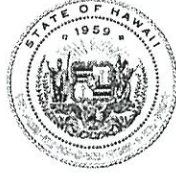


# **SB 2582**

Requires individual consent or a search warrant to track an individual through the use of unmanned aircraft systems. Prohibits the repurposing of data without a search warrant.

Prohibits unmanned aircraft systems from carrying weapons onboard. Requires the police departments to implement guidelines of the International Association of Chiefs of Police Aviation Committee.

NEIL ABERCROMBIE  
GOVERNOR



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

February 4, 2014  
1:16 p.m.  
State Capitol, Room 224

**S.B. 2582  
RELATING TO UNMANNED AIRCRAFT SYSTEMS**

Senate Committee on Transportation and International Affairs, and Committee on Public  
Safety, Intergovernmental and Military Affairs

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The Department of Transportation (DOT) supports the intent of Senate Bill 2582.

The use of Unmanned Aircraft Systems (UAS) in non-military applications can be very beneficial, but can also pose significant risk if their capabilities are not thoroughly understood and controlled appropriately. The DOT supports the testing, inquiry and attention being paid to these issues.

At this time, the DOT favors the FAA's current policy which allows operation of UAS only with a Certificate of Authorization, which are issued on a case-by-case basis. This should suffice until the test program and discussion clarify national policy, which in turn will indicate what controls and administrative functions are required of the state.

Thank you for the opportunity to present this testimony.

Testimony of  
GLENN M. OKIMOTO  
DIRECTOR

Deputy Directors  
FORD N. FUCHIGAMI  
RANDY GRUNE  
AUDREY HIDANO  
JADINE URASAKI

IN REPLY REFER TO:



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE  
GOVERNOR

RICHARD C. LIM  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355  
Fax: (808) 586-2377

Statement of

**RICHARD C. LIM**  
Director

**Department of Business, Economic Development & Tourism**

before the

**SENATE COMMITTEES ON  
TRANSPORTATION AND INTERNATIONAL AFFAIRS  
AND  
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS**

Tuesday, February 4, 2014

1:16 p.m.

State Capitol, Conference Room 224

in consideration of

**SB 2582**

**RELATING TO UNMANNED AIRCRAFT SYSTEMS.**

Chairs English and Espero, Vice Chairs Baker and Dela Cruz, and members of the Committees. The **Department of Business, Economic Development and Tourism** recognizes the privacy and safety concerns addressed in this bill with regard to the operation of unmanned aerial systems (UAS) in public airspace and is pleased to provide these **comments**.

The Federal Aviation Administration (FAA) is currently establishing six national UAS test sites (including a Pan Pacific UAS Test Range Complex involving Alaska, Oregon, and Hawaii) to help safely integrate these technologies into the national airspace. Both safety and privacy issues will be addressed in testing unmanned aerial systems at these sites (operating in restricted, non-public airspace), leading to the development of federal regulations that will help ensure public privacy and safety during UAS operations.

Hawaii's UAS test site operations will be overseen by an Advisory Board that will also track both state and national efforts to address UAS safety and privacy concerns, including the development of federal regulations pertaining to such issues. As such, we recommend that the

preliminary findings and recommendations from this Advisory Board be reviewed by our State Legislature before enacting revisions to our State privacy statutes, and that the results from this review be used to formulate and implement legislation during the upcoming biennium (FY16/17) to regulate UAS operations in Hawaii. This in turn will help ensure that our State laws both complement and comply with federal guidelines currently under development.

Thank you for the opportunity to testify on this bill.

STATE OF HAWAII  
DEPARTMENT OF DEFENSE

TESTIMONY ON SENATE BILL 2582  
A BILL RELATING TO RELATING TO UNMANNED AIRCRAFT SYSTEMS

PRESENTATION TO  
THE SENATE COMMITTEE ON  
TRANSPORTATION AND INTERNATIONAL AFFAIRS  
AND  
THE SENATE COMMITTEE ON PUBLIC SAFETY,  
INTERGOVERNMENTAL AND MILITARY AFFAIRS  
THE SENATE COMMITTEE OF

BY

DARRYLL D. M. WONG  
STATE ADJUTANT GENERAL AND DIRECTOR OF STATE CIVIL DEFENSE  
February 4, 2014

Chair English, Chair Espero, and Members of the Senate Committee on Transportation and International Affairs, and the Senate Committee on Public Safety, Intergovernmental and Military Affairs.

I am Maj Gen Darryll D. M. Wong, State Adjutant General and Director of State Civil Defense. I would like to offer comments about Senate Bill 2582.

The Federal Aviation Administration (FAA) recently selected the Pan Pacific UAS Test Range Complex (involving Alaska, Oregon, and Hawaii) as one of the six national test sites to safely integrate Unmanned Aerial Systems (UAS) into the National Airspace System. Testing UAS at these sites, in restricted, non-public airspace, will lead to the development of federal regulations that will help ensure public privacy and safety during UAS operations.

Hawaii's UAS test site operations will be overseen by an Advisory Board that will also track both state and national efforts to address UAS safety and privacy concerns, including the development of federal regulations pertaining to such issues.

Unmanned Aerial Systems integration into the National Airspace is just beginning. UAS flights will be strictly regulated by the FAA, and be initially accomplished in restricted airspace isolated from any population.

We recommend that the preliminary findings and recommendations from this Advisory Board be reviewed by our State Legislature before enacting revisions to our State privacy statutes. The Legislature can use the results from this review to formulate and implement legislation during the next biennium (Fiscal years 16/17).

This deliberately planned delay will allow State lawmakers to regulate UAS operations in Hawaii in concert with federal guidelines currently under development.

Thank you for the opportunity to provide comments on Senate Bill 2582.



POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



KIRK W. CALDWELL  
MAYOR

LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE  
KK-LC

February 4, 2014

The Honorable J. Kalani English, Chair  
and Members  
Committee on Transportation  
and International Affairs  
The Honorable Will Espero, Chair  
and Members  
Committee on Public Safety,  
Intergovernmental and Military Affairs  
State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs English and Espero and Members:

Subject: **Senate Bill No. 2582**, Relating to Unmanned Aircraft Systems

I am **Kurt Kendro**, Major of the Traffic Division of the **Honolulu Police Department (HPD)**, City and County of Honolulu.

The HPD **strongly opposes** the passage of Senate Bill No. 2582, Relating to Unmanned Aircraft Systems (UAV).

The **use of a UAV by law enforcement is fundamentally a search and seizure issue** with the belief that information gathered will be used improperly against innocent persons. The court system in the State of Hawaii provides greater protection for people than any other state in the nation when it comes to the gathering of evidence for use in a criminal proceeding. The basis for this comes from Hawaii court decisions, the Hawaii Constitution, and the Hawaii Revised Statutes.

Some of the relevant areas that protect the people of Hawaii are as follows:

- Article I, Section 7 of the Hawaii Constitution provides a more extensive right of privacy than that of the United States Constitution (*State v. Tanaka*, 1985).
- "In our view, Article I, Section 7 of the Hawaii Constitution recognizes an expectation of privacy beyond the parallel provisions in the Federal Bill of Rights." (*Hanson I*, 1997)

*Serving and Protecting With Aloha*

The Honorable J. Kalani English, Chair  
and Members

The Honorable Will Espero, Chair  
and Members

Page 2

February 4, 2014

- "This court is the final arbiter of the meaning of the provisions of the Hawaii Constitution. Nothing prevents our constitutional drafters from fashioning greater protections for criminal defendants than those given by the United States Constitution." (*State v. Santiago, 1971*)
- Where evidence sought to be admitted in state court is the product of acts that occurred on federal property or in another state, by Hawaii law enforcement officers or officers of another jurisdiction, such evidence can only be admitted in a state prosecution if obtained in a manner consistent with the Hawaii Constitution and applicable case law. (*State v. Torres, 2011*)
- Hawaii Revised Statutes, Chapter 711, Section 710-1110.9, Violation of privacy in the first degree, and Section 710-1111, Violation of privacy in the second degree, offer even more privacy protections to individuals.

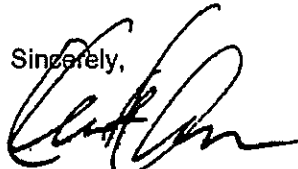
The use of UAVs to law enforcement will be invaluable. One example is the ability to provide an immediate aerial platform to photograph critical and fatal crash scenes while the investigation is ongoing. This can provide investigators with important information in real time and on-scene utilizing relatively inexpensive technology. This information is vital in determining the cause of these serious crashes as well as information that can be used in the prosecution of cases and for civil litigation.

The HPD agrees that there needs to be regulation of the use of UAVs and would suggest that the provisions of Senate Bill No. 2152, Relating to Unmanned Aircraft, or House Bill No. 1657, Relating to Unmanned Aircraft Systems, be adopted.

The HPD strongly urges you to oppose Senate Bill No. 2582, Relating to Unmanned Aircraft Systems.

Thank you for the opportunity to testify.

Sincerely,



KURT KENDRO, Major  
Traffic Division

APPROVED:



LOUIS M. KEALOHA  
Chief of Police

*International Ventures Associates*

January 31, 2014

To: Members of the 27th Hawaii State Legislature

Ref: SB2582

As a member of the Hawaii Aerospace Advisory Committee (HAC), and former Chairman of the Japan/U.S Science, Technology & Space Applications Program (JUSTSAP), my recommendation regarding the above pending bills is to follow the laws covering unmanned flying vehicles ("drones") currently being adopted by the State of California.

A bi-partisan bill being discussed by lawmakers in California could keep police agencies and other government entities from using drones to conduct warrantless surveillance across the state.

The bill, AB 1327, would require law enforcement, fire departments and investigative agencies to obtain a judge's permission before putting an unmanned aerial vehicle, or drone, into California airspace to collect intelligence. It passed the State Assembly on Wednesday January 29, 2014 by a 59-5 vote. This bill will now proceed to the Senate.

Sincerely,



Stephen M. D. Day  
President  
International Ventures Associates

*IVA, 5333 Potomac Avenue, Suite 100, Washington, DC 20016*





Committees: Committees on Transportation and International Affairs and Public Safety, Intergovernmental, and Military Affairs  
Hearing Date/Time: Tuesday, February 4, 2014, 1:16 PM  
Place: Conference Room 224  
Re: Testimony of the ACLU of Hawaii Offering Comments on S.B. 2582, Relating to Unmanned Aircraft Systems

Dear Chair English and Members of the Committee on Transportation and International Affairs, and Chair Espero and Members of the Committee on Public Safety, Intergovernmental, and Military Affairs:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes to offer comments on S.B. 2582, which seeks to regulate the use of unmanned aircrafts. As the Federal Aviation Administration plans to integrate commercial Unmanned Aircraft Systems (UAS) into the national airspace, it is essential to have privacy protections in place. To that end, we suggest that the following provisions are included in any legislation that seeks to place restrictions on the use of UAS:

- (1) A provision requiring that law enforcement obtain a warrant prior to using UAS in a search of a specific person;
- (2) A requirement that any personally identifiable information collected using UAS must be destroyed within 30 days of collection, unless law enforcement agencies are actively using such information in an ongoing investigation;
- (3) A requirement that any entity operating a UAS shall collect only that data that is necessary for clearly defined, legitimate purposes, and take reasonable steps to protect data from intrusion;
- (4) A provision requiring an annual report to the Legislature and Judiciary by entities that operate UAS that includes information on:
  - The type of UAS the operator used;
  - The specific purpose for which the entity used UAS;

Chair English and Members of the Committee on  
Transportation and International Affairs;  
Chair Espero and Members of the Committee on Public Safety,  
Intergovernmental, and Military Affairs  
February 4, 2014  
Page 2 of 2

- What kind of data the UAS collected (if any);
  - The areas in which the UAS operated; and
  - Security breaches or other issues that may have put personally identifiable information at risk of disclosure (if any), and steps that have been taken to avoid breaches in the future;
- (5) An explicit designation that reports submitted to the Legislature and Judiciary by entities operating UAS will remain publicly available;
- (6) A requirement that entities operating UAS hold annual public hearings with an opportunity for members of the public to present oral and written testimony;
- (7) A requirement that any entity operating UAS is required to implement oversight mechanisms to ensure compliance with all privacy protections. This includes:
- a. testing before beginning new operations to ensure that the technology complies with data use and access limitations; and
  - b. establishing a panel of independent experts to conduct annual audits of the operator's compliance with state and federal law, with the reports available to the public.

We urge the Committees to recognize the need for privacy protections that keep pace with quickly advancing technologies and support legislation that adequately regulates UAS.

Thank you for this opportunity to testify.

Sincerely,

**Daniel Gluck**

Senior Staff Attorney  
ACLU of Hawaii

*The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 45 years.*