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No. _____

TESTIMONY ON HOUSE BILL 2021
A BILL RELATING TO UNMANNED AERIAL SYSTEMS

Nolan P. Espinda, Director
Department of Public Safety

House Committee on Transportation
Representative Henry J.C. Aquino, Chair
Representative Matthew S. LoPresti, Vice Chair

Wednesday, February 10, 2016, 10:00 AM
State Capitol, Conference Room 309

Chair Aquino, Vice Chair LoPresti, and Members of the Committee:

The Department of Public Safety (PSD) **supports** House Bill (HB) 2021, Relating to Unmanned Aerial Systems, which provides that the offense of simple trespass can be committed when a person, utilizing an unmanned aerial system, knowingly enters or remains unlawfully in the airspace directly above premises up to two hundred feet above ground level.

Other states have reported that unmanned aerial systems, commonly known as drones, have been used to deliver contraband, such as drugs and weapons, over the perimeter of jails and prisons. These systems can also be modified to carry and fire a handgun. While we have not experienced such an incident to date, the passage of this bill would enable the prosecution of individuals who would attempt to use these devices to breach security at our correctional facilities.

Thank you for the opportunity to testify on this measure.



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February 10, 2016

HEARING BEFORE THE
HOUSE COMMITTEE ON TRANSPORTATION

TESTIMONY ON
HB2021

Room 309
10:00 am

Aloha Chair Aquino, Vice Chair LoPresti, and Members of the Committees:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFBF **strongly supports HB2021**, seeking to address privacy issues associated with unmanned aerial vehicles.

Technology is outpacing law. Trespass traditionally has encompassed the physical presence of a person where they were not authorized. Technology has advanced to levels in which photographs and video are taken by persons far away from the actual sites. Farmers have complained that neighbors fly over their farms without notice. While it is often said a picture is a 1000 words, without understand the story behind the picture, it can also be misrepresented. Today, farmers and ranchers find ourselves in a society that does not understand agriculture but leap to conclusions about our practices without understanding.

UAVs provide an important tool for our farmers and ranchers whether it be to inventory their herds, check for diseases, water stress and insect outbreaks. The uses are endless and we are excited about the opportunity. Yet we see this same technology abused. We appreciate the legislature taking a proactive step to address this concern.

HFBF **respectfully requests your support** of this important matter.

Thank you for this opportunity to provide our opinion on this important matter.



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February 9, 2016

The Honorable Henry J.C. Aquino, Chair
The Honorable Matthew S. LoPresti, Vice Chair
Committee on Transportation

RE: HB 2021 – Oppose

The Motion Picture Association of America and its member companies¹ respectfully oppose House Bill 2021, which provides that the offense of simple trespass can be committed when a person knowingly enters or remains unlawfully in the airspace directly above premises up to two hundred feet above ground level. This legislation conflicts with the existing authority of the Federal Aviation Administration (FAA), which has authorized the use of unmanned aerial systems (UAS) for a number of commercial applications, including for closed-set filming, under Section 333 of the 2012 FAA Modernization and Reform Act.

Beginning in 2014, the FAA began approving exemptions to the federal prohibition on the use of UAS for commercial purposes. Among the first exemptions granted were those for closed-set filming. These exemptions, issued under Section 333, provide for nearly 30 safety and operational limitations, including:

- Flights must be operated at an altitude of no more than 400 feet above ground level.
- UAS must weigh less than 55 pounds, including camera.
- UAS must be operated within visual line of sight at all times.
- Pilot in Command must possess at least a private pilot certificate and at least a current third-class medical certificate.
- UAS may not be operated directly over any person, except authorized and consenting production personnel.
- UAS may not be operated by the PIC from any moving device or vehicle.

However, under this bill, an FAA-authorized operator flying a UAS as part of a motion picture production would be prohibited from flying under 200 feet, despite having the federal approval

¹ The Motion Picture Association of America, Inc. includes: The Walt Disney Studios Motion Pictures; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Twentieth Century Fox Film Corporation; Universal Studios LLC; and Warner Bros. Entertainment Inc.

to do so. This restriction contravenes FAA authority, and would create confusion among both UAS operators and those enforcing the new law. As such, the restriction in HB 2021 is preempted by FAA rules and regulations.

To address its concerns regarding state and local attempts to regulate activity in the national airspace, the Office of the Chief Counsel for the FAA recently issued a “Fact Sheet” on “State and Local Regulation of Unmanned Aircraft Systems (UAS).”² The FAA writes that:

Substantial air safety issues are raised when state or local governments attempt to regulate the operation or flight of aircraft. If one or two municipalities enacted ordinances regulating UAS in the navigable airspace and a significant number of municipalities followed suit, fractionalized control of the navigable airspace could result. In turn, this ‘patchwork quilt’ of differing restrictions could severely limit the flexibility of FAA in controlling the airspace and flight patterns, and ensuring safety and an efficient air traffic flow. A navigable airspace free from inconsistent state and local restrictions is essential to the maintenance of a safe and sound air transportation system.

The fact sheet also recommends that state and local jurisdictions consult with FAA before enacting any laws or ordinances “banning anyone from operating UAS within the city limits, within the airspace of the city, or within certain distances of landmarks.” Furthermore, FAA is currently developing a comprehensive set of regulations governing the commercial use of UAS, and we believe any legislation at the state level should be delayed until FAA issues its final rulemaking.

For these reasons, we respectfully oppose HB 2021. If you have any questions or would like to discuss further, please feel free to contact me or our legislative representatives in Honolulu, John Radcliffe and Bruce Coppa, at 808.536.7557.

Sincerely,

A handwritten signature in black ink, appearing to read "Vero Swanson". The signature is fluid and cursive, with a large initial "V" and "S".

² *State and Local Regulation of Unmanned Aircraft Systems (UAS)*, FAA Fact Sheet. See: http://www.faa.gov/uas/regulations_policies/media/UAS_Fact_Sheet_Final.pdf