

MAR 12 2021

SENATE 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
4

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
9

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
19

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
27

28 WHEREAS, within a ten-month period alone, twenty-three
29 lives were lost through the following tour helicopter and small
30 aircraft collisions in the State:
31



- 1 (1) April 29, 2019, a tour helicopter crashed into a
- 2 residential neighborhood in Kailua, Oahu, killing
- 3 three people;
- 4
- 5 (2) June 21, 2019, a commercial small aircraft crashed at
- 6 Mokuleia, Oahu, killing eleven people;
- 7
- 8 (3) December 27, 2019, a tour helicopter crashed near
- 9 Hanapepe, Kauai, killing seven people; and
- 10
- 11 (4) February 22, 2020, a commercial small aircraft crashed
- 12 at Mokuleia, Oahu, killing two people; and
- 13

14 WHEREAS, over the past decade, tour helicopters and small
 15 aircraft have been involved in several other incidents that,
 16 while not fatal, nevertheless constituted severe risks to the
 17 passengers, and residents and visitors on the ground; and

18
 19 WHEREAS, the foregoing disruptions and crashes are largely
 20 the result of a lack of effective federal regulations and a lack
 21 of self-regulation in the tour helicopter and small aircraft
 22 industry; and

23
 24 WHEREAS, effective regulations to eliminate or mitigate
 25 ground disruptions would place restrictions on the time, routes,
 26 altitudes, and frequency of helicopter and small aircraft
 27 operations; and

28
 29 WHEREAS, communities would be safer and would face fewer
 30 disruptions from tour helicopter and small aircraft operations
 31 if existing federal acts and regulations, including the
 32 following, were implemented to their full extent:

- 33
- 34 (1) The National Parks Air Tour Management Act of 2000, as
- 35 amended, which requires operators conducting
- 36 commercial air tours over national parks to operate
- 37 pursuant to an air tour management plan issued by the
- 38 Federal Aviation Administration and National Park
- 39 Service, or in lieu of such a plan, pursuant to a
- 40 voluntary agreement with the agencies;
- 41



- 1 (2) The Airport Noise and Capacity Act of 1990, which
- 2 establishes the Federal Aviation Administration's
- 3 authority over airport owners' noise restrictions; and
- 4
- 5 (3) Title 14 Code of Federal Regulations part 150, which
- 6 regulates the Federal Aviation Administration's
- 7 airport noise compatibility planning programs; and
- 8

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

17
 18 WHEREAS, the Federal Aviation Administration largely
 19 asserts that it has exclusive jurisdiction over regulating the
 20 nation's airspace and aircraft operations, which means that the
 21 Federal Aviation Administration, not the State, has the sole
 22 power and responsibility to establish and enforce restrictions
 23 that would prevent tour helicopters and small aircraft
 24 operations from disrupting communities; and

25
 26 WHEREAS, although the National Transportation Safety Board
 27 has made various safety recommendations to the Federal Aviation
 28 Administration that would apply to tour helicopter and small
 29 aircraft operations, the Board is still waiting for an
 30 acceptable response from the Federal Aviation Administration on
 31 a number of recommendations; and

32
 33 WHEREAS, following the crash on April 29, 2019, in Kailua,
 34 the Chair of the National Transportation Safety Board stated
 35 that "each crash underscores the urgency of improving the safety
 36 of charter flights by implementing existing [board] safety
 37 recommendations," and called for small aircraft flight safety
 38 improvements; and

39
 40 WHEREAS, the Federal Aviation Administration is currently
 41 in the process of archiving the Hawaii Air Tour Common
 42 Procedures Manual and replacing it with a new regulatory process



1 of determining when and how tour flights can deviate below 1,500
2 feet of altitude, which they are otherwise required to be above;
3 and
4

5 WHEREAS, the Federal Aviation Administration, Hawaii
6 Department of Transportation, some Hawaii tour helicopter
7 companies, and other interested stakeholders have formed the
8 Hawaii Air Noise and Safety Task Force with the stated intent of
9 addressing increasing safety and community disruption concerns,
10 but are not fully engaging and responding to public concerns in
11 determining regulatory or voluntary changes in operations; and
12

13 WHEREAS, an increasing number of elected officials and
14 community organizations have expressed increasing concern with
15 safety risks and community disruption arising from tour
16 helicopter and small aircraft operations; and
17

18 WHEREAS, Ed Case, Representative for the First
19 Congressional District of Hawaii, has introduced legislation in
20 the United States House of Representatives, H.R. No. 389, with a
21 short title of "Safe and Quiet Skies Act"; and
22

23 WHEREAS, if enacted, H.R. No. 389 would, in pertinent part:
24

- 25 (1) Prohibit commercial air tours from operating over or
26 within a half mile of especially sensitive locations;
27
- 28 (2) Mandate that the Federal Aviation Administration
29 require the use of automatic dependent surveillance-
30 broadcast out equipment during the entire operation of
31 a commercial air tour;
32
- 33 (3) Require the Federal Aviation Administration to
34 prohibit pilots from undertaking any activities other
35 than flying the aircraft, including monitoring video
36 equipment or narrating, during the operation of a
37 commercial air tour;
38
- 39 (4) Impose minimum altitude requirements and noise
40 restrictions on commercial air tours;
41



- 1 (5) Authorize state and local jurisdictions to impose
2 additional requirements on commercial air tours;
3
- 4 (6) Require the Federal Aviation Administration to
5 implement any recommendations issued by the National
6 Transportation Safety Board concerning operators of
7 commercial aircraft on which the Federal Aviation
8 Administration has not provided an acceptable response
9 to the Board; and
10
- 11 (7) Require the Federal Aviation Administration to subject
12 commercial air tour operators to certain regulations
13 relating to commercial aircraft operators, instead of
14 regulations relating to non-commercial aircraft
15 operators; and
16

17 WHEREAS, on January 31, 2020, the United States Senate
18 Committee on Commerce, Science, and Transportation released a
19 report entitled "Whistleblower Allegations of Misconduct at the
20 FAA Flight Standards District Office in Honolulu, Hawaii,"
21 outlining multiple whistleblower claims of inadequate safety
22 regulation of tour helicopters, specifically including those
23 involved in the fatal crash in Kailua on April 29, 2019, and
24 near Hanapepe on Kauai on December 27, 2019; and
25

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

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

37 BE IT RESOLVED by the Senate of the Thirty-first
38 Legislature of the State of Hawaii, Regular Session of 2021,
39 that the United States Congress, Federal Aviation
40 Administration, and Hawaii Department of Transportation are
41 urged to take every action necessary to address rapidly
42 increasing safety risks and community disruptions resulting from



1 insufficient regulation of rapidly increasing operations of tour
2 helicopters and small aircraft throughout Hawaii skies; and
3

4 BE IT FURTHER RESOLVED that the United States Congress is
5 urged to promptly enact the proposed Safe and Quiet Skies Act;
6 and
7

8 BE IT FURTHER RESOLVED that the Hawaii Department of
9 Transportation and Federal Aviation Administration are urged to
10 pursue existing remedies to limit community disruption through
11 the Airport Noise Capacity Act of 1990 and title 14 Code of
12 Federal Regulations part 150; and
13

14 BE IT FURTHER RESOLVED that the Federal Aviation
15 Administration is urged to:

16
17 (1) Implement any recommendations issued by the National
18 Transportation Safety Board concerning operators of
19 commercial aircraft on which the Federal Aviation
20 Administration has not provided an acceptable response
21 to the Board;
22

23 (2) Fully implement, in concert with the National Park
24 Service, the requirements of the National Parks Air
25 Tour Management Act of 2000 with respect to all
26 applicable Hawaii parks and other relevant areas as
27 required by the United States Court of Appeals for the
28 District of Columbia Circuit; and
29

30 (3) Immediately and fully investigate whistleblowers'
31 claims with respect to the Honolulu Flight Standards
32 District Office's implementation of safety
33 requirements; and
34

35 BE IT FURTHER RESOLVED that the Hawaii Air Noise and Safety
36 Task Force is urged to immediately respond substantively to
37 public safety and community disruption concerns with clear
38 changes to operations to reduce time, place, and manner of
39 operations; and
40

41 BE IT FURTHER RESOLVED that federal, state, and county
42 elected and administrative officials are urged to pursue the



1 foregoing actions, the enactment of legislation to authorize
2 state and local governments to regulate helicopter and small
3 aircraft operations, and all other actions that will enhance
4 safety and prevent community disruption by Hawaii tour
5 helicopters and small aircraft operations; and
6

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

OFFERED BY: 

