



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2016**

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**LATE**

**ON THE FOLLOWING MEASURE:**

**S.B. NO. 2095, RELATING TO DRONE OPERATOR LIABILITY INSURANCE.**

**BEFORE THE:**

**SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**DATE:** Wednesday, February 10, 2016      **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Rodney I. Kimura, Deputy Attorney General

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Chair Baker and Members of the Committee:

The Department of the Attorney General submits comments on this measure with respect to subsection (b).

The purpose of this measure is to enact a new section in Chapter 489J, Hawaii Revised Statutes ("H.R.S."), to require drone operators to carry an unstated amount of liability insurance. To enforce the insurance obligation, subsection (b) of the bill provides that a violation of the section "shall constitute an unfair or deceptive act or practice under section 480-2."

It is unclear how subsection (b) of the new section will be enforced under Chapter 480, H.R.S. First, section 480-2(a), H.R.S., requires that the unfair or deceptive act or practice occur in the conduct of a trade or commerce, that is, the act or practice must be perpetrated in a business context. This measure, however, is not restricted to a business context since the new section appears to apply to personal non-commercial drone use.

Second, there are limitations on who may bring an action for an unfair or deceptive act or practice – section 480-2(d), H.R.S., only permits a consumer, the Attorney General, or the Office of Consumer Protection to bring the action. In the case of a "consumer" bringing an unfair or deceptive act or practice action, the definition of "consumer" in section 480-1, H.R.S., imposes certain requirements, namely, the situation must involve (i) a natural person, who (ii) must have purchased, attempted to purchase, or was being solicited to purchase (iii) goods or services from the drone operator. Otherwise, the suit cannot be maintained. It is not clear, therefore, how a consumer might enforce subsection (b).

Third, even if the requirements imposed by the definition of “consumer” are satisfied, section 480-13(b), H.R.S., requires proof of injury caused by the violation, and proof of the amount of damages suffered. It is not clear how an injury and actual damages could be proven as a result of the failure to carry liability insurance.

Thank you for the opportunity to testify on this measure.

SB2095 - Remote Testimony From Richard Molina  
Remote Testimony From Richard Molina  
Owner of Big Island Drone Center  
Kaulia Kona, Hi 96840

LATE

RE: SB2095 Drone Liability Insurance.

Please forgive any breach in protocol as Ive never done this before.

Sirs,

While I applaud your progressive thinking in this area, I find significant flaws in SB2095 that may have further reaching consequence than anticipated.

My major concern is the documents definition of DRONE

1: the definition of "Drone" Starting Line 11...

It is my concern that this definition is too broad and would unnecessarily require most every "drone" to have insurance. This blanket definition encompass ALL types of drones including Commercial, Hobby, Toy. As per your definition Hobby grade AND Toys fitting this description would have to require insurance. While I understand the overall thinking of this bill, It is VERY important to separate the Hobbyist and Toy drones from this requirement. While they do fit your definition as the bill stands, It would be restrictive and harmful to the hobbyists and toy drone users to have to require they have insurance.

On the "flip" side, Insurance for commercial drone use should be implemented under the FAA definition of commercial drone.

In this respect, the broad definition needs to be refined to COMERCIAL drones exclusively...

Thank you for your attention to this matter...

Richard Molina

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 4:07 PM  
**To:** CPH Testimony  
**Cc:** tabraham08@gmail.com  
**Subject:** \*Submitted testimony for SB2095 on Feb 10, 2016 09:30AM\*

LATE

**SB2095**

Submitted on: 2/9/2016

Testimony for CPH on Feb 10, 2016 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

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