

**TESTIMONY BY:**

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
LYNN A.S. ARAKI-REGAN  
DEREK J. CHOW  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN

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

February 23, 2021  
9:30 A.M.  
State Capitol, Room 229  
Via Videoconference

**S.B. 1403, S.D. 1**  
**RELATING TO HELICOPTERS**

Senate Committee on Commerce and Consumer Protection

---

The Department of Transportation (DOT) **supports the intent** of this bill which is aimed to improve helicopter safety by requiring helicopter operators to report flight operation data.

While flight data may assist in helicopter safety, DOT cannot single out helicopter operations and force this single entity to provide flight information. This is a violation of Federal Grant Assurances No. 22.

**22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
  - 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

Thank you for the opportunity to provide testimony.

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committee on  
COMMERCE AND CONSUMER PROTECTION**

**Tuesday, February 23, 2021  
9:30 AM**

**State Capitol, Via Videoconference, Conference Room 229**

**In consideration of  
SENATE BILL 1403, SENATE DRAFT 1  
RELATING TO HELICOPTERS**

Senate Bill 1403, Senate Draft 1 proposes to require commercial helicopter owners and operators to retain and make available records containing basic helicopter flight information and report that information to the Department of Transportation. **The Department of Land and Natural Resources (Department) offers the following comments.**

The Department, through its Divisions of State Parks (State Parks), and Forestry and Wildlife (DOFAW), manages large areas of state land which are subject to constant overflights by tour helicopters, notably Waimea Canyon, Koke'e, Nāpali and Wailua River, and helicopter noise is a universal complaint of park visitors. State Parks is also being impacted by low flying helicopter air tours in such locations as Diamond Head State Monument on O'ahu.

We are also aware of safety issues, including the proliferation of unauthorized drone usage in areas also frequented by helicopters. In some cases, these air tours may have safety implications as well as noise implications which in turn impact the visitor experience for those at these select locations.

The Department supports the Legislature's concern related to helicopter noise, frequency, and altitude and by requiring basic details of helicopter flights this information will help both DOFAW and State Parks in research data for future input into a resolution of this area of concern.

Thank you for the opportunity to comment on this measure.

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



WAIKIKI NEIGHBORHOOD BOARD NO. 9

/o NEIGHBORHOOD COMMISSION • 925 DILLINGHAM BLVD. SUITE 160 • HONOLULU, HAWAII, 96817  
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: <http://www.honolulu.gov>

The Waikiki Neighborhood Board supports the concept of the following bill: SB1403

At the February 9, 2021 Regular Meeting of the Waikiki Neighborhood Board the Board voted in favor of the concept of this bill.

This bill seems to be in reaction to the terrible Helicopter crashes and lack of respect for our residential areas in the State of Hawaii. Helicopter tours as part of our visitor experience are a large business in Hawaii and this bill when balanced with Federal Aviation Rules should make the industry safer.

*Robert J. Finley*  
Robert J. Finley  
Chair

**LATE**

**SB-1403-SD-1**

Submitted on: 2/22/2021 2:05:43 PM  
Testimony for CPN on 2/23/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Matson	Testifying for Oahu Tour Helicopter Safety and Noise Inter-Action Group	Support	No

Comments:

Comments and Recommendation

Aloha Senate Commerce and Consumer Protection Chair Baker, Bice CHair CHang and Committee Members:

This testimony is offered in full support of Senate Bill 1403, Relating to Helicopters. SB 1403 requires commercial and tour helicopter operators to maintain detailed monthly records of each flight to be made available to the State Department of Transportation and the Public upon request, and requires said records to be maintained for a period of ten (10) years.

Clearly commercial and tour helicopter records should be maintained for at least ten (10) years given the extent of time required to investigate and define the causes and magnitude of harm of helicopter crashes, as well as associated lawsuits, penalties and plaintiff compensation in the event of fatalities and/or extensive damage to public or private property.

Recommendation: The identifying aircraft number on each helicopter, commonly known as the tail number, and more accurately per the FAA Registry as the aircraft N-number, must be included with each flight report maintained for each aircraft operated.

Conclusively, Senate Bill 1403 is a sound first step toward accurate agency information and enforcement.

Respectfully,

Michelle S. Matson

O'ahu Tour Helicopter Safety and Noise Inter-Action Group



Paradise Helicopters  
P.O. Box 5371  
Kailua-Kona, HI 96745

**LATE**

22 February 2021

**To:** Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice-Chair  
Senate Committee on Commerce and Consumer Protection

**From:** Calvin Dorn, CEO  
Paradise Helicopters

**Subject:** **Measure S.B. 1403 S.D. 1**  
**Hearing Date:** February 23, 2021  
**Time:** 0930  
**Location:** CR 229

**Bill Description:** Requires commercial helicopter owners and operators to retain and make available records containing basic helicopter flight information and report that information to the Department of Transportation. (SD1)

**Paradise Helicopters Position: OPPOSITION**

Aloha Chair Baker, Vice-Chair Chang, and Senators,

Paradise Helicopters **OPPOSES** S.B. 1403 S.D. 1. Since our founding more than two decades ago, Paradise Helicopters has worked with the interests of our communities in mind, encouraging an open dialogue to anticipate, evaluate and address issues. As an award-winning company, we are widely recognized and certified for our industry-leading safety practices, environmental and community stewardship, and high-quality charters and tours.

Paradise has continued to be a responsible steward through our internal Fly Neighborly practices. This includes putting safety first, varying our flight paths, flying above altitude requirements, and following all FAA regulations. We are committed to working with other operators, legislators, leaders and community members around the state to proactively address concerns and answer questions.

The State of Hawai'i Senate has proposed a measure this session to increase regulations on the aviation industry that could damage an already weak local economy by enforcing rules upon businesses who are endangered by the global pandemic and suffering from the unprecedented drop in tourism.

S.B. 1403 S.D.1 and other pieces of legislation like it are subject to preemptive challenge by the Court.

49 U.S.C. 40103 (a) (1) - The Federal Government, the Director of Transportation, and administrator of the Federal Aviation Administration has full authority of airspace.

"The United States Government has exclusive sovereignty of airspace of the United States."

Federal law preempts the proposed measure by Article VI, Section 2 of the U.S. Constitution Supremacy clause:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

The State of Hawai'i Department of Transportation concluded in their testimony February 9, 2021, that this legislation is a **violation** of the *Federal Grant Assurances No. 22*. [https://www.faa.gov/airports/aip/grant\\_assurances/media/airport-sponsor-assurances-aip.pdf](https://www.faa.gov/airports/aip/grant_assurances/media/airport-sponsor-assurances-aip.pdf)

Further, the State of Hawai'i Attorney General testified "*that these record requirements would be subject to a preemption challenge.*"

We appreciate the intent of this bill, but object to the unnecessary strain it will put on our business. We forecast that compliance will cost upwards of \$60,000 per year. Paradise Helicopters already reports take-offs and landings to the Hawai'i Department of Transportation Airport Division and is subject to a fee for those flights. Recording each flight is unnecessarily onerous and will require a lot of digital storage, especially if the records must be maintained for 10 years. Standard record retention for businesses is a maximum of six years for all but permanent records. If the reports are submitted monthly to the State Department of Transportation could those records be maintained by that agency?



The record format should be considered so that reporting can be useful and not a burdensome large database. While we comply with the current regulations, we do not necessarily fly set routes for every tour flight, and the route of charter and utility operations can be even more ambiguous depending on the requirements of the flight. Requiring the reporting of altitudes and flight paths is achievable by utilizing newer tracking solutions, but the storage and data transmission of the volume of information will be a significant burden on the reporting companies.

We understand the concern for safety and noise reduction and believe that this approach may provide some important data that is lacking. The Hawaii Helicopter Association (HHA) of which Paradise Helicopters is a founding member established a noise reporting system called Plane Noise that had significant start up costs and provided a computerized recording system for noise complaints generated throughout the entire State and administered by a neutral third party. The reports were sent to legislators and clearly showed that the majority of complaints in any given area were registered by a handful of individuals. The program was terminated by HHA when travel and business came to an abrupt halt in March of 2020 due to the pandemic. The system is still viable and is used in other metropolitan areas to provide a reporting method for anyone to voice concern regarding noise intrusion. The system allows for a comprehensive correlation of noise complaints across all operators. The addition of a noise reporting system with records provided by companies would be a much better use of resources and would address the most pressing issue to reduce noise.

Our main objective as a business is to continue to provide jobs that support local working families, who live and work here in Hawai'i; to support other small businesses that will directly benefit our local economy; and to provide high safety standards as a leading operator in the State of Hawai'i. Pre-Covid-19, Paradise Helicopters provided employment for over 120 local families on four islands. As we continue into 2021 we look forward to a robust economy as our number one industry in Hawai'i is revived.

Respectfully submitted,

Calvin Dorn



February 23, 2021

**Re: SB 1403 SD1 Relating to Helicopters**

Comments by Quentin Koch, President, Blue Hawaiian Helicopters

Aloha!

Blue Hawaiian Helicopters supports promoting the highest aviation safety standards that can protect our passengers, our pilots and our communities. As the premier air tour company in Hawaii flying on the most islands, Blue Hawaiian Helicopters remains committed to continuing to raise the bar for the helicopter air tour industry.

Our aircraft are equipped with technologies and equipment like Helicopter Terrain Awareness and Warning Systems (HTAWS), automatic dependent surveillance-broadcast (ADS-B), aircraft floats and upgraded with the newest GARMIN glass-cockpit avionics to exceed the federal regulatory requirements for helicopter air tour safety. To further that commitment, Blue Hawaiian Helicopters is the only air tour operator in Hawaii to be a member of the Tour Operators Program of Safety, as well as to also have a Voluntary FAA Safety Management System (SMS) implementation program and an accepted and approved Voluntary FAA Aviation Safety Action Program (ASAP). We hire the best pilots in their field, requiring the highest pilot-hour minimum hiring requirements, and invest our pilots' continued advanced safety training by providing them with the only state-of-the art flight simulator training available for Hawaii air tour pilots. Our mechanics keep our aircraft safe and operational, and set the bar by continuing to be awarded each year since 1997 the FAA "Certificate of Excellence, Diamond Award."

We welcome this discussion on helicopter air tour safety in Hawaii, and appreciate the opportunity to continue to work with the legislature on this critical issue.

**SB-1403-SD-1**

Submitted on: 2/22/2021 12:52:36 PM

Testimony for CPN on 2/23/2021 9:30:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shayna Atkinson	Testifying for Paradise Helicopters	Oppose	No

Comments:

Please oppose.

**SB-1403-SD-1**

Submitted on: 2/19/2021 8:36:48 PM

Testimony for CPN on 2/23/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mark Gordon	Individual	Support	No

Comments:

Please Support SB 1403

With the recent helicopter crashes in Oahu and Kauai, and 18 civilian helicopter crashes on Hawaii Island since 2015, and the continued frequency of flights and related noise disturbances by helicopter tours, I agree that helicopter tours (1) Record and retain monthly reports that contain basic helicopter flight information; and (2) Make the records available to Hawaii DOT and the public upon request.

Suggest adding to the Bill: Avoid if possible and minimize flying over residential areas.

Please Support SB 1403 and forward to the Legislature.

**SB-1403-SD-1**

Submitted on: 2/22/2021 12:37:25 PM

Testimony for CPN on 2/23/2021 9:30:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bronsten Kossow	Individual	Oppose	No

Comments:

Please **oppose** SB1403 SD1.

**LATE**

**SB-1403-SD-1**

Submitted on: 2/22/2021 2:34:50 PM

Testimony for CPN on 2/23/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chelsea Rosario	Testifying for Paradise Helicopters	Oppose	No

Comments:

**Committee members:** Senator Rosalyn H. Baker, Chair, Senator Stanley Chang, Vice-Chair, Senate Committee on Commerce and Consumer Protection

Subject: Measure S.B. 1403 S.D. 1

Hearing Date: February 23, 2021

Time: 0930

Location: CR 229

Bill Description: Requires commercial helicopter owners and operators to retain and make available records containing basic helicopter flight information and report that information to the Department of Transportation. (SD1)

Position: OPPOSITION

**SB-1403-SD-1**

Submitted on: 2/22/2021 2:38:46 PM

Testimony for CPN on 2/23/2021 9:30:00 AM



<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alicia Nagel	Individual	Oppose	No

Comments:

I do not agree with this bill which requires commercial helicopter owners and operators to retain and make available records and report that information to the Hawai'i Department of Transportation. I do not believe we should add state regulations to helicopter operators.

**LATE**

**SB-1403-SD-1**

Submitted on: 2/22/2021 2:39:27 PM  
Testimony for CPN on 2/23/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tiffany Nakamura	Individual	Oppose	No

Comments:

**Committee members:** Senator Rosalyn H. Baker, Chair, Senator Stanley Chang, Vice-Chair, Senate Committee on Commerce and Consumer Protection

Subject: Measure S.B. 1403 S.D. 1

Hearing Date: February 23, 2021

Time: 0930

Location: CR 229

Bill Description: Requires commercial helicopter owners and operators to retain and make available records containing basic helicopter flight information and report that information to the Department of Transportation. (SD1)

Position: OPPOSITION



**LATE**

**SB-1403-SD-1**

Submitted on: 2/22/2021 7:19:18 PM

Testimony for CPN on 2/23/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lauren Douglas	Individual	Oppose	No

Comments:

**Committee members:** Senator Rosalyn H. Baker, Chair, Senator Stanley Chang, Vice-Chair, Senate Committee on Commerce and Consumer Protection

Subject: Measure S.B. 1403 S.D. 1

Hearing Date: February 23, 2021

Time: 0930

Location: CR 229

Bill Description: Requires commercial helicopter owners and operators to retain and make available records containing basic helicopter flight information and report that information to the Department of Transportation. (SD1)

Position: OPPOSITION



**LATE**

February 22, 2021

To: Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice-Chair  
Senate Committee on Commerce and Consumer Protection

From: Casey Riemer, Special Projects Manager  
Jack Harter Helicopters

Subject: Measure S.B. 1403 S.D. 1  
Hearing Date: February 23, 2021  
Time: 0930  
Location: CR 229

Bill Description: Requires commercial helicopter owners and operators to retain and make available records containing basic helicopter flight information and report that information to the Department of Transportation. (SD1)

Aloha,

Jack Harter, the President of Jack Harter Helicopters, has been flying helicopters in Hawaii since 1962. His dedication to safety is well respected throughout the Hawaii aviation industry. Additionally, the understanding that the industry that he founded is a part of the various island communities over which they fly is something that he has consistently passed on to the pilots and other staff that Jack Harter Helicopters employs. As one of the many long-term employees at Jack Harter Helicopters, I have fully embraced this philosophy and share it with all other aviation professionals that I interact with locally on Kauai and state-wide through my role as the President of the Hawaii Helicopter Association.

It is our opinion that the required data described in SB1403 will do nothing to improve the safety of helicopter tour operations in Hawaii. Additionally, if passed into statute, the language in this bill would cause challenges from the FAA in the two areas below.

1: In the written testimony submitted for this bill, Mr. Duane M. Kokesch, Deputy Attorney General from the State of Hawaii, Department of Attorney General wrote,

“...We believe that these record requirements would be subject to challenge under the Supremacy Clause of the U.S. Constitution.

“Article VI, Clause 2, of the U.S. Constitution indicates that the federal constitution and federal laws made pursuant thereto are the supreme law of the land and contrary laws of a state may not stand. If the state law falls within or involves the “use of airspace,” Congress has explicitly preempted it. 49 U.S.C. § 40103(a)(1)(1994).”...

2: The State of Hawaii, Department of Transportation, under the letterhead of Director Butay, submitted written testimony regarding SB1403 regarding the Federal Grant Assurances,

“The Department of Transportation (DOT) appreciates the intent of this bill which is aimed to improve helicopter safety by requiring helicopter operators to report flight operation data.

“While flight data may assist in helicopter safety, DOT cannot single out helicopter operations and force this single entity to provide flight information. This is a violation of Federal Grant Assurances No. 22.”

The very real consequences that would result from the passage of this bill would be extremely costly for the State of Hawaii. The preemption of the US Constitution would result in tremendous legal fees for the State of Hawaii. The Grant Assurance violation would put the grant funding from the Federal Airports Grant Program received by the Department of Transportation, Airports Division in grave jeopardy.

The second paragraph of SB1403 states,

“Hawaii residents are not only *concerned with the dangers associated with helicopter crashes*, such as the December 2019 crash on Kauai or the April 2019 crash on a residential street in Kailua, *but also with issues related to helicopter **noise**, frequency, and altitude*. These concerns related to helicopters in Hawaii remain largely unresolved. The legislature believes that requiring commercial helicopter owners and operators to record basic details of helicopter flights will help provide necessary information to stakeholders and community members in order to find a meaningful resolution to this area of concern.”

This is the only paragraph in the bill in which the word “**noise**” appears. I focus on this point because it is our position that there is a means available to resolve some of the helicopter noise issues that I believe all helicopter tour operators would support if Hawaii’s elected officials, the concerned segments of the Hawaii population, and the helicopter tour operators can work together.

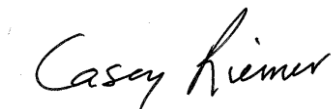
The Hawaii Helicopter Association (HHA) established and funded the Hawaii version of the Planenoise.com system to collect and quantify aviation noise complaints in the state. HHA stopped the support of its Planenoise.com system shortly after the COVID-19 pandemic for three reasons: 1) lack of participation by the public because of the perception that since it was run by the helicopter operators, it was not going to be effective, 2) the lack of unified support from elected officials to make this system

"the" mechanism for reporting aircraft noise issues in Hawaii, 3) the severe financial effects of the COVID-19 pandemic.

It is our firm belief that a fully supported system like Planenoise.com would be an excellent tool to collect aircraft noise complaints. The data collected through this system could be used to identify areas with consistent aircraft noise complaints that the aircraft operators and the community could use to quantify the scope of the problem(s) and then work toward a mutually-agreeable solutions.

There is one very positive development related to aviation safety in Hawaii that I would like to share with this committee to conclude my testimony. Over ten years ago, the NTSB issued a recommendation that a Weather Camera System similar to the one pioneered by the FAA in the State of Alaska be implemented in Hawaii. Late in 2020, the FAA received funding to design and install the first phase of the Hawaii weather camera system. It is our belief that the soon to be completed weather camera system will be a huge aide to all Visual Flight Rules (aka VFR) flights flown in Hawaii.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Casey Reimer". The signature is written in black ink and is positioned to the left of the page's center.