

# **SB 2608**

Prohibits the use of unmanned aircrafts, except by law enforcement agencies, to gather information and establishes certain conditions for law enforcement agencies to use an unmanned aircraft to obtain information. Requires all law enforcement agencies using unmanned aircrafts and the courts to report on their activities relating to unmanned aircrafts.

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. 2608**  
**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 2608.**

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 Federal Aviation Administration'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:

STATE OF HAWAII  
DEPARTMENT OF DEFENSE

TESTIMONY ON SENATE BILL 2608  
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 2608.

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 2608.



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

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NEIL ABERCROMBIE  
GOVERNOR

RICHARD C. LIM  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

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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 2608**  
**RELATING TO UNMANNED AIRCRAFTS.**

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.



NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Testimony of  
**WILLIAM J. AILA, JR.**  
Chairperson

Before the Senate Committees on  
**TRANSPORTATION AND INTERNATIONAL AFFAIRS**  
and  
**PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS**

Tuesday, February 4, 2014  
1:16 PM  
State Capitol, Conference Room 224

In consideration of  
**SENATE BILL 2608**  
**RELATING TO UNMANNED AIRCRAFTS**

**Senate Bill 2608** proposes to prohibit the use of unmanned aircrafts, except by law enforcement agencies, to gather information and establishes certain conditions for law enforcement agencies to use an unmanned aircraft to obtain information, and requires all law enforcement agencies using unmanned aircrafts and the courts to report on their activities relating to unmanned aircrafts. **The Department of Land and Natural Resources (Department) offers the following comments.**

The Department supports the intent to strictly limit the use of unmanned aircraft systems (UASs) to ensure that these systems do not violate civil liberties, however requests that UASs used for resource management are not inadvertently restricted. **The Department seeks an exemption be added to this prohibition for unmanned aircrafts used by agencies** for the purpose of mapping or resource management. Non-governmental entities conducting resource mapping or management should be regulated by permits, rather than prohibited.

UASs enable rapid and accurate detection of resources and threats, and allow for efficient monitoring of infrastructure and management. Examples include mapping plant disease outbreaks, wildland fires, populations of invasive species, vegetation cover, game animal abundance and distribution, coral reefs, and changes of these resources over time. These technologies can survey sensitive resources in a non-invasive way. Airborne surveillance technologies are especially important for the Department as these resources are often in steep and rugged terrain and across large distances that cannot otherwise be accessed on the ground.

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ESTHER KIA'AINA**  
FIRST DEPUTY

**WILLIAM M. TAM**  
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

UASs enable managers to survey areas that otherwise would pose unacceptable safety hazards to both ground or helicopter crews, such as in search and rescue operations, wildland fire surveys, and surveys at low elevations near tree canopies.

UASs can perform resource monitoring more effectively than manned vehicles because flights can be pre-programmed to follow exact routes, enabling precise and full-coverage mapping that would otherwise not be feasible with aerial vehicles subject to pilot error and the reduced maneuverability of larger aircrafts. UASs can also save considerable costs and time during the regular surveys conducted by the Department and its partners in remote areas.

The Department offers the following proposed amendments:

**§803-C Exceptions.** This part shall not apply to:

(a) a law enforcement agency under any of the following circumstances:

- (1) A finding based on credible intelligence is made by the United States Secretary of Homeland Security that the use of unmanned aircraft is necessary to counter a high risk terrorist attack by a specific individual or organization;
- (2) A search warrant is issued pursuant to this chapter that permits the use of an unmanned aircraft; provided that the search warrant shall be valid for a period not to exceed thirty days but may be extended by the court for no more than thirty additional days upon a showing of good cause;
- (3) The use of unmanned aircraft is necessary to assist in search and rescue activities or locate missing persons;
- (4) The use of an unmanned aircraft is necessary to assist in the operation, exercise, or mission of any branch of the United State military, or
- (5) The use of an unmanned aircraft is necessary to assist in the disaster relief agency under chapter 127 or provide relief

pursuant to the governor's declaration of a state disaster under section 209-2.

(b) a state agency or local public agency, or their permittees, for the purposes of mapping or resource management.



POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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CHIEF

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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. 2608**, Relating to Unmanned Aircrafts

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. 2608, Relating to Unmanned Aircrafts (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)

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.

There are countless legitimate uses of UAVs to assist law enforcement to protect the community as well as provide information to aid in investigations.

- The unmanned aircraft can 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 at the scene utilizing relatively inexpensive technology which is vital in determining the cause of these serious crashes.
- Outdoor crime scenes can be spread out over large areas. The aerial platform provides the opportunity to search for evidence, providing an overall perspective of the scene in a quick and efficient manner.
- In incidents of hostage and barricade situations, it provides a tactical advantage to law enforcement to get aerial imagery in real time as the situation is occurring. This provides information that is vital and critical to the deployment of personnel as well as to employ strategies to safely resolve the situation.
- In large scale events such as the recent Pro Bowl, the UAV aerial platform can provide real time imagery of traffic congestion, enhance the security of the event, and protect the attendees with no disruption.

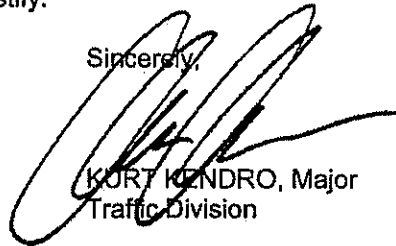
The HPD agrees that there needs to be regulation of the use of UAVs and would suggest that the provisions of Senate Bill No. 2152, Relating to Unmanned Aircraft Systems, or House Bill No. 1657, Relating to Unmanned Aircraft Systems, be adopted.

The HPD strongly urges you to oppose Senate Bill No. 2608, Relating to Unmanned Aircrafts.

The Honorable J. Kalani English, Chair  
and Members  
The Honorable Will Espero, Chair  
and Members  
Page 2  
February 4, 2014

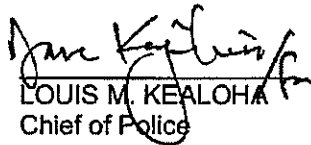
Thank you for the opportunity to testify.

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

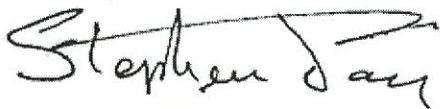
Ref: SB2608

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*

Testimony of The Nature Conservancy of Hawai'i  
Opposing S.B. 2608 Relating to Unmanned Aircrafts  
Senate Committee on Transportation and International Affairs  
Senate Committee on Public Safety, Intergovernmental and Military Affairs  
Tuesday, February 4, 2014, 1:16PM, Room 224

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*The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life in these islands depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. Today, we actively manage more than 35,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.*

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The **Nature Conservancy opposes** the near complete prohibition on the use of unmanned aircraft proposed in **S.B. 2608**.

We are not at all opposed to appropriate regulation and permitting of unmanned aircraft to protect the public's right to privacy.

Over the last several years, we have been implementing very high resolution imaging technologies with fixed wing piloted aircraft for weed mapping at a landscape scale. This has been extremely helpful in our weed identification and control work in remote native forest and watershed areas. We believe that these kinds of natural resource management applications like tracking invasive species, checking fence lines for damage, monitoring wildfires, and gathering other critical ecological data may become much more efficient and cost effective with the appropriate, regulated use of unmanned aircraft.

We request that if the Committee advances this measure that you include an exemption for permitted use of unmanned aircraft by both government and private natural resource managers for research and management purposes.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 02, 2014 9:22 PM  
**To:** TIATestimony  
**Cc:** HSCSW2014@gmail.com  
**Subject:** \*Submitted testimony for SB2608 on Feb 4, 2014 13:16PM\*

**SB2608**

Submitted on: 2/2/2014

Testimony for TIA/PSM on Feb 4, 2014 13:16PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Khara	Filipino Law Students Association	Oppose	Yes

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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February 4, 2014

HEARING BEFORE THE  
SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS  
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND  
MILITARY AFFAIRS

TESTIMONY ON **SB 2608**  
RELATING TO UNMANNED AIRCRAFTS  
Room 114  
1:16 PM

Aloha Chair English, Chair Espero, and Members of the Committees:

I am **Christopher Manfredi**, President of the **Hawaii Farm Bureau Federation** (HFBF). Organized since 1948, the HFBF is comprised of 1,832 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

Hawaii Farm Bureau understands that the intent of this measure is to ensure that Hawaii's residents' right to privacy is not impeded by the use of unmanned aircraft (UAV). **We respectfully oppose this bill as currently written, unless it is amended to allow for beneficial agricultural uses.**

UAV is an important tool that provides useful agricultural information to farmers and ranchers. They are used to scout crops, detect nutrient deficiencies, assess flood and drought damage, forecast weather patterns, and monitor wildlife (for example; could be used to track Axis deer on Maui and Molokai). Ranchers can use UAVs to identify water stress and invasive weeds in ranchlands, to ensure the integrity of fences, and even to locate cattle in distant pastures. Information provided by UAVs can protect farmers' and ranchers' crops and livestock and save them time and money, allowing them to stay in business.

The U.S. Congress has directed the Federal Aviation Agency (FAA) to write regulations on how the UAV technology can be used for commercial purposes while ensuring public safety and addressing privacy concerns. These regulations are expected sometime this year.

We respectfully offer the following amendment to clarify that under specified conditions, agricultural applications are not included in the proposed prohibition.

At line 17, page 2, add the following underlined sentence immediately after:

§803-C Exceptions.

This part shall not apply to an entity using unmanned aircraft for agricultural purposes, over agricultural lands owned or managed by the same entity, and in cooperation with the Federal Aviation Agency, after the entity has notified the local police department.

This part shall not apply to a law enforcement agency under any of the following circumstances:

A reference article is available at <http://www.cattlenetwork.com/cattle-news/Drone-on-the-range-242818871.html>.

Thank you for your support of agriculture. We are available to answer any questions, and to work with the committees, at your convenience.



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 in Support of S.B. 2608, Relating to Unmanned Aircrafts

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 in support of S.B. 2608, 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, in addition to the regulations proposed in S.B. 2608, we suggest including the following:

- (1) A provision requiring that the annual report to the Legislature and Judiciary by entities that operate UAS include information on:
  - The type of UAS the operator used;
  - 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;
- (2) An explicit designation that reports submitted to the Legislature and Judiciary will remain publicly available;
- (3) A requirement that entities operating UAS hold annual public hearings with an opportunity for members of the public to present oral and written testimony;

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

- (4) 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 by supporting S.B. 2608.

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.*