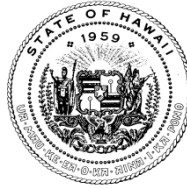


DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

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STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 23, 2021
3:00 PM
State Capitol Conference Room 224
and Videoconference

H.B. 434, H.D. 1, Proposed S.D. 1
RELATING TO AIRCRAFT

Senate Committee on Transportation

The Department of Transportation (DOT) – Airports Division **supports the intent** of H.B. 434, Proposed S.D. 1 that requires the Direction of Transportation to adopt rules to require tour aircraft operators to have commercial general liability insurance coverage of at least \$10,000,000 and to report details of each flight taken by the tour aircraft operation in order to renew a tour aircraft operation permit.

Thank you for the opportunity to provide testimony.

Senate Committee on Transportation
Senator Chris Lee, Chair
Senator Lorraine Inouye, Vice Chair

Tuesday, March 23, 2021
Senate Conference Room 224
3:00 PM Hearing

House Bill 434, Proposed S.D 1
Relating to Tour Aircraft

Chair Lee, Vice Chair Inouye and Transportation Committee Members:

Excessive aircraft noise compromises the health and well-being of the Hawaii 's people, and statutory remedies are long overdue. Senate Bill 17 can offer significant safety protection and quality of life relief to thousands of suffering citizens in Hawai'i, particularly on O'ahu and Hawai'i Island as well as Kaua'i and Maui.

Tour helicopters have been increasingly inundating and impacting established communities with incessant noise invasion. The crescendo of island-wide community complaints across the State over the past four years has demonstrated this. Despite this public outcry, tour helicopter operators have been unwilling to change their flight paths to prevent the significant negative effects of helicopter noise within and around these impacted communities.

Further, tour helicopters are an inherent safety risk to Hawaii's island communities, natural habitats and coastal defense areas. The following commercial helicopter crashes and emergencies have occurred in Hawai'i since September 2018:

- September 18, 2018- Novictor Robinson-44 crash in Wahiawa, O'ahu;
- October 22, 2018- Novictor Robinson-44 crash at Kaneohe Bay recreational sand bar;
- February 21, 2019- K&S "Paradise" Hughes-369E crash in Waipio Valley, Hawai'i Island;
- April 16, 2019- K&S "Paradise" Hughes-369E crash in Sacred Falls State Park, Oah'u;
- April 29, 2019- Novictor Robinson-44 crash with 3 fatalities on a Kailua town street;
- May 21, 2019- Schuman "Magnum" 369D emergency landing in Diamond Head National Natural Landmark and State Historic Monument crater park with 3,300 daily visitors;
- December 26, 2019 - Safari Eurocopter-AS350 crash with 7 fatalities on a Kauai cliff face near the Na Pali Coast;
- March 5, 2020 - Blue Hawaiian Eurocopter 130 crash in Puna, Hawai'i Island;

In 2016, a fatal tour helicopter crash occurred near the USS Arizona memorial and Pearl Harbor nuclear submarine base.

House Bill 434, Proposed S.D 1

Costs of Doing Business

The Proposed Senate Draft for House Bill 434 serves to defer all responsibilities for the public's safety to the Insurance Industry. Thus this measure is lightly engineered to avoid stepping on tour aircraft operators' delicate toes and thumping footprints that egregiously dance low over Hawaii's communities, into and through National and State Monument Parks, over residential rooftops, public parks and shoreline beaches, and through protected forest reserves and natural habitat areas wherever, however and whenever desired.

Will it then be that the Insurance Industry will require tour helicopter safety flotation equipment attached to the aircraft for their unavoidable stretches over water from HNL to Diamond Head, and from Hawaii Kai to Waimanalo? Is there a provision in the State insurance code to require this, or has it yet to be enacted?

Will it then be that the Insurance Industry will require tour helicopters to be instrument-flight rated (IFR) for flying in Hawai'i's sudden inclement weather, and equipped with certified instrumentation and IFR-certified pilots, who are not merely tour guides? Is there a provision in the State's insurance code to require this, or has it yet to be enacted?

Helicopter instrument rating certification and pilot flight instrument certification requirements are essential for all tour helicopter operations on each island when inclement weather conditions that cannot be avoided arise, as per the following recent fatal tour helicopter crashes:

- April 29, 2019 – a Novictor Helicopters tour helicopter crashed in downtown Kailua on O'ahu, with three (3) fatalities; and
- December 26, 2019 – a Safari Helicopters tour helicopter crash into a Kaua'i cliff face, with seven (7) fatalities including three (3) children.

Will the State of Hawaii be assured as Additionally Insured on each tour aircraft operator's Certificate of Insurance in order to recover public damages following such catastrophes?

Together with the Insurance Industry, should not the State Tax Division also separately benefit from retrieving the lost State Excise Tax revenue presently not required to be paid by these businesses that fly separately within an individual island's territory? Surely this would not be a hardship for the frail tour aircraft operators, who would simply pass the additional cost on to their customers as they would their insurance increase, with the added benefit of claiming these costs of doing business on their \$5 million gross income tax returns?

Permit Reporting Requirements

The Proposed Senate Draft for House Bill 434 serves to establish specific reporting requirements for each tour aircraft operator seeking annual State permits for tour aircraft operations using State land and facilities. However, the annual permitting requirement for the reporting of each tour flight taken must stipulate that these reports must be provided to the State Department of Transportation Airports Division (DOT-A) MONTHLY - not "annually," which would be an unduly burdensome and untimely task for DOT-A or any contractor to make available to the public as required.

Additionally, ground permitting regulations inclusive of clear reporting requirements to protect Hawai'i's people on the ground must be supported by consistent enforcement and penalties for non-compliance and repeated violations. No longer can this be excused as a difficult task with such new technology as apps that anyone can use to detect the maverick flights. Presently tour helicopter operators fly wherever, however and whenever desired, opting to submit only loose sketches of anticipated flight paths to DOT-A.

To ensure enforcement, accurate and timely reports from the now necessary DOT-A public reporting and records website must be submitted to the local FAA Flight Standards District Office for enforcement purposes. The State airport ground and facilities use permits and associated ground impact control violations penalties can assist in funding the independent and accurate public monitoring and reporting system.

LATE

HB-434-HD-1

Submitted on: 3/22/2021 4:42:16 PM

Testimony for TRS on 3/23/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Hicks	Individual	Support	No

Comments:

Aloha Chair Lee and Members of the Transportation Committee, I am Bill Hicks, Chairman of the Kailua Neighborhood Board but am submitting this testimony in support of HB 434 as an individual.

Kailua experienced a fatal helicopter crash on Oneawa Street on April 29, 2019 which was the third helicopter crash in the Kailua-Kaneohe-Windward Oahu area in the 6 months between October 22, 2018 and April 29, 2019. Many members of our community expressed their safety concerns about commercial tour helicopters flying over Kailua. Residents are concerned about the public safety of our community on the ground, as well as the safety of passengers onboard the helicopters.

In the months following the Kailua crash, our board established a Low Flying Commercial Tour Helicopter Flights Over Kailua Subcommittee which held several meetings with concerned residents and helicopter tour representatives and produced the following resolution which was passed at our September 5, 2019 meeting:

RESOLUTION RELATING TO PUBLIC SAFETY AND URGENCY TO SUPPORT STRINGENT REGULATION AND ENFORCEMENT OF TOUR AIRCRAFT OPERATIONS OVER KAILUA (96734)

NOW, THEREFORE, BE IT RESOLVED BY THE KAILUA NEIGHBORHOOD BOARD THAT:

1. The Board fully supports and endorses substantially increased regulation of Air Tour Operators and other small aircraft as set forth by the NTSB's Top Ten Safety Recommendations pertinent to Air Tour Operations (<https://www.nts.gov/safety/mwl/Pages/default.aspx>); AND

2. The Board urges that the FAA require all Air Tour Operators in Hawaii to meet FAR Part 135 certification standards as a minimum level of public and aircrew safety; AND that the FAA create regulations to address:

-Setting clearly defined and strictly enforced regulatory flight paths for tour helicopters and small fixed-wing aircraft with safety considerations first and foremost;

-Regulating and enforcing tour helicopter operations to a minimum altitude of 2000 feet above the closest land mass, island community, public park, or building as safety permits;

-Regulating and enforcing tour helicopter operations to a minimum distance of one (1) mile off shore - as safety permits; AND

3. The Board requests that the Hawaii Helicopter Association members and other tour operators immediately and voluntarily stop tour helicopter overflights of densely populated areas of Kailua (96734) as defined by boundaries as depicted on the FAA Visual Flight Rules (VFR) Sectional (yellow areas). Furthermore, the Board requests that overflights of less densely populated areas of Kailua (96734) (green areas) utilize multiple different routes so that the frequency of overflights over any given location is substantially reduced. AND

4. The Board requests that the FAA formally eliminate helicopter tour overflights of Kailua altogether. AND

5. The Board requests that tour operators comply with all existing and pertinent regulations and that the FAA enforce all existing and pertinent regulations; AND

6. The Board urges that its federal, state and county elected and administrative government officials devote their full efforts to such substantially increased regulation in the interest of public safety: AND

I am encouraged by and wholeheartedly support HB 434 which represents a positive step in the right direction. As part of the process of obtaining a permit to operate from a Hawaii airport, HB 434 would require commercial operators to have an FAA part 121 or 135 certificate, obtain substantial insurance, and report the flight plan and any deviations for each flight. The increased standards and transparency required as a condition for obtaining a permit compliment the intent of the Kailua Neighborhood Board resolution and stay within appropriate lanes that the State of Hawaii can control or influence without violating federal jurisdiction.

Mahalo.

LATE

HB-434-HD-1

Submitted on: 3/22/2021 7:00:49 PM

Testimony for TRS on 3/23/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Kiefer	Individual	Support	No

Comments:

A tour helicopter crashed three doors down from my home in Kailua. I ran to help and experienced the most horrific scene of dead bodies and burning wreckage. There needs to be more oversight of this industry for the safety and peace of mind of both residents and visitors who take these tours thinking they are safer than they actually are. I support this bill.

LATE

HB-434-HD-1

Submitted on: 3/22/2021 8:01:31 PM

Testimony for TRS on 3/23/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Forest Frizzell	Individual	Support	No

Comments:

Aloha Committee,

I stand in strong support of this bill. We should require helicopter tour companies to report data about where and when they are flying so we can track their flights and ask the FAA to address where and when helicopters fly. It also requires tour companies to increase insurance policies from \$2m to \$10m, which is already the minimum insurance requirement elsewhere. Insurers should require helicopters to be equipped with better tracking and safety equipment, keeping our communities safe in the process.

Mahalo,

Forest Frizzell

LATE

HB-434-HD-1

Submitted on: 3/23/2021 12:43:57 AM

Testimony for TRS on 3/23/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Morgan Bonnet	Individual	Support	No

Comments:

Dear Chairman Lee, Vice-Chairwoman Inouye and Committee members,

I fully support this bill. Noise pollution from helicopters and small aircrafts has become unbearable and ridiculous. Constant buzzing. And of course it is also dangerous. Small aircrafts and helicopters crashes do happen. We live on islands, there is lots of ocean to fly above. There has to be a better way to handle this. Military helicopters are also a major problem. I live by Punchbowl. Every so often there is big helicopters flying way too close to my building which is on Punchbowl with the top of the building as high as the rim of the crater. These big helicopters are much louder. So much that my windows are literally vibrating and shaking. On March 15 at 7:47AM an Osprey did fly very close. I was in my bedroom. I heard it from far away, so I had time to make a video. (I have many others available from other times). This was ridiculous. And these aircraft have bad reputation in the crashing department. How is that necessary? Flying over the most populous part of Hawaii. Are we in a war I didn't hear about?

While I understand the limited power of the State legislature on this matter I urge the Hawaii lawmakers to do everything possible to get a handle on this. The quality of life of many people depends on it.

Mahalo,

Morgan Bonnet

HD25, SD11

LATE

HB-434-HD-1

Submitted on: 3/23/2021 9:30:19 AM

Testimony for TRS on 3/23/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Maren Bonnet	Individual	Support	No

Comments:

Dear Chairman Lee, Vice-Chairwoman Inouye and Committee Members,

I fully support this Bill. The noise pollution and safety concerns of Helicopters (commercial and military) and Small Aircrafts needs to be addressed.

Mahalo,

Maren Bonnet

LATE

HB-434-HD-1

Submitted on: 3/23/2021 11:02:43 AM

Testimony for TRS on 3/23/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Storm Steiger	Individual	Support	No

Comments:

Stop the torture,

<https://www.change.org/p/us-senator-schatz-and-hirono-and-us-representative-gabbard-and-hanabusa-require-hawaii-island-helicopter-air-tours-to-fly-offshore>

LATE

HB-434-HD-1

Submitted on: 3/23/2021 11:53:45 AM

Testimony for TRS on 3/23/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marcia Kemble	Individual	Support	No

Comments:

I would like to express my strong support for **HB434, SD1 Proposal**. This version requires all tour aircraft operations to have permits, and specifies the rules of the permits. I think that the tour helicopter/aircraft industry really needs to adhere to rules to protect citizens from noise and safety concerns. Many people complain about this and those recreational air tour companies seem to operate now with very little regulation or oversight.

Thank you for listening to my concerns.