

ED CASE
1ST DISTRICT, HAWAII

2210 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TELEPHONE: 202-225-2726
FAX: 202-225-0688

1003 BISHOP STREET, SUITE 1110
HONOLULU, HI 96813
TELEPHONE: 808-650-6688
FAX: 808-533-0133

WEBSITE: CASE.HOUSE.GOV



Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES:
MILITARY CONSTRUCTION, VETERANS AFFAIRS AND
RELATED AGENCIES

COMMERCE, JUSTICE, SCIENCE AND RELATED
AGENCIES

LEGISLATIVE BRANCH

COMMITTEE ON NATURAL
RESOURCES
SUBCOMMITTEES:
NATIONAL PARKS, FORESTS AND PUBLIC LANDS

WATER, OCEANS AND WILDLIFE

INDIGENOUS PEOPLES OF THE UNITED STATES

TESTIMONY OF U. S. CONGRESSMAN ED CASE IN SUPPORT OF S.C.R. 158,
RELATING TO REASONABLE SAFETY AND COMMUNITY DISRUPTION
REGULATION OF COMMERCIAL TOUR HELICOPTERS AND SMALL
AIRCRAFT

Chair Lee, Vice Chair Inouye and members of the Committee:

First, mahalo for highlighting and pursuing a critical issue that increasingly risks the public safety and disrupts the daily lives of residents and visitors in all corners of our Hawai'i: the virtually unregulated operations of commercial tour helicopters and small aircraft.

Based on my constituents' continued concerns on this issue, I fully support S.C.R. 158, which advances our efforts to reclaim our skies and ensure the safe and peaceful operation of air tours throughout the state consistent with the public good.

COVID-19 has obscured the increasingly risky and disruptive effects of commercial tour helicopter and small aircraft operations over the last year. But make no mistake: the air tour operators fully intend to resume and expand the pre-COVID status quo as soon as possible, as we already see happening with a resumption of operations.

That status quo saw widespread and worsening safety concerns, including in 2019 alone three fatal accidents with twenty-one lives lost. The same is true with on-the-ground community disruption, with operators refusing to adopt or comply with any reasonable restrictions on time, place and manner of operations to address such disruption, even refusing or subverting reasonable efforts to track operations in order to specify and confirm complaints and areas of concern.

Clearly, self-regulation has not worked and will never work, and, despite all attempts to pretend that they are responsive to community concerns, air tour operators will continue to make every attempt to avoid any reasonable restrictions and to dismiss public concerns. Only substantial regulation at all of the federal, state and local levels of government will achieve a reclamation of public skies for operations that are safe and non-disruptive.

The tour operators are acting with impunity to public concerns because they believe that the public, through you and the rest of our state and county governments, are powerless to actually do anything, that their operations can't be regulated at the state and county level. First, this is not true, as there is a zone of permissible state and county government regulation even under existing

federal law, and this zone should be utilized to the maximum extent possible. But second, what is true is that our federal government, through the Federal Aviation Administration, apparently does not believe that it currently has sufficient regulatory authority to regulate the national, public airspace to address the severe disruption of such operations throughout Hawai'i.

The current situation and the actions of communities throughout Hawai'i seeking to address the safety and community disruption risks of commercial air tour operations are fully spelled out in S.C.R. 158.

As noted there, on the federal level I recently reintroduced H.R. 389, the Safe and Quiet Skies Act, in Congress to require the Federal Aviation Administration to take specific steps to improve safety and reduce community disruption. My measure would also expand the zone of permissible state and county regulation of commercial air tour operations toward the same goals, make these flights safer and reduce the noise from these flights. Attached to my testimony are a letter to my colleagues on the Safe and Quiet Skies Act, a section-by-section summary of the bill and the text of the bill itself.

S.C.R. 158's support for my bill, H.R. 389, will allow me to confirm to my colleagues in Congress that public concerns with air tour operations are widespread and statewide, contrary to the implications and even outright misrepresentations of the air tour operators that these concerns are isolated and limited.

I would greatly appreciate this Committee's and the Hawai'i State Legislature's support of this concurrent resolution, and I look forward to working with you and a very concerned public toward reasserting public control of our skies.

Thank you again.

ED CASE
1ST DISTRICT, HAWAII

2210 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TELEPHONE: 202-225-2726
FAX: 202-225-0688

1003 BISHOP STREET, SUITE 1110
HONOLULU, HI 96813
TELEPHONE: 808-650-6688
FAX: 808-533-0133

WEBSITE: CASE.HOUSE.GOV

Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES:
MILITARY CONSTRUCTION, VETERANS AFFAIRS
AND RELATED AGENCIES

COMMERCE, JUSTICE, SCIENCE AND RELATED
AGENCIES

LEGISLATIVE BRANCH

COMMITTEE ON NATURAL
RESOURCES
SUBCOMMITTEES:
NATIONAL PARKS, FORESTS AND PUBLIC LANDS

WATER, OCEANS AND WILDLIFE

INDIGENOUS PEOPLES OF THE UNITED STATES

January 4, 2021

**Cosponsor Safe And Quiet Skies Act To Require Federal Aviation Administration To
Address Growing Safety And Noise/Community Disruption Concerns From Commercial
Helicopters And Small Aircraft**

116th Congress Cosponsors: Ed Case, Zoe Lofgren, Jerrold Nadler, Joe Neguse, Brad Sherman

Dear Colleague:

Concerns continue to grow rapidly throughout the country over accelerating safety and noise/community disruption concerns from ever-increasing and expanding aircraft operations. These are particularly acute with commercial helicopter and small aircraft operations for tour and other recreational purposes.

In 2019 alone, there were 17 sightseeing tour flight and skydiving accidents nationwide with 37 deaths from six of those crashes. In my Hawai'i alone, we saw three dead in the crash of a commercial air tour helicopter into a residential neighborhood, eleven more dead in the crash of a commercial skydiving plane, and then seven more dead in a commercial air tour helicopter crash in a remote mountain region. Many other areas of the country have been equally impacted, especially those with high commercial usage, more dense populations, valuable natural resources, significant defense installations and other factors.

These tragedies and impacts are occurring amidst and because of a rapid increase in commercial helicopter and small plane overflights including residential, commercial and industrial neighborhoods, cemeteries and memorials, land and marine parks and other recreation areas, and sensitive military installations. They have disrupted whole communities with excessive noise and other impacts, destroyed the peace and sanctity of special places, increased risk to not only passengers but those on the ground and weakened security and management of defense operations.

The Federal Aviation Administration (FAA) currently has virtually exclusive jurisdiction over these aircraft operations. Following these recent tragedies, the National Transportation Safety Board (NTSB), which is responsible for investigating accidents but not for direct safety regulation, strongly suggested to the FAA that safety-related regulation of commercial tour

helicopters and small aircraft skydiving operations is generally insufficient and cited to a number of specific recommendations arising from prior crashes that the FAA had declined to implement.

Regarding ground disruption and risk, the FAA takes the position that its responsibility is strictly operational safety and national airspace efficiency (meaning maximum usage) and does not extend to ground disruption and other negative impacts. The FAA further takes the position that state and local jurisdictions have virtually no regulatory authority to protect their communities, citizens, spaces and properties from safety and community disruption consequences.

As a result, the operators, aside from strict takeoff and approach, avoidance of established flight paths and other limited circumstances, are virtually free to fly wherever, whenever and as often as they want. And they do, with little to no self-regulation.

This situation is unacceptable for both safety and community impact concerns. If you and your communities and constituents suffer from these risks and impacts and share these concerns, I ask for your cosponsorship of my Safe and Quiet Skies Act in the 117th Congress.

This bill would first require the FAA to implement the NTSB's recommended enhanced safety regulations. It would also prohibit flights over federal property that requires privacy, dignity and respect, to include military installations, national cemeteries and national parks, wildlife refuges and wilderness. It would further require the use of standard equipment to monitor the location of flights, apply the "sterile cockpit rule" to tour flights (meaning in part that the pilot could not also be the tour guide), prohibit flights lower than 1,500 feet over actual ground, and limit decibel levels to those commonly applied to operations in residential areas.

Additionally, the bill would allow states, localities and tribes to impose stricter regulations on tour flights in their jurisdictions with required public engagement. A copy of my bill and section-by-section summary are attached.

Thank you for your consideration. Please contact Kainan Miranda at Kainan.Miranda@mail.house.gov if you have any questions or would like to cosponsor the Safe and Quiet Skies Act.

Sincerely,

Ed Case

Ed Case
Member of Congress

Safe and Quiet Skies Act

Section-by-Section Summary

Section 1 - Short Title

- Safe and Quiet Skies Act

Section 2 – Requirements for Commercial Air Tour Flights

- Prohibits tour flights over military installations, national cemeteries, national wilderness areas, national parks, and national wildlife refuges.
 - Current law has no prohibitions on where tours can fly.
 - Military installations can have flight restrictions imposed based on national security concerns, but this is not uniformly applied or enforced.
 - Current law requires air tour management plans over national parks, but only the Grand Canyon National Park has one.
- Requires Automatic Dependent Surveillance-Broadcast (ADS-B) out equipment on all tour aircraft and to be utilized for the entirety of tour flights. ADS-B is a system for broadcasting and receiving aircraft identification, position, altitude, heading, and speed data derived from on-board navigation systems such as a Global Positioning System (GPS) receiver.
 - Current regulation requires air ADS-B out capability for certain aircraft by 2020 and varies on when the equipment must be in use (usually based on proximity to certain airports).
- Applies the “sterile cockpit rule” to tour flights, which requires that pilots only focus on safely operating the aircraft and would define tour-giving and narrating as outside of the duties required for safe operation.
 - The rule currently applies to commercial airlines, but not tour flights.
- Requires that tour flights always fly above 1,500 feet altitude over actual ground with very limited exceptions for emergencies.
 - Currently, there is a wide variety of regulations on the altitude requirement for tour flights and a significant amount of discretion given to the FAA to allow for deviation from altitude requirements.
- Requires tour flights over occupied areas (including residential, commercial and recreational areas) to be no louder than 55 dbA, the same level of noise commonly allowed for residential areas.
 - Current regulations outline higher noise limit requirements for FAA certification of an aircraft with multiple methods of measurement.

Section 3 – Delegated Authority to State and Local Regulators

- Allows states and localities to impose requirements (in addition to the minimum national requirements of Section 2) on tour flights.
 - FAA takes the position that under current law the scope of a state or locality's ability to impose restrictions on tour flights is very limited.

Section 4 – Public Engagement Throughout Federal and State Regulatory Process

- Requires that all regulations under this act, including updating any Air Tours Common Procedure Manual, includes public engagement.
 - Currently, FAA does not require public comment or engagement on updates to the Air Tours Common Procedures Manual, which is the current de facto regulation for tour flights.

Section 5 – Penalties

- Requires FAA to impose penalties on tour flights that violate this act including revoking certifications and permits to operate tour flights.

Section 6 – Conforming Edits

- Makes edits to current law to implement this act.
- Includes edits to ensure native tribes have the same authority as states and localities under Section 3 of this act.

Section 7 – NTSB Recommendations

- Requires FAA to implement National Transportation Safety Board (NTSB) recommendations regarding Part 135 regulations, which most tour flights fly under.
- Requires all tour flights to fly under Part 135 regulations and prohibits tour flights from flying under less restrictive Part 91 regulations.

Section 8 – Definitions

- Defines terms in the act
- Includes skydiving operations (“intentional parachuting”) under the definition of “commercial air tour.”

.....
(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R.

To impose safety requirements on commercial air tour flights, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CASE introduced the following bill; which was referred to the Committee on _____

A BILL

To impose safety requirements on commercial air tour flights, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe and Quiet Skies
5 Act of 2021”.

1 **SEC. 2. REQUIREMENTS FOR COMMERCIAL AIR TOUR**
2 **FLIGHTS.**

3 (a) PROHIBITION OF OVERFLIGHTS.—Notwith-
4 standing any other provision of law, a commercial air tour
5 may not operate within a half mile of the following:

6 (1) A military installation.

7 (2) A national cemetery.

8 (3) A unit of the National Wilderness Preserva-
9 tion System.

10 (4) A unit of the National Park System.

11 (5) A unit of the National Wildlife Refuge Sys-
12 tem.

13 (b) USE OF AUTOMATIC DEPENDENT SURVEIL-
14 LANCE-BROADCAST (ADS-B) OUT EQUIPMENT.—The
15 Administrator of the Federal Aviation Administration
16 shall revise section 91.227 of title 14, Code of Federal
17 Regulations, to require the use of ADS-B Out (as such
18 term is defined in such section) during the entire oper-
19 ation of a commercial air tour.

20 (c) STERILE COCKPIT RULE.—The Administrator
21 shall issue such regulations as are necessary to—

22 (1) impose the requirements of section 121.542
23 of title 14, Code of Federal Regulations, on a com-
24 mercial air tour and a pilot of a commercial air tour
25 (including a commercial air tour that does not hold

1 a certificate under part 121 of title 14, Code of Fed-
2 eral Regulations);

3 (2) define tour-giving and providing an oral
4 narration of the air tour as duties that are not re-
5 quired for the safe operation of the aircraft for a
6 commercial air tour (including a commercial air tour
7 that does not hold a certificate under part 121 of
8 title 14, Code of Federal Regulations); and

9 (3) define a critical phase of flight for a com-
10 mercial air tour (including a commercial air tour
11 that does not hold a certificate under part 121 of
12 title 14, Code of Federal Regulations) to include all
13 ground operations involving taxi, takeoff, and land-
14 ing, and all other flight operations regardless of alti-
15 tude of operation.

16 (d) MINIMUM ALTITUDES.—

17 (1) IN GENERAL.—Notwithstanding any other
18 provision of law, a commercial air tour may not op-
19 erate at an altitude of less than 1,500 feet.

20 (2) EXCEPTIONS.—

21 (A) SAFE HARBOR.—An operator of a
22 commercial air tour may fly below the altitude
23 described in paragraph (1) for reasons of safety
24 if unpredictable circumstances occur.

1 (B) FAA REQUIREMENTS.—The Adminis-
2 trator may permit an operator of a commercial
3 air tour to operate below the altitude described
4 in paragraph (1) for flight operations for take-
5 off and landing.

6 (3) RULE OF CONSTRUCTION.—If a reasonable
7 individual would believe a commercial air tour could
8 not safely fly at a minimum altitude of 1,500 feet
9 for the duration of the flight given the conditions at
10 takeoff, the safe harbor described in paragraph
11 (2)(A) shall not apply.

12 (e) OCCUPIED AREAS.—

13 (1) IN GENERAL.—Notwithstanding any other
14 provision of law, a commercial air tour may not op-
15 erate within half a mile of an occupied area unless
16 the aircraft has noise suppression technology that
17 brings noise to the lesser of—

18 (A) a maximum level of 55 dbA as meas-
19 ured from such occupied area; and

20 (B) a maximum level required in such oc-
21 cupied area by a requirement imposed pursuant
22 to section 3(a) of this Act or section 40128(e)
23 of title 49, United States Code.

24 (2) REGULATIONS.—The Administrator shall
25 revise subparts F and H of part 36 of title 14, Code

1 of Federal Regulations, and related appendices, to
2 reduce noise limits in accordance with paragraph
3 (1).

4 **SEC. 3. DELEGATED AUTHORITY TO STATE AND LOCAL**
5 **REGULATORS.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law, a State or locality may impose additional re-
8 quirements on commercial air tours (but may not waive
9 any requirements described in this Act or in the amend-
10 ments made by this Act), including—

11 (1) banning such tours;

12 (2) imposing day and time flight restrictions;

13 (3) regulating the total number of flights per
14 day;

15 (4) regulating route requirements over occupied
16 areas;

17 (5) prohibiting flights over State or local parks,
18 ocean recreation, cemeteries, and other areas of
19 State interest; and

20 (6) requiring commercial air tours to operate at
21 lower decibels for purposes of noise requirements.

22 (b) FAA EXCEPTIONS.—The Administrator may in-
23 validate a requirement imposed pursuant to subsection (a)
24 if required for flight operations for takeoff and landing.

1 **SEC. 4. PUBLIC ENGAGEMENT THROUGHOUT FEDERAL**
2 **AND STATE REGULATORY PROCESS.**

3 During the promulgation of any regulation required
4 by this Act or the drafting and update of the Air Tours
5 Common Procedural Manuals, the requirements of the Ad-
6 ministrative Procedure Act shall apply.

7 **SEC. 5. PENALTIES.**

8 The Administrator shall impose penalties for viola-
9 tions of this Act or the amendments made by this Act,
10 including revoking any certifications or permits issued to
11 operate a commercial air tour.

12 **SEC. 6. CONFORMING AMENDMENTS.**

13 Section 40128 of title 49, United States Code, is
14 amended—

15 (1) by striking “a national park or” in each
16 place in which it appears;

17 (2) by striking “park or” in each place in which
18 it appears;

19 (3) in subsection (a)(1)(C), by striking “or vol-
20 untary agreement under subsection (b)(7)”;

21 (4) by striking subsection (a)(2) and inserting
22 the following:

23 “(2) APPLICATION FOR OPERATING AUTHOR-
24 ITY.—Before commencing commercial air tour oper-
25 ations over tribal lands, a commercial air tour oper-

1 ator shall apply to the Administrator for authority
2 to conduct the operations over the tribal lands.”;

3 (5) by striking subsection (a)(3);

4 (6) by redesignating paragraph (4) of sub-
5 section (a) as paragraph (3);

6 (7) by striking subsection (a)(5);

7 (8) in subsection (b)(1)(A)—

8 (A) by striking “over the park” and insert-
9 ing “over the lands”; and

10 (B) by striking “paragraph (4)” and in-
11 sserting “paragraph (3)”;

12 (9) by striking subsection (b)(1)(C);

13 (10) by striking subsection (b)(3);

14 (11) by redesignating paragraphs (4) through
15 (6) of subsection (b) as paragraphs (3) through (5),
16 respectively;

17 (12) by striking subsection (b)(7);

18 (13) by striking subsection (c)(2)(B);

19 (14) by redesignating subparagraphs (C)
20 through (I) of subsection (c)(2) as subparagraphs
21 (B) through (H), respectively;

22 (15) in subsection (c)(3)(B), by striking “at
23 the” in each place in which it appears;

24 (16) in subsection (d)(1)—

1 (A) by striking “over a national park
2 under interim operating authority granted
3 under subsection (c) or”; and

4 (B) by striking “or voluntary agreement”;
5 (17) by striking subsection (e);

6 (18) by striking subsection (f) and inserting the
7 following:

8 “(e) TRIBAL AUTHORITY.—

9 “(1) IN GENERAL.—Notwithstanding any other
10 provision of law, a tribal entity may impose addi-
11 tional requirements on commercial air tours (but
12 may not waive any requirements described in the
13 Safe and Quiet Skies Act of 2021 or in the amend-
14 ments made by the Safe and Quiet Skies Act of
15 2021), including—

16 “(A) banning such tours;

17 “(B) imposing day and time flight restric-
18 tions;

19 “(C) regulating the total number of flights
20 per day;

21 “(D) regulating route requirements over
22 occupied areas;

23 “(E) prohibiting flights over tribal parks,
24 ocean recreation, cemeteries, and other areas of
25 tribal interest; and

1 “(F) requiring commercial air tours to op-
2 erate at lower decibels for purposes of noise re-
3 quirements.

4 “(2) FAA EXCEPTIONS.—The Administrator of
5 the Federal Aviation Administration may invalidate
6 a regulation imposed pursuant to paragraph (1) if
7 required for flight operations for takeoff and land-
8 ing.

9 “(3) TRIBAL ENTITY.—In this subsection, the
10 term ‘tribal entity’ means—

11 “(A) a tribal organization (as such term is
12 defined in section 4 of the Indian Self-Deter-
13 mination and Education Assistance Act of 1975
14 (25 U.S.C. 5304));

15 “(B) a tribally designated housing entity
16 (as such term is defined in section 4 of the Na-
17 tive American Housing Assistance and Self-De-
18 termination Act of 1996 (25 U.S.C. 4103)); or

19 “(C) an Indian-owned business or a tribal
20 enterprise (as such terms are defined in section
21 3 of the Native American Business Develop-
22 ment, Trade Promotion, and Tourism Act of
23 2000 (25 U.S.C. 4302)).”;

24 (19) in subsection (g)(1), by striking “over a
25 national park” and inserting “over tribal lands”;

1 (20) in subsection (g)(2), by striking “over a
2 national park” and inserting “over tribal lands”;

3 (21) by striking subsection (g)(4);

4 (22) by redesignating paragraphs (5) through
5 (8) of subsection (g) as paragraphs (4) through (7),
6 respectively; and

7 (23) by redesignating subsection (g) as sub-
8 section (f).

9 **SEC. 7. NTSB RECOMMENDATIONS.**

10 (a) IN GENERAL.—The Administrator shall imple-
11 ment all recommendations concerning operators under
12 part 135 of title 14, Code of Federal Regulations, that—

13 (1) were issued by the National Transportation
14 Safety Board; and

15 (2) are considered by the Board to be open un-
16 acceptable response.

17 (b) PART 135 REGULATION.—The Administrator—

18 (1) shall require all commercial air tours to op-
19 erate pursuant to part 135 of title 14, Code of Fed-
20 eral Regulations; and

21 (2) may not permit a commercial air tour to op-
22 erate pursuant to part 91 of title 14, Code of Fed-
23 eral Regulations.

24 **SEC. 8. DEFINITIONS.**

25 In this Act, the following definitions apply:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Federal
3 Aviation Administration.

4 (2) ALTITUDE.—The term “altitude” means
5 the distance above ground level between an aircraft
6 and the highest obstacle that is within 2 miles of the
7 location over which such aircraft is flying at any
8 time.

9 (3) COMMERCIAL AIR TOUR.—The term “com-
10 mercial air tour” means any flight conducted for
11 compensation or hire in a powered aircraft where a
12 purpose of the flight is sightseeing or intentional
13 parachuting. If the operator of a flight asserts that
14 the flight is not a commercial air tour, factors that
15 can be considered by the Administrator in making a
16 determination of whether the flight is a commercial
17 air tour include—

18 (A) whether there was a holding out to the
19 public of willingness to conduct a sightseeing or
20 intentional parachuting flight for compensation
21 or hire;

22 (B) whether a narrative was provided that
23 referred to areas or points of interest on the
24 surface;

25 (C) the area of operation;

1 (D) the frequency of flights;

2 (E) the route of flight;

3 (F) the inclusion of sightseeing or inten-
4 tional parachuting flights as part of any travel
5 arrangement package; or

6 (G) whether the flight in question would or
7 would not have been canceled based on poor vis-
8 ibility of the surface.

9 (4) DBA.—The term “dbA” means the A-
10 weighted sound level or unit of measurement de-
11 scribing the total sound level of all noises as meas-
12 ured with a sound level meter using the A weighting
13 network.

14 (5) OCCUPIED AREA.—The term “occupied
15 area” means land area that is used by people, in-
16 cluding residential areas, commercial areas, and rec-
17 reational areas.

LATE

TESTIMONY OF LARRY S VERAY
TO
COMMITTEE ON TRANSPORTATION RELATED TO TOUR HELICOPTERS
IN SUPPORT OF SCR158/SR123

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.

MARCH 22, 2021

Aloha, Chair Chris Lee, Vice Chair Lorraine Inouye and Transportation Committee members. I am Larry Veray, Chair for the Pearl City Neighborhood Board No.21. I am submitting this testimony on behalf of our Neighborhood board members and 42,000 residents in Pearl City based on our Board Resolution that was passed on September 24, 2019. We are in support of SCR158/SR123 to make our skies safe over residential areas.

Tour helicopters and other small aircraft have dramatically increased flights over Pearl City area in the past few years and these aircraft flight paths pose a severe safety risk to residential homes, schools and businesses in our area. Our board received a number of complaints from our residents reporting loud helicopter and small commercial aircraft noise. Prior to March 2020, it was apparent that helicopter flight paths extended into the commercial aircraft flight paths over Pearl City with some residents witnessing near miss collisions with crossing flight paths, I was one of them.

We are greatly concerned of potential aircraft accidents and collisions that could produce falling debris, burning aircraft parts and fuel that could fall into our neighborhood yards, streets and homes, school yards, parks and most importantly these accidents could cost loss of life and property. Pearl City is a very dense residential area that does not have a lot of open space for emergency landings. In addition, helicopter exhaust/blade noise and ever-changing flight paths from low altitude flying tour helicopters has been the major community concern reaching unacceptable noise levels, over and over again with back to back flights. These paths were over the Arizona Memorial and taking the large circular flight path over Aiea, Pearl City, Waipahu and the Pearl Harbor area.

In closing, we most strongly urge the FAA to develop stronger regulations and enforcement since commercial helicopters and fixed wing aircraft are ineffective in regulating their own operations to improve public safety and mitigate noise. All aircraft should be equipped with tracking devices to allow for the FAA to reconstruct flight data when working complaints from the community and allow for quick recovery of downed aircraft. It also makes no sense for helicopters operating over water not to have floatation devices for emergency landings over water. Bottom line: NO FLIGHT PATHS OVER RESIDENTIAL AREAS. Mahalo!

Very respectfully,

Larry S. Veray

**Senate Committee on Transportation Hearing
Tuesday, March 23, 2021
3:00 PM VideoConference
Room 224**

**SENATE CONCURRENT RESOLUTION 158 / SENATE RESOLUTION 123
Testimony in Strong Support with Recommendations from the
O'ahu Tour Helicopter Safety and Noise Inter-Action Group**

Aloha 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 for the 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 the 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.

As the National Transportation Safety Board Chairperson has notably stated, "each crash underscores the urgency" for effective tour helicopter safety improvements.

Protection of the Safety of Hawai'i's Communities is Paramount

Effective regulation and its ensured implementation will eliminate ground disruptions by tour helicopter operations that presently relentlessly disrupt Hawaii 's communities, which will be safer with far fewer disruptions if existing regulations are used and enforced to their full extent via tour helicopter management plans, airport owners' noise restrictions, and airport noise compatibility programs.

Tour helicopter safety equipment must be required through State Department of Transportation Airports Division *ground use permits* to protect Hawai'i's people *on the ground*. This equipment

must include tour helicopter flotation devices installed *on* the aircraft, not merely personal flotation devices stored in the aircraft.

Additionally, tour helicopters must be instrument flight rated (IFR) for flying in sudden inclement weather, and equipped with certified instrumentation and IFR-certified pilots who are not merely tour guides.

Tour helicopter instrument rating certification and pilot flight instrument certification requirements are extremely important for all tour helicopter operations on each island when inclement weather conditions that cannot be avoided arise, as demonstrated by the following recent fatal tour and charter helicopter crashes:

- April 29, 2019 – a Novictor Helicopters tour helicopter crashed in downtown Kailua on O‘ahu, with three (3) fatalities;
- December 26, 2019 – a Safari Helicopters tour helicopter crash into a Kaua‘i cliff face, with seven (7) fatalities including three (3) children;
- January 26, 2020 – an Island Express charter helicopter crash in Southern California, with nine (9) fatalities including three (3) children.

Clearly the “lack of effective federal regulations and the lack of effective self-regulation” by tour helicopter operators “pose a significant and growing threat to the safety, health and well-being” of the people of Hawai‘i nei, and “the State Department of Transportation (Airports Division) must “take every action necessary to address rapidly increasing safety risks and community disruption resulting from insufficient regulation” of tour helicopter operations throughout the State of Hawai‘i.

Further the lack of enforcement of existing Hawai‘i-specific regulations per FAR 14 CFR Part 136, Appendix A, also contributes to the “significant and growing threat to the safety, health and well-being” of the people of Hawai‘i, including the requirements to maintain at least 1,500 feet in altitude above and at least 1,500 feet in distance from any land form, structure or person; and to attach flotation safety devices to the tour aircraft - because all tour helicopters fly over water in Hawai‘i.

Notably, tour helicopters on O‘ahu are required to fly over water from the State airport to Diamond Head, where their operators then elect to fly over and around Diamond Head - with daily visitors atop the crater’s 760-foot summit, leaving only a few hundred feet between the tour chopper and the people below.

Further, Diamond Head is a National Natural Landmark and State Historic Monument, and its Crater Park should be protected from tour helicopter safety and noise impacts just as required for Hawai‘i’s National Parks. Similarly, Mt. Olomana above Kailua is a State Monument, and its surrounding parkland and community should be protected in the same way.

We strongly agree that the Hawaii Air Noise and Safety Task Force *must* “immediately respond substantively to public safety and community disruption concerns with clear changes to operations” to reduce noise and safety impacts to the communities on the ground; and that federal, state and county elected officials and administrators pursue actions “that will enhance the safety and prevent community disruption by Hawaii tour helicopter and small aircraft operations.”

In addition to the above underscored additions for both House Concurrent Resolution 81 and its companion House Resolution 68, we recommend that the certified copies be additionally transmitted to the FAA Western Region Administrator, the Honolulu Airports Air Traffic Control (ATC) Chief Manager, and the Chairperson and Members of the Honolulu City Council.

LATE

SCR-158

Submitted on: 3/22/2021 4:17:12 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Prentiss	Individual	Support	No

Comments:

As a retired military helicopter pilot, I fully support this resolution, and any other measure that would ensure that our helicopter pilots are instrument rated.

LATE

SCR-158

Submitted on: 3/22/2021 4:52:05 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 SCR 158 and SR 123 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 SCR 158 and SR 123, which represent a positive step in the right direction. SCR 158 and SR 123 encourages the FAA to follow NTSB recommendations and implement the requirements of the National Parks Air Tour Management Act of 2000, and encourages Congress to enact the Safe and Quiet Skies Act.

The increased flight standards sought by SCR 158 and SR 123 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

SCR-158

Submitted on: 3/22/2021 7:01:41 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

SCR-158

Submitted on: 3/22/2021 8:02:56 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 full support of calling on the FAA to take action on better regulating helicopter tour companies. We want after airspace for our communities.

Mahalo,

Forest Frizzell

LATE

SCR-158

Submitted on: 3/23/2021 12:45:36 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

SCR-158

Submitted on: 3/23/2021 9:32:56 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 Resolution. The noise pollution and safety concerns of Helicopters (commercial and military) and Small Aircrafts need to be addressed.

Mahalo,

Maren Bonnet

LATE

SCR-158

Submitted on: 3/23/2021 11:04:44 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>