPIDLY
INCREASING OPERATIONS OF TOUR HELICOPTERS AND SMALL
AIRCRAFT THROUGHOUT HAWAII SKIES.

1 WHEREAS, the volume and extent of tour helicopters and
2 small aircraft operations throughout Hawaii's skies have rapidly
3 increased in the past decade; and
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5 WHEREAS, commensurate with this increase, the safety risks
6 to helicopter and small aircraft passengers, and to the Hawaii
7 residents and visitors over which the helicopters and small
8 aircraft fly daily, have rapidly increased; and
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10 WHEREAS, tour helicopters and small aircraft in Hawaii's
11 skies, through noise, vibrations, and visual impacts, have
12 increasingly disrupted residential, business, and industrial
13 communities; state and national parks, such as Hawaii Volcanoes
14 National Park and Haleakala National Park; defense areas, such
15 as Joint Base Pearl Harbor-Hickam; cemeteries and areas of
16 solemnity, such as the National Memorial Cemetery of the Pacific
17 and Pearl Harbor National Memorial; and areas of critical
18 infrastructure; and
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20 WHEREAS, the National Transportation Safety Board, which is
21 the federal agency responsible for investigating aircraft
22 collisions and for making recommendations on improving the
23 safety of aircraft operations, found that Hawaii tour
24 helicopters and small aircraft operations accounted for nine of
25 the fifty-four accidents nation-wide that prompted
26 investigations by the Board over the last five years; and
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1 WHEREAS, within a ten-month period alone, twenty-three
2 lives were lost through the following tour helicopter and small
3 aircraft collisions in the State:

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- 5 (1) April 29, 2019, a tour helicopter crashed into a
6 residential neighborhood in Kailua, Oahu, killing
7 three people;
 - 8
 - 9 (2) June 21, 2019, a commercial small aircraft crashed at
10 Mokuleia, Oahu, killing eleven people;
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 - 12 (3) December 27, 2019, a tour helicopter crashed near
13 Hanapepe, Kauai, killing seven people; and
 - 14
 - 15 (4) February 22, 2020, a commercial small aircraft crashed
16 at Mokuleia, Oahu, killing two people; and
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18 WHEREAS, over the past decade, tour helicopters and small
19 aircraft have been involved in several other incidents that,
20 while not fatal, nevertheless constituted severe risks to the
21 passengers, and residents and visitors on the ground; and

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23 WHEREAS, the foregoing disruptions and crashes are largely
24 the result of a lack of effective federal regulations and a lack
25 of self-regulation in the tour helicopter and small aircraft
26 industry; and

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28 WHEREAS, effective regulations to eliminate or mitigate
29 ground disruptions would place restrictions on the time, routes,
30 altitudes, and frequency of helicopter and small aircraft
31 operations; and

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33 WHEREAS, communities would be safer and would face fewer
34 disruptions from tour helicopter and small aircraft operations
35 if existing federal acts and regulations, including the
36 following, were implemented to their full extent:

- 37
- 38 (1) The National Parks Air Tour Management Act of 2000, as
39 amended, which requires operators conducting
40 commercial air tours over national parks to operate
41 pursuant to an air tour management plan issued by the
42 Federal Aviation Administration and National Park



Service, or in lieu of such a plan, pursuant to a voluntary agreement with the agencies;

(2) The Airport Noise and Capacity Act of 1990, which establishes the Federal Aviation Administration's authority over airport owners' noise restrictions; and

(3) Title 14 Code of Federal Regulations part 150, which regulates the Federal Aviation Administration's airport noise compatibility planning programs; and

WHEREAS, in May 2020, the United States Court of Appeals for the District of Columbia Circuit, in the case of In Re: Public Employees for Environmental Responsibility and Hawaii Coalition Malama Pono, ordered the Federal Aviation Administration and National Park Service to bring all required National Parks into compliance with the National Parks Air Tour Management Act of 2000, including Hawaii Volcanoes National Park and Haleakala National Park, within two years; and

WHEREAS, the Federal Aviation Administration largely asserts that it has exclusive jurisdiction over regulating the nation's airspace and aircraft operations, which means that the Federal Aviation Administration, not the State, has the sole power and responsibility to establish and enforce restrictions that would prevent tour helicopters and small aircraft operations from disrupting communities; and

WHEREAS, although the National Transportation Safety Board has made various safety recommendations to the Federal Aviation Administration that would apply to tour helicopter and small aircraft operations, the Board is still waiting for an acceptable response from the Federal Aviation Administration on a number of recommendations; and

WHEREAS, following the crash on April 29, 2019, in Kailua, the Chair of the National Transportation Safety Board stated that "each crash underscores the urgency of improving the safety of charter flights by implementing existing [board] safety recommendations," and called for small aircraft flight safety improvements; and



1 WHEREAS, the Federal Aviation Administration is currently
2 in the process of archiving the Hawaii Air Tour Common
3 Procedures Manual and replacing it with a new regulatory process
4 of determining when and how tour flights can deviate below 1,500
5 feet of altitude, which they are otherwise required to be above;
6 and
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8 WHEREAS, the Federal Aviation Administration, Hawaii
9 Department of Transportation, some Hawaii tour helicopter
10 companies, and other interested stakeholders have formed the
11 Hawaii Air Noise and Safety Task Force with the stated intent of
12 addressing increasing safety and community disruption concerns,
13 but are not fully engaging and responding to public concerns in
14 determining regulatory or voluntary changes in operations; and
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16 WHEREAS, an increasing number of elected officials and
17 community organizations have expressed increasing concern with
18 safety risks and community disruption arising from tour
19 helicopter and small aircraft operations; and
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21 WHEREAS, Ed Case, Representative for the First
22 Congressional District of Hawaii, has introduced legislation in
23 the United States House of Representatives, H.R. No. 389, with a
24 short title of "Safe and Quiet Skies Act"; and
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26 WHEREAS, if enacted, H.R. No. 389 would, in pertinent part:
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- 28 (1) Prohibit commercial air tours from operating over or
29 within a half mile of especially sensitive locations;
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- 31 (2) Mandate that the Federal Aviation Administration
32 require the use of automatic dependent surveillance-
33 broadcast out equipment during the entire operation of
34 a commercial air tour;
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- 36 (3) Require the Federal Aviation Administration to
37 prohibit pilots from undertaking any activities other
38 than flying the aircraft, including monitoring video
39 equipment or narrating, during the operation of a
40 commercial air tour;
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- 1 (4) Impose minimum altitude requirements and noise
- 2 restrictions on commercial air tours;
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- 4 (5) Authorize state and local jurisdictions to impose
- 5 additional requirements on commercial air tours;
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- 7 (6) Require the Federal Aviation Administration to
- 8 implement any recommendations issued by the National
- 9 Transportation Safety Board concerning operators of
- 10 commercial aircraft on which the Federal Aviation
- 11 Administration has not provided an acceptable response
- 12 to the Board; and
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- 14 (7) Require the Federal Aviation Administration to subject
- 15 commercial air tour operators to certain regulations
- 16 relating to commercial aircraft operators, instead of
- 17 regulations relating to non-commercial aircraft
- 18 operators; and
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20 WHEREAS, on January 31, 2020, the United States Senate
 21 Committee on Commerce, Science, and Transportation released a
 22 report entitled "Whistleblower Allegations of Misconduct at the
 23 FAA Flight Standards District Office in Honolulu, Hawaii,"
 24 outlining multiple whistleblower claims of inadequate safety
 25 regulation of tour helicopters, specifically including those
 26 involved in the fatal crash in Kailua on April 29, 2019, and
 27 near Hanapepe on Kauai on December 27, 2019; and

28
 29 WHEREAS, the Honolulu City Council and nineteen of Oahu's
 30 neighborhood boards have taken official actions to urge the
 31 federal government to address the disruptions and dangers posed
 32 by tour helicopters and small aircraft operations; and

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 34 WHEREAS, the lack of effective federal regulations and the
 35 lack of effective self-regulation by the tour helicopter and
 36 small aircraft industry poses a significant and growing threat
 37 to the safety, health, and well-being of the nation and the
 38 State; now, therefore,

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 40 BE IT RESOLVED by the Senate of the Thirty-first
 41 Legislature of the State of Hawaii, Regular Session of 2021, the
 42 House of Representatives concurring, that the United States



1 Congress, Federal Aviation Administration, and Hawaii Department
2 of Transportation are urged to take every action necessary to
3 address rapidly increasing safety risks and community
4 disruptions resulting from insufficient regulation of rapidly
5 increasing operations of tour helicopters and small aircraft
6 throughout Hawaii skies; and
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8 BE IT FURTHER RESOLVED that the United States Congress is
9 urged to promptly enact the proposed Safe and Quiet Skies Act;
10 and
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12 BE IT FURTHER RESOLVED that the Hawaii Department of
13 Transportation and Federal Aviation Administration are urged to
14 pursue existing remedies to limit community disruption through
15 the Airport Noise Capacity Act of 1990 and title 14 Code of
16 Federal Regulations part 150; and
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18 BE IT FURTHER RESOLVED that the Federal Aviation
19 Administration is urged to:
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- 21 (1) Implement any recommendations issued by the National
22 Transportation Safety Board concerning operators of
23 commercial aircraft on which the Federal Aviation
24 Administration has not provided an acceptable response
25 to the Board;
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- 27 (2) Fully implement, in concert with the National Park
28 Service, the requirements of the National Parks Air
29 Tour Management Act of 2000 with respect to all
30 applicable Hawaii parks and other relevant areas as
31 required by the United States Court of Appeals for the
32 District of Columbia Circuit; and
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- 34 (3) Immediately and fully investigate whistleblowers'
35 claims with respect to the Honolulu Flight Standards
36 District Office's implementation of safety
37 requirements; and
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39 BE IT FURTHER RESOLVED that the Hawaii Air Noise and Safety
40 Task Force is urged to immediately respond substantively to
41 public safety and community disruption concerns with clear



1 changes to operations to reduce time, place, and manner of
2 operations; and

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4 BE IT FURTHER RESOLVED that federal, state, and county
5 elected and administrative officials are urged to pursue the
6 foregoing actions, the enactment of legislation to authorize
7 state and local governments to regulate helicopter and small
8 aircraft operations, and all other actions that will enhance
9 safety and prevent community disruption by Hawaii tour
10 helicopters and small aircraft operations; and

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12 BE IT FURTHER RESOLVED that certified copies of this
13 Concurrent Resolution be transmitted to the Speaker of the
14 United States House of Representatives, Majority Leader of the
15 United States Senate, members of the Hawaii congressional
16 delegation, Administrator of the Federal Aviation
17 Administration, Manager of the Honolulu Flight Standards
18 District Office of the Federal Aviation Administration,
19 Chairperson of the National Transportation Safety Board,
20 Director of the National Parks Service, Director of
21 Transportation, Mayor of each county, Chairpersons of each
22 neighborhood board, and Co-chairs of the Hawaii Air Noise and
23 Safety Task Force.

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OFFERED BY: 

