



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

DAVID Y. IGE  
GOVERNOR

LUIS P. SALAVERIA  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

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Statement of

**LUIS P. SALAVERIA**  
**Director**

Department of Business, Economic Development & Tourism

before the

**HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

Tuesday, January 31, 2017

2:00 p.m.

State Capitol, Conference Room 329

in consideration of

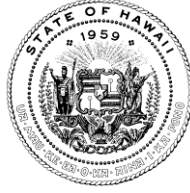
**HB 314**  
**RELATING TO UNMANNED AERIAL VEHICLES.**

Chair McKelvey, Vice Chair Ichiyama, and Members of the Committee. The Department of Business, Economic Development and Tourism does not support this bill that would establish new State regulations to govern the operation of unmanned aerial vehicles (UAV).

The FAA (Federal Aviation Administration) has designated UAV as aircraft. As such, it would be problematic for the State to engage in regulating the operation of aircraft, which has been designated by the federal government as an FAA function. Furthermore, the FAA has developed and will continue to formulate regulations concerning the operation of UAVs in the National Airspace System (NAS), with the eventual goal of safely integrating UAV into the NAS. As such, the proposed State chapter would run the risk of creating new laws that could potentially conflict with federal regulations.

Thank you for the opportunity to testify on this measure.

**LATE**



DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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CATHERINE P. AWAKUNI COLÓN  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**PRESENTATION OF THE  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH STATE LEGISLATURE  
Regular Session of 2017  
Tuesday, January 31, 2017  
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 314, RELATING TO UNMANNED AERIAL  
VEHICLES.**

TO THE HONORABLE ANGUS L. K. MCKELVEY, CHAIR,  
TO THE HONORABLE LINDA ICHIYAMA, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Catherine Awakuni Colón, Director of the Department of Commerce and Consumer Affairs (“DCCA” or “Department”). DCCA appreciates the opportunity to offer comments on House Bill No. 314, Relating to Unmanned Aerial Vehicles.

House Bill No. 314 requires regulation of unmanned aerial vehicles (“UAVs”). The bill provides for certain prohibited acts, establishes prohibited uses by unspecified law enforcement agencies, prohibits “weaponizing” UAVs, establishes a private right of action for certain violations, and establishes civil and criminal sanctions for violations. DCCA is charged with investigating violations and may fine violators.

DCCA takes no position with respect to Sections 3 through 6 of this measure that make certain UAV uses unlawful criminal activity within different provisions of HRS Chapter 711 (criminal offenses against public order). The Department would respectfully defer to the Legislature and the appropriate law enforcement agencies regarding any amendments to the Hawaii Penal Code.

With respect to Section 2 of this measure, DCCA has strong concerns that the regulation of UAVs as a general activity is outside the scope of DCCA's mission and would potentially also be outside its jurisdiction as a state agency. DCCA's mission is to protect the interests of Hawaii consumers, depositors, and investors. To achieve this mission, the Department is charged specifically with regulating trades, businesses, and professions. House Bill No. 314 would make DCCA responsible for overseeing any UAV operations in the State for broad purposes beyond the regulation of commerce or consumer matters, including prosecuting law enforcement and public safety agencies for violations. For example, the measure defines "operators" of UAVs as any "person using or operating [a UAV]" regardless of whether that person is engaged in any business or commercial activity, and also regardless of whether that person's activity is somehow affecting an identified consumer class or type of transaction. Prohibited acts of UAV operators subject to DCCA regulation would include:

- Violations of Chapter 263, Hawaii Revised Statutes, Federal Aviation Administration regulations, and any other applicable federal law;
- Unauthorized use of UAVs for collection of personal information or publication of personal information, no matter if the activity is business/consumer related;

- Unauthorized operation of UAVs within unsafe distances to critical public facilities (e.g., water and electric utility infrastructure), airports, and emergency response vehicles;
- Unauthorized operation of UAVs over certain facilities that include schools, hospitals, and places of worship;
- Unauthorized use of UAVs by law enforcement agencies to gather evidence or other information without a warrant.

Of the prohibited acts and various other limitations that DCCA would have to regulate, there is no nexus to commercial or consumer activity. Instead, this bill addresses concerns about public safety, appropriate use of UAVs by law enforcement agencies, and civil and criminal sanctions for privacy violations. As such, the Department believes that it is ill-suited to investigate or enforce the conduct addressed in this bill, and is concerned that this measure would significantly expand its purview beyond commerce and consumer affairs and into the area of general public safety and law enforcement regulation. Also, with the exception of receipt of civil penalties for violations, there is no funding mechanism for this regulation.

The Department supports the Legislature's efforts to ensure the safety and security of its citizens, so it would not recommend limiting consideration of UAV issues just to the area of commerce and consumer protection.

Finally, DCCA would note that the Committee may want to consider whether some of the prohibited acts and limitations listed in this measure would be preempted by federal

regulation of airspace with respect to flight altitude, flights paths, and other possible issues over which the federal government has exclusive jurisdiction.<sup>1</sup>

Thank you for the opportunity to provide comments on this measure. I am happy to answer any questions the Committee may have.

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<sup>1</sup>See the new Small UAS Rule (Part 107) effective August 29, 2016, and the Federal Aviation Administration's Summary of Small Unmanned Aircraft Rule (Part 107) dated June 21, 2016 at [https://www.faa.gov/uas/media/Part\\_107\\_Summary.pdf](https://www.faa.gov/uas/media/Part_107_Summary.pdf).

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



**LATE**

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
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

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
CONSUMER PROTECTION & COMMERCE**

**Tuesday, January 31, 2017  
2:00 PM  
State Capitol, Conference Room 329**

**In consideration of  
HOUSE BILL 314  
RELATING TO UNMANNED AERIAL VEHICLES**

House Bill 314 proposes to establish prohibited uses of unmanned aerial vehicles (UAV) and penalties, and authorizes civil action for violations while providing certain exceptions for use by public agencies and others to conduct operations such as emergency response or survey and monitoring natural resources. **The Department of Land and Natural Resources (Department) supports this initiative as long as the following concerns are addressed.**

The Department is charged with monitoring and managing the State's terrestrial and aquatic areas, including its natural resources, as well as with enforcing the laws and regulations pertaining to these areas and resources. UAVs have proven to be an efficient tool in achieving the Department's various objectives, particularly for areas often undeveloped and geographically remote making access difficult and dangerous.

The Department supports aligning state regulation pertaining to UAV operation with federal regulation. However, charging the Department of Commerce and Consumer Affairs (DCCA) with regulating the use of UAVs would make the adoption of such regulation to the Department's needs impractical, particularly considering rapid developments of UAV technology and federal UAV regulation.

House Bill 314 proposes to establish specific restrictions, such as limiting UAV operation to the airspace within line-of-sight of the pilot. The Department suggests referring to federal regulation instead, which would facilitate maintaining alignment of state regulations with federal regulations. As the technology is rapidly evolving, trends point toward allowing safe operations

of extended scope and scale, which would allow natural resource management agencies and other partner organizations involved in natural resource management a safer and more cost effective alternative to helicopter flights and other aerial survey and monitoring operations involving aircraft. It would be good for the legislation to allow for improvements in technology that could allow safe operation beyond line of sight.

Subparagraph - 3(a)(10)(A) prohibits the operation of an UAV within “Five hundred feet of any water intake facility...”. This seems unnecessarily restrictive for legislation. It may better to develop general guidance in the legislation authorizing the DCCA to establish administrative rules that allow for health, safety and security restrictions that can better adapt as the technology evolves. For example, the Department’s Commission on Water Resource Management may in the future desire to use UAVs to aid in the enforcement of instream flow standards or document the condition of water intake facilities. The Department kindly requests adding language that provides exemptions for state agencies and partner organizations to deploy UAV’s for work in natural resource management, survey and monitoring.

STATE OF HAWAII  
DEPARTMENT OF DEFENSE  
HAWAII EMERGENCY MANAGEMENT AGENCY

**LATE**

TESTIMONY ON HOUSE BILL 314  
A BILL RELATING TO UNMANNED AERIAL VEHICLES

PRESENTATION TO  
THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

BY

VERN T. MIYAGI  
Administrator, Hawaii Emergency Management Agency

Chair McKelvey, Vice Chair Ichiyama, and Members of the Committee.

Aloha - I am Vern T. Miyagi, Administrator of Hawaii Emergency Management Agency. I am testifying in **FAVOR** of House Bill 314.

The proposals of HB 314 establish state of Hawaii laws for regulating the use of unmanned aerial vehicles (UAVs) that complement existing federal regulations. Due to the increasing availability and use of UAVs, as defined in the measure, consistent regulations as to their use and operations are critical to prevent their interference in emergency preparation, response, and recovery operations during disasters. During the 2014 lava emergency operations in Pahoia on the Big Island there were instances of private civilian UAV's/drones interfering with emergency management observations of the lava threat.

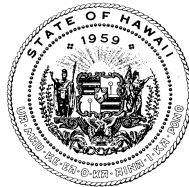
This bill will support the appropriate use of UAVs within the state of Hawaii. Further coordination is needed with respect to using UAVs in support of disaster operations.

I strongly urge you to **PASS** HB 314.

Thank you for the opportunity to provide this testimony.



DAVID Y. IGE  
GOVERNOR



**Testimony by:**  
FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

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

IN REPLY REFER TO:

January 31, 2017  
2:00 p.m.  
State Capitol, Room 329

**H.B. 314**  
**RELATING TO UNMANNED AERIAL VEHICLES**

House Committee on Consumer Protection and Commerce

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The Department of Transportation (DOT) **opposes** H.B. 314 which establishes a new chapter to regulate the use of unmanned aerial vehicles. Requires the director of DCCA to adopt rules regarding unmanned aerial vehicles. Establishes prohibited uses of unmanned aerial vehicles and penalties, and authorizes civil action for violations. Makes certain uses of an unmanned aerial vehicle a misdemeanor. Clarifies that, under certain circumstances, first and second degree invasion of privacy may be committed using an unmanned aerial vehicle (UAV).

The FAA (Federal Aviation Administration) has designated UAV as aircraft, and therefore, it will be problematic for the State to regulate the operation of aircraft, which is an FAA function. FAA has developed and continues to develop regulations concerning the operation of UAVs in the National Airspace System (NAS), with the eventual goal of safely integrating UAV into the NAS. As regulations evolve, this bill would run the risk of creating law that conflicts with federal regulation.

Thank you for the opportunity to provide testimony.

DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

LEONARD HOSHINO  
DEPUTY DIRECTOR

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**LATE**

January 30, 2017

The Honorable Angus McKelvey, Chair  
Committee on Consumer Protection and  
Commerce  
House of Representatives  
State Capitol, Room 320  
Honolulu, Hawaii 96813

Dear Chair McKelvey:

Subject: House Bill (HB) 314 Relating to Unmanned Aerial Vehicles

I am Manuel P. Neves, Chair of the Hawaii State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support HB 314, which proposes to establish unmanned aerial vehicle (UAV) laws that complement federal regulation.

Currently, the four county fire departments have not implemented the use of UAVs. However, we recognize its value as another tool in meeting its mission to provide for a safer community through prevention, preparedness, and effective emergency response. UAVs eliminate the risk of a pilot and helicopter to survey a variety of incident areas. In the case of search or rescue missions, UAVs can pinpoint the exact location that a helicopter operation is needed before actual deployment. UAVs can be dispatched within minutes to remote areas, even in inclement weather. Aerial views provide an advantageous perspective for an incident commander and preplanning purposes. Operational implementation by the fire departments will include meeting federal and state regulations.

The SFC and the HFD urge your committee's passage of HB 314.

The Honorable Angus McKelvey, Chair  
Page 2  
January 30, 2017

Should you have questions, please contact SFC Administrator Socrates Bratakos at 723-7105 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

Sincerely,



MANUEL P. NEVES  
Chair

MPN/LR:clc



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

**LATE**

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Testimony Presented Before the  
House Committee on Consumer Protection & Commerce  
Tuesday, January 31, 2017 at 2:00 pm  
by  
Vassilis L. Syrmos, Vice President for Research and Innovation  
University of Hawai'i System

### HB 314 – RELATING TO UNMANNED AERIAL VEHICLES

Chair McKelvey, Vice Chair Ichiyama and members of the committee:

The University of Hawai'i (UH) supports the intent of these measures to address the operation of small Unmanned Aircraft Systems (more commonly known as drones), but we are concerned that these state measures reach too broadly.

The federal authorities, notably the FAA, have exclusive jurisdiction to regulate the nation's airspace. The airspace includes zones where these small UAS operate. These zones and their restrictions (including waivers and exemptions) are detailed in federal regulation: for example, what kind of notification must be given prior to operating a drone, and to whom; how far from airports or hospitals must a drone stay clear; how high can a drone fly; what is the maximum weight; what training or certification must a drone operator have; what kind of controls must be in place to ensure safe operations; must drones be operated in visual line of sight.

Moreover, these federal rules are dynamic and continually evolving in an attempt to keep up with the underlying technology of UASs.

Attempts by a state legislature to add another layer of operational regulation to the FAA regulations would create confusion, inconsistency, and ultimately may prove ineffective because of the federal preemption.

What may be proper for a state legislature to consider are passing state criminal laws defining, for example, invasion of privacy committed by operators using UAS, and the resulting criminal penalties.

We suggest that these UAS measures be amended to limit their scope to purely state matters, such as criminal law enforcement for state-established crimes.

Thank you for the opportunity to testify on this measure.

# Hawai`i State Association of Counties (HSAC)

Counties of Kaua`i, Maui, Hawai`i and City & County of Honolulu

200 S. High Street, Wailuku, Hawaii 96793 (808) 270-7665

[www.hicounties.com](http://www.hicounties.com)



January 27, 2017

TO: The Honorable Angus McKelvey, Chair  
House Committee on Consumer Protection & Commerce

FROM: Stacy Crivello  
HSAC President

SUBJECT: **HEARING OF JANUARY 31, 2017; TESTIMONY IN SUPPORT OF  
HB 314, RELATING TO UNMANNED AERIAL VEHICLES**

Thank you for the opportunity to testify on behalf of the Hawaii State Association of Counties in **support** of this measure. The purpose of this measure is to regulate operators of unmanned aircraft systems, popularly known as drones.

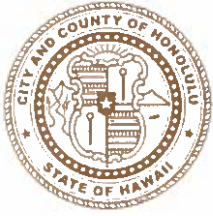
This measure is included in the 2017 Hawaii State Association of Counties Legislative Package. Therefore, I submit this testimony on HSAC's behalf.

HSAC supports this measure for the following reasons:

1. Drones can photograph, videotape and audio record activity whether on public or private property. This measure would address the collection and possible misuse of personal information. While the use is widely allowed and is beneficial for certain purposes, the protection of individual privacy and security is a concern.
2. Guidelines and standards may also address safety issues related to drones. If not operated properly, these systems may injure or cause property damage or nuisance to residents and visitors.

Mahalo for your consideration.

*HSAC:FY2017:17Testimony:HB314a\_mkz*




**CITY COUNCIL**  
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**BRANDON ELEFANTE**

Councilmember District 8  
Aiea, Pearl City, Waipahū  
Chair, Committee on Public Health, Safety & Welfare  
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January 27, 2017

**To:** The Honorable Representative Angus L.K. McKelvey, Chair  
and Members of the House Committee on Consumer Protection & Commerce

**From:** Councilmember Brandon Elefante 

**Subject:** **HB 314: Relating to Unmanned Aerial Vehicle**

**Hearing:** Tuesday, January 31, 2017, 2:00 pm  
Conference Room 329, State Capitol

I am testifying in **SUPPORT** of HB 314 Relating to Unmanned Aerial Vehicles.

The Federal Aviation Administration's (FAA) regulations related to the use of small commercial drones, which became effective on August 29, 2016, will result in approximately 600,000 drones operating in the U.S. within the next year, according to the FAA. On September 7, 2016, the City Council of the City and County of Honolulu voted 9-0 in unanimous support of Resolution 16-239, requesting the Hawai'i State Association of Counties (HSAC) consider for inclusion in its 2017 legislative package a proposal that would regulate operators of unmanned aircraft systems state-wide. This Resolution supported urging the Hawai'i State Legislature to adopt regulations related to the use of drones, specifically as they relate to the collection and possible misuse of personal information as well as address broader privacy and safety concerns for residents in all four of Hawai'i's counties.

The FAA has issued a position paper affirming the right of state and local governments to legislate drone activity through their traditional police powers, including the areas of land use, zoning, privacy, trespass, and law enforcement operations. States across the country are adopting and/or considering legislation to address privacy and safety concerns proactively and comprehensively.

Proactive legislative action by the state is needed to set guidelines and establish standards that can apply uniformly and statewide. Drone operators, individuals, and county governments, including police departments, are all stakeholders in the use of this new technology and need definitive rules and laws. Now that the FAA has established the licensing process for drones, the concern is that privacy rights be protected and that safety be assured, in the use of aerial surveillance drones. Drones

can photograph, videotape, and audio record all activity whether on public or private property. All of these can be uploaded to internet sites and shared across the entire internet. Drones can also be used to collect personal or location details from cellphones, via license plate scanners or facial recognition software, and drone operators can provide or sell that information to private businesses or individuals.

A few recent incidents related to drone usage cited from across the country:

- Privacy: Drone flew onto private balcony in Hawai'i and recorded a private conversation.
- Privacy: Hawai'i resident woke one morning to a drone hovering outside her bedroom window.
- Privacy: Drone disrupted wedding by lingering over private backyard ceremony for more than 20 minutes such that conversation could not be heard and the ceremony had to be delayed. (California)
- Privacy: Woman in 20-story high rise observed a drone hovering just outside her apartment windows as she was getting dressed. (Washington)
- Privacy: Drone was hovering over teenage daughter sunbathing in back yard of a private home. (Kentucky)
- Safety: Drone created a power outage flying into power lines. (California)
- Safety: Drone crashed into empty seats at the U.S. Tennis Open. (New York)
- Safety: Drones interfered with fire and rescue operations. (California)
- Safety: Drone was intercepted flying "car-high" near President Barak Obama's motorcade in Kailua. (Hawai'i)
- Safety: Near collisions between drones continue to occur with hundreds of incidents documented. (Nationally)

While allowing legitimate use of the new technology throughout the state, we urge protections for the entire state from the possible misuse, nuisance, harassment and voyeurism that may result from this technology and to establish statewide standards that accord with a reasonable expectation of privacy and an assurance of safety and security.

I urge your **SUPPORT** for this important legislation in addressing protections for all of our citizens.

**COUNTY COUNCIL**

Mel Rapozo, Chair  
Ross Kagawa, Vice Chair  
Arthur Brun  
Mason K. Chock  
Arryl Kaneshiro  
Derek S.K. Kawakami  
JoAnn A. Yukimura



**OFFICE OF THE COUNTY CLERK**

Jade K. Fountain-Tanigawa, County Clerk  
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188  
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**Council Services Division**  
4396 Rice Street, Suite 209  
Lihue, Kauai, Hawaii 96766

January 30, 2017

**TESTIMONY OF MEL RAPOZO**  
**COUNCIL CHAIR, KAUAI COUNTY COUNCIL**  
**ON**  
**HB 314, RELATING TO UNMANNED AERIAL VEHICLES**  
**House Committee on Consumer Protection & Commerce**  
**Tuesday, January 31, 2017**  
**2:00 p.m.**  
**Conference Room 329**

Dear Chair McKelvey and Members of the Committee:

Thank you for this opportunity to provide testimony in support of HB 314, Relating to Unmanned Aerial Vehicles, which is included in the 2017 Hawai'i State Association of Counties Legislative Package. My testimony is submitted in my individual capacity as Council Chair of the Kauai County Council and as Secretary of the Hawai'i State Association of Counties.

The purpose of this measure is to regulate operators of unmanned aircraft systems, popularly known as drones. Guidelines and standards must be set to ensure that these unmanned aircraft systems are operated properly so as to not cause injury, property damage, or become a nuisance for our island residents and visitors.

For the reasons stated above, I urge the House Committee on Consumer Protection & Commerce to support this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

MEL RAPOZO  
Council Chair, Kauai County Council

AMK:aa



DEPARTMENT OF EMERGENCY MANAGEMENT  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET • HONOLULU, HAWAII 96813  
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**LATE**

KIRK CALDWELL  
MAYOR



MELVIN N. KAKU  
DIRECTOR

PETER J.S. HIRAI  
DEPUTY DIRECTOR

January 30, 2017

The Honorable Angus L.K. McKelvey, Chair  
The Honorable Linda E. Ichiyama, Vice Chair  
Committee on Consumer Protection  
and Commerce  
House of Representative  
State Capitol  
415 South Beretania Street, Room 329  
Honolulu, Hawaii 96813

Dear Chair McKelvey, Vice Chair Ichiyama, and Members:

**SUBJECT: SUPPORT OF H.B. 314 RELATING TO UNMANNED AERIAL VEHICLES**

I am Melvin Kaku, Director of the Department of Emergency Management (DEM), City and County of Honolulu (City).


DEM strongly supports HB 314 which proposes to establish a new Hawaii Revised Statutes (HRS) chapter to regulate the use of Unmanned Aerial Vehicles (UAV).

The purpose of this chapter on Unmanned Aerial Vehicles is to provide and maintain a proactive and dedicated program throughout the State of Hawaii to keep our communities and visitors safe and protected from prohibited uses of UAVs and authorizes civil action for violations and penalties.

With the advent of the current utilization of UAVs across the nation and the potential plethora of ways that benefits the public safety responders, the community, and the private sector throughout the State of Hawaii, it is logical and prudent that the UAV H.R.S. chapter be established immediately and the responsibility of regulating the use of these devices in the airways be designated to the Department of Commerce and Consumer Affairs.

I urge your committee to pass HB 314. Thank you for the opportunity to testify.

Sincerely,

  
Melvin N. Kaku  
Director

cc: Roy K. Amemiya, Jr., Managing Director

DEPARTMENT OF INFORMATION TECHNOLOGY  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 5TH FLOOR • HONOLULU, HAWAII 96813  
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**LATE**

KIRK CALDWELL  
MAYOR



MARK D. WONG  
DIRECTOR AND CIO  
KEITH G. H. HO  
DEPUTY DIRECTOR

January 30, 2017

The Honorable Angus L.K. McKelvey, Chair  
The Honorable Linda E. Ichiyama, Vice Chair  
Committee on Consumer Protection and Commerce  
House of Representative  
State Capitol  
415 South Beretania Street, Room 329  
Honolulu, Hawaii 96813

Dear Chair McKelvey, Vice Chair Ichiyama, and Members:

SUBJECT: SUPPORT OF H.B. 314  
RELATING TO UNMANNED AERIAL VEHICLES

I am Mark Wong, Director of the Department of Information Technology (DIT) and the Chief Information Officer for the City and County of Honolulu (City).

The DIT strongly supports HB 314 which proposes to establish a new Hawaii Revised Statutes (HRS) chapter to regulate the use of Unmanned Aerial Vehicles (UAV).

The purpose of this chapter on Unmanned Aerial Vehicles is to provide and maintain a proactive and dedicated program throughout the State of Hawaii to keep our communities and visitors safe and protected from prohibited uses of UAVs. It also authorizes civil action for violations and penalties.

There is widespread use of UAVs across the nation benefitting public safety responders, the community, and the private sector. It is logical and prudent that the UAV H.R.S. chapter be established immediately, and that the responsibility of regulating the use of these devices in the airways be assigned to the Department of Commerce and Consumer Affairs.

I urge your committee to pass HB 314. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Mark D. Wong".

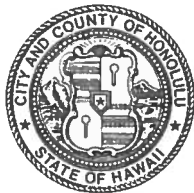
Mark D. Wong  
Director and CIO

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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**LATE**

KIRK CALDWELL  
MAYOR



LOUIS M. KEALOHA  
CHIEF

CARY OKIMOTO  
JERRY INOUE  
DEPUTY CHIEFS

OUR REFERENCE GK-AS

January 31, 2017

The Honorable Angus L.K. McKelvey, Chair  
and Members  
Committee on Consumer Protection & Commerce  
House of Representative  
Hawaii State Capital  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair McKelvey and Members:

SUBJECT: House Bill No. 314, Relating to Unmanned Aerial Vehicles

I am Gerald K. Kaneshiro, Major of District 7 (East Honolulu), Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 314, with amendments Relating to Unmanned Aerial Vehicles.

This bill is a new law regarding the use of unmanned aerial vehicles (UAV) or commonly known as drones. The bill lists prohibited acts by any operator of a drone. The HPD wishes to amend page 5, line 10, by eliminating *"prison, or police station."* The current language provides a general guideline of any UAV use over *"any open air assembly unit, school, school yard, hospital, place of worship."*

The HPD wishes to place further restrictions on UAV operators who are flying their UAVs around facilities that are considered high value targets. The proposed language added to page 5, line 16 to read: *"(A) One thousand feet of any prison, jail, detention facility, or police station."* The HPD feels that one thousand feet is an appropriate buffer zone similar to creating a safe evacuation zone of any suspicious explosive devices.

In addition, proposed amendments to the section of *"Prohibited uses by law enforcement agencies; exceptions"* on page 7, line 13, for giving any law enforcement officer the authority to *"gather evidence or other information pertaining to criminal conduct or conduct in violation of a statute, ordinance, or administrative rule without first obtaining a warrant."* It is proposed the wording be amended following the phrase administrative rule to, *"in an area where a person has a reasonable expectation of privacy without first obtaining a warrant."*

The Honorable Angus L.K. McKelvey, Chair  
and Members  
Committee on Consumer Protection & Commerce  
Page 2  
January 31, 2017

This proposed language amendment will allow law enforcement agencies to gather photographic evidence without utilizing the HPD helicopter as in the past.

Once again, the HPD stands in firm support to House Bill No. 314, Relating to Unmanned Aerial Vehicles.

Thank you for the opportunity to testify on this bill.

Sincerely,

  
Gerald K. Kaneshiro, Major  
District 7

APPROVED:

  
\_\_\_\_\_  
Cary Okimoto  
Acting Chief of Police

**Bernard P. Carvalho, Jr.**  
Mayor



**Robert F. Westerman**  
Fire Chief

**Wallace G. Rezentes, Jr.**  
Managing Director

**Kilipaki K. F. Vaughan**  
Deputy Fire Chief

**KAUA'I FIRE DEPARTMENT**  
**County of Kaua'i, State of Hawai'i**  
4444 Rice Street, Suite 315, Lihu'e, Hawai'i 96766  
TEL (808) 241-4980 FAX (808) 241-6508

**LATE**

January 30, 2017

The Honorable Angus McKelvey, Chair  
Committee on Consumer Protection and  
Commerce  
House of Representatives  
State Capitol, Room 320  
Honolulu, Hawaii 96813

Dear Chair McKelvey:

**Subject: House Bill (HB) 314 Relating to Unmanned Aerial Vehicles**

I am Robert F. Westerman, Vice-Chair of the Hawaii State Fire Council (SFC) and Fire Chief of the Kauai Fire Department (KFD). The SFC and the KFD support HB 314, which proposes to establish unmanned aerial vehicle (UAV) laws that complement federal regulation.

Currently, the four county fire departments have not implemented the use of UAVs. However, we recognize its value as another tool in meeting its mission to provide for a safer community through prevention, preparedness, and effective emergency response. UAVs eliminate the risk of a pilot and helicopter to survey a variety of incident areas. In the case of search or rescue missions, UAVs can pinpoint the exact location that a helicopter operation is needed before actual deployment. UAVs can be dispatched within minutes to remote areas, even in inclement weather. Aerial views provide an advantageous perspective for an incident commander and preplanning purposes. Operational implementation by the fire departments will include meeting federal and state regulations.

The SFC and the KFD urge your committee's passage of HB 314.

Please contact me at (808) 241-4975 or [rwesterman@kauai.gov](mailto:rwesterman@kauai.gov) should you have any questions or require additional information regarding this matter.

Sincerely,

Robert Westerman  
Fire Chief, County of Kaua'i

RFW/eld

AN EQUAL OPPORTUNITY EMPLOYER

**TESTIMONY BEFORE THE HOUSE OF REPRESENTATIVES  
COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

**H.B. No. 314**

**Relating to Unmanned Aerial Vehicles**

Tuesday, January 31, 2017  
2:00 pm  
State Capitol, Conference Room 329

Kerstan J. Wong  
Manager, Engineering  
Hawaiian Electric Company, Inc.

Chair McKelvey, Vice Chair Ichiyama and Members of the Committee:

My name is Kerstan Wong and I represent Hawaiian Electric Company and its subsidiary utilities Maui Electric Company and Hawaii Electric Light Company, collectively "Hawaiian Electric".

This bill, H.B. 314, would establish a new chapter of the Hawaii Revised Statutes called "Unmanned Aerial Vehicles". We do not support this bill as it is written. It does not state the current Federal regulations for Unmanned Aerial System (UAS) operators under Title 14 of the Code of Federal Regulations, Part 107.

H.B. 314 also misinterprets Federal Aviation Administration (FAA) requirements regarding UAS operators; specifically, the language on page 4, line 7, which prohibits a person to operate an unmanned aerial vehicle within "five miles of an airport" directly conflicts with the rights of commercial entities that have Federal permission to do so under a Certificate of Authorization.

Hawaiian Electric has many miles of electric lines, poles, and other equipment within five miles of several airports. This bill as written would prevent Hawaiian Electric from utilizing UAS to conduct inspections of its facilities in the national airspace even though we already have permission under its FAA authorized Certificate of Authorization to operate in these areas. We recommend the language on page 4, line 7 be amended as follows: "~~Within five miles of an airport~~ restricted airspace unless they have an active Certificate of Authorization from the FAA;"

Thank you for this opportunity to testify.

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 30, 2017 12:59 PM  
**To:** CPCtestimony  
**Cc:** mike.elliott@droneserviceshawaii.com  
**Subject:** Submitted testimony for HB314 on Jan 31, 2017 14:00PM

**HB314**

Submitted on: 1/30/2017

Testimony for CPC on Jan 31, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Elliott	Drone Services Hawaii	Oppose	Yes

Comments: Aloha, My name is Mike Elliott, one of the founders of Drone Services Hawaii. Our company is in opposition to many elements of HB 314. First off the regulation and enforcement of aviation rules and airspace falls under the FAA. We see that many elements of the proposed bill are a reiteration of existing FAA Part 107 law without the full scope of the rules and the fact that everything under Part 107 is waverable. Our company has a number of waiver requests submitted and we had a number of them under the old FAA 333 Exemption process. Use for Fire, Police, Ocean Safety and other public agencies should be expended as much as possible and encouraged. With regard to the police use. One issue that has worked in California and other states is a 90 Day Deletion Rule. If no charges are filed all photo and video collected must be deleted. This enhances the ability of the police to use sUAS in circumstance where a warrant may not be able to be attained but still allowing use if there is belief a crime is being committed. Use by Fire Departments should be enhanced to allow for better on scene oversight and aid in search and rescue at lower costs. We donated a drone to Ocean Safety over a year ago to look for sharks and it has never been used to our knowledge due to policy, rules and concerns of liability. We even showed them video we shot of how easy it is to find sharks. We feel that "Unmanned Vehicle Prohibited Acts" are covered under existing law and do not need sperate law for just one type of technology. Pages 10-16 of the bill are covered under existing law and should be deleted. I want to ask, what happened to the open spirit of developing this sunrise industry of sUAS use in Hawaii with us? No one ever consulted with anyone from our business on any bill House or Senate that is being put forth.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



MOTION PICTURE ASSOCIATION  
OF AMERICA, INC.  
1600 EYE STREET, NORTHWEST  
WASHINGTON, D.C. 20006

**LATE**

Vans Stevenson  
Senior Vice President  
State Government Affairs

202-378-9140 direct  
202-744-4009 mobile

January 31, 2017

TO: Representative Angus McKelvey, Chair Consumer Protection & Commerce Committee  
Representative Linda Ichiyama, Vice-Chair Consumer Protection & Commerce Committee  
Members of the Consumer Protection & Commerce Committee

FR: Vans Stevenson, Senior Vice-President of State Government Affairs for the Motion Picture Association of America (MPAA).

RE: HOUSE BILL 314 RELATING TO UNMANNED AERIAL VEHICLES  
Testimony in **OPPOSITION with suggested amendments**

Dear Chair McKelvey, Vice-Chair Ichiyama and Members of the Committee:

The Motion Picture Association of America (MPAA)'s members include the leading distributors of television programs and motion pictures worldwide. MPAA members include CBS, Fox, Disney, Paramount, NBC, Universal, Sony Pictures and Warner Bros. We thank you for the opportunity to provide our testimony in respectful **opposition** to House Bill 314. We have suggested **amendments** that if incorporated, will ameliorate our objections so that we will then be in a neutral position on this measure.

While we find the proposed purpose of the bill laudable in its attempt to grapple with an emerging technology and potential associated issues, we find that:

- there are significant First Amendment issues generated by this bill;
- fails to recognize that there may be significant public safety information that could be provided via the activity;



- the bill does not recognize and distinguish existing Federal Aviation Authority (FAA) jurisdiction and existing allowed activity; and
- creates a new civil liability which is problematic in the approach and language.

MPAA is not seeking a blanket exception and carve out from the bill because there are approaches and prohibitions in the bill that we agree with. For example, MPAA has no objection to Section 3's amendments to Haw. Rev. Stat. Ch. 711 that creates a criminal liability since these activities are not intended to be covered by MPAA's members filming activities. Likewise, in the new civil liability sections of the bill, we have no opposition to the new Section -3's subsections (1), (3), (7), (8), (11), (12), (13), or (14).

However, there are some of the prohibited acts in this bill that raise significant concerns. Occasionally an operator will be granted FAA authorization to operate beyond these restrictions, and we believe the bill should be crated to preserve that ability.

Most problematic is subsection (4)'s prohibition on the distribution of personal information, which is defined to include photographs. This would appear to prohibit distribution, even where the images are of trespassers or law breakers who would have no reasonable expectation of privacy while on the property. For example, the language of the bill would criminalize the taking of photos of a drug deal taking place in a backyard of a private residence. There is, however, no right of privacy for commission of a crime. The bill would also criminalize the taking of images even when the property owner has no reasonable expectation of privacy in the property – for example, when the property is on fire or is the subject of a home invasion. By criminalizing the taking of and distribution of photos, the bill interferes with constitutionally protected activity that MPAA member companies undertake in the coverage of newsworthy events and matters of public concern.

As such, we would respectfully request the following amendments be incorporated into the bill:

1) On Page 4, line 16, the following language be added:

(4) To intentionally collect personal information or intentionally publish or distribute personal information acquired through the

operation of an unmanned aerial vehicle without express written consent from the person whose personal information is acquired, unless the information acquired is newsworthy or in the public interest;

2) On Page 6, under “Section -3 Prohibited acts, penalty” we would suggest an amendment to certain provisions as follows:

(b) Subsections (2), (4), (5), (6), (9) and (10) shall not apply to the operation of an unmanned aircraft system by a person or entity that the Federal Aviation Administration has authorized to operate an unmanned aircraft system for a commercial purpose if the unmanned aircraft system is operated in a manner that complies with that authorization;

Thank you for the opportunity to testify. Please let us know if you have any questions or if there is any additional information we can provide.

Testimony of The Nature Conservancy of Hawai'i  
Commenting on HB 314 Relating to Unmanned Aerial Vehicles  
Committee on Consumer Protection and Commerce  
Tuesday, January 31, 2016, 2:00PM, Room 329

**LATE**

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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 depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. We manage 40,000 acres in 14 preserves and work in 19 coastal communities to help protect the near-shore reefs and waters of the main Hawaiian Islands. We forge partnerships with government, private parties and communities to protect Hawai'i's important watershed forests and coral reefs.*

---

The Nature Conservancy respectfully submits these comments on HB 314 Relating to Unmanned Aerial Vehicles (UAV). UAV are an extraordinarily valuable tool for image and data collection in conservation activities. They have the potential to dramatically increase information available to conservationists, to significantly improve management of natural resources, and to save lives by substituting for far riskier information collection methods.

The provisions in HB 314 are generally positive and, if finalized, would permit some use of UAV in conservation activities. However, three of the proposed restrictions are, in part, inconsistent with Federal Aviation Administration (FAA) rules, may be overly restrictive as applied to conservation use of UAV, and would significantly limit the value of the technology.

The requirement that UAV always be kept within the line of sight of the operator would prevent non-government conservation organizations from taking advantage of valuable applications of UAV in remote, unpopulated areas without achieving a safety benefit. The 500-foot standoff from water intake facilities has similar negative implications. And, the prohibition on operating within five miles of an airport may have unintended consequences for both conservation and aviation safety.

**We, therefore, request the Committee amend HB 314 as follows to include the opportunity for a waiver of the bill's line of sight and airport limitations if related FAA requirements are met, and to allow a shorter stand-off from water intake facilities:**

§ -3 **Prohibited acts; penalty.** (a) No person shall operate an unmanned aerial vehicle:

...

(2) Within five miles of an airport, **unless the Operator is in compliance with Federal Aviation Administration Rules Part 107 §§107.41 and 107.43 or secures a waiver under §§107.200 and 107.205;**

...

(6) Outside the visual line of sight of the operator, **unless the Operator secures a waiver under Federal Aviation Administration Rules Part 107 §§107.200 and 107.205.** The operator shall use natural vision to maintain at all times an unobstructed view of the unmanned aerial vehicle without the use of vision enhancing devices, including but not limited to binoculars, night vision goggles, powered vision magnifying devices, or similar devices;

...

(10) Within:

(A) Five hundred feet of ~~any water intake facility or~~ any electric generating facility, substation, or control center;

(B) One hundred feet of any electric transmission facility; or

(C) Twenty-five feet of **any water intake facility or** any electric distribution facility or of any overhead cable, wire, conveyor or similar equipment for the transmission of sounds or signals, or of heat, light, or power, or of data, upon or along any public way, without the facility or equipment owner's written consent and subject to any restrictions that the facility or equipment owner may impose on the operation of the unmanned aerial vehicle;

UAV have significant conservation value in remote, unpopulated and often mountainous terrain. Forested watershed management and protection of fresh water and ecological resources for community benefit are amongst The Nature Conservancy's and other government and non-government partners' most important goals. Invasive weeds and animals pose a serious threat to these delicate ecosystems. Such species disrupt the ecological and watershed functions of the forest as well as threaten the health of coral reefs because healthy watersheds reduce runoff that otherwise clogs and kills coral reef systems.

Comprehensive images capturing the location of invasive and native species and the condition of management fences in rugged wilderness are not otherwise obtainable without expensive and sometimes dangerous helicopter flyovers at ~\$1,000/hour or requiring personnel to climb into positions of peril. Using UAV for these operations allows staff to remain in a place of relative safety and still obtain images of cliffs, gulches and ridges.

In order to adequately conduct the required monitoring of invasive species and fences—and to protect the watershed that is so critical to Hawai'i's people and environment—UAV must navigate cliffs, gulches, and ridges in remote unpopulated areas. Doing so may, at times, take the UAV out of the visual line of sight of the operator. In other words, the same terrain features that make manned helicopter operations so difficult, dangerous, and expensive make an unyielding line of sight requirement for UAV infeasible. Likewise, conservation and land managers caring for important watershed areas may also be monitoring invasive species, possible fence damage, and obstructions near water intakes. A 25-foot stand-off with the owner's written consent will make this activity much more effective than from a 500-foot distance.

In addition, the blanket prohibition on operating within five miles of an airport could prevent non-government and government-contracted entities from monitoring native habitat and species such as birds near airport environs. Some of the airports around the state, including Honolulu and Kahului, have nearby sensitive wetland areas and bird populations that can benefit from monitoring and data collection that inform management for both ecosystem health and aviation safety. Also, much of the important forested watershed areas on Moloka'i are within five miles of that island's airport.

In its rulemaking, the FAA stated, "this rule will generally implement the visual-line-of-sight provision as proposed. However, the FAA will consider waiving that restriction if an applicant seeking extended operational flexibility can demonstrate that his or her operation will have at least the same level of safety as an operation conducted within visual line of site." See, FAA Rules Part 107 §§ 107.31, 107.200 and 107.205 In the case of UAV operation near airports, the FAA included very specific limitations including prior authorization from Air Traffic Control, prohibition on interference with operations and traffic at any airport, and the opportunity for a waiver but only if the operator can demonstrate safety to the FAA's satisfaction. See, FAA Rules Part 107 §§107.41, 107.43, 107.200, and 107.205

Accordingly, The Conservancy requests that the bill be amended as described above to allow for the operational requirements for line of sight and operations near airports as prescribed by the Federal Aviation Administration, and for a shorter stand-off from water intake facilities. Thank you for the opportunity to comment on this measure.



Property Casualty Insurers  
Association of America

Advocacy. Leadership. Results.



**TO:** The Honorable Angus L.K. McKelvey, Chair  
The Honorable Linda Ichiyama, Vice Chair  
House Committee on Consumer Protection and Commerce

**FROM:** Mark Sektnan, Vice President  
Property Casualty Insurers Association of America

**RE: HB 314 Relating to Unmanned Aerial Vehicles**  
**PCI Position: Request for Amendments**

**DATE:** Tuesday, January 31, 2017  
2:00 p.m., Conference Room 329

Aloha Chair McKelvey, Vice Chair Ichiyama and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) respectfully seeks amendments to HB 314 which establishes a new chapter to regulate the use of unmanned aerial vehicles. The bill also makes certain uses of an unmanned aerial vehicle a misdemeanor and clarifies that, under certain circumstances, first and second degree invasion of privacy may be committed using an unmanned aerial vehicle. In Hawaii, PCI member companies write approximately 42.3 percent of all property casualty insurance written in Hawaii. PCI member companies write 44.7 percent of all personal automobile insurance, 65.3 percent of all commercial automobile insurance and 76.5 percent of the workers' compensation insurance in Hawaii.

The insurance industry deploys unmanned aerial vehicles (drones) in a variety of ways including property assessment for underwriting and claims handling and for assessing damage after a catastrophe. It is impractical to obtain approval for use of drones in handling these types of situations. **PCI respectfully requests the following amendment to ensure insurers may continue to use drones in assessing damage from catastrophes:**

**This Section does not prohibit the use of a drone by an employee or a contractor of an insurance company who uses a drone solely for the purposes of underwriting, claims investigation, claims adjustment, or assessment of property damage including assessment of property damage following a manmade or natural disaster or investigation of suspected insurance fraud.**

Thank you for your consideration of this request. The amendment will allow insurers to continue to use drones in meeting the needs of policyholders.

1415 L Street, Suite 670, Sacramento, CA 95814 ~

Telephone: (916) 449-1370 ~ Facsimile (916) 449-1378 ~ Website: <http://www.pciaa.net/>

**LATE**

**HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE**

January 31, 2017

House Bill 314 Relating to Unmanned Aerial Vehicles

Chair McKelvey, Vice-Chair Ichiyama, and Committee Members:

I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers the following comments about House Bill 314 Relating to Unmanned Aerial Vehicles:

In light of the information contained below, if this Committee decides to approve this legislation, State Farm recommends the following amendment:

**This chapter does not apply to a business entity doing business lawfully in this state, using UAV for legitimate business purposes, and operating the UAV in a manner consistent with applicable FAA rules, licenses or exemptions.**

In 2012, the Federal Aviation Administration Modernization and Reform Act (FMRA) was enacted, which requires the FAA to develop regulations for how UAV will operate in U.S. airspace. The law called for regulations to be developed by 2015, and in February 2015 the FAA issued a Notice of Proposed Rulemaking for the Operation and Certification of Small UAS (NRPM), which lays out the agency's proposed regulatory environment for commercial entities. The NPRM offers safety rules for small UAV (under 55 pounds), including:

- Flights are restricted near airports or other restricted airspace;
- UAS can fly up to 100 miles per hour and up to 500 feet above ground level;
- Flights can occur only during daylight hours;
- Flights must be within visual line of sight only;
- Operators must obtain an unmanned operator certificate that is renewable every two years;
- Certificate testing will be widely available at local testing centers;
- A medical exam of operators will not be required; and
- Operators must conduct a pre-flight inspection of the UAS.

On June 21, 2016, the Federal Aviation Administration (FAA) released its highly-anticipated [regulations](#) for the operation and certification of small Unmanned Aerial Vehicles (UAV) (Part 107)—those weighing less than 55 pounds—for non-hobby and non-recreational purposes (commercial purposes, research and development, and educational or academic uses. Although the FMRA and Part 107 do not include an “express” preemption clause, courts have clearly stated that the FAA preempts state and local laws dealing with air safety regulations. In addition, the FAA released a Fact Sheet in late 2015 outlining its position that it preempts state and local laws for operational and safety issues. Accordingly, the final FAA rules should form the basis for how UAV are used for commercial purposes in the United States.

State Farm is the first insurance company to receive FAA approval to use Unmanned Aircraft Systems (UAS) (or Unmanned Aerial Vehicles, UAV). State Farm commented upon the

National Telecommunications and Information Administration (NTIA) efforts to establish a multi-stakeholder engagement process to develop and communicate best practices for privacy, accountability, and transparency regarding commercial and private use of UAV, and is the recipient of two grants issued pursuant to Section 333 of the FAA Modernization and Reform Act of 2012 (Exemptions No. 11175 and No. 11188) allowing State Farm to use UAV for insurance purposes. Specifically, State Farm has been granted permission to use UAV for roof inspections, and research and development purposes, including catastrophe scene surveys. State Farm believes the use of UAV can benefit the lives and safety of its policyholders, employees, and the general public.

State Farm recognizes the importance of addressing privacy and safety as they relate to UAV technology. UAV use for insurance industry purposes are an extension of practices most insurers already employ. For example, underwriting or claims inspections would be with the consent of the customer and, if facilitated by a UAV, functionally no different than a traditional human inspection. In addition, UAV use immediately following catastrophes would likely produce minimal privacy concerns, because it would likely be simultaneous with emergency responder fly overs for similar purposes.

Thank you for the opportunity to present this testimony.

January 30, 2017

Representative Angus L.K. McKelvey  
Chair, House Committee on Consumer Protection & Commerce  
Hawaii State Legislature  
Hawaii State Capitol, Room 320  
Honolulu, HI 96813

Re: **House Bill No. 314 – Proposed Drone Legislation**

Dear Chairman McKelvey:

The Consumer Technology Association (“CTA”) urges the Hawaii Legislature to reject proposed House Bill 314 (“HB 314”). Although well-intentioned, CTA cautions against adoption of laws specifically targeted at unmanned aircraft systems (“UAS” or drones). CTA represents more than 2,200 companies, 80 percent of which are small businesses and startups. As a champion of innovation, CTA is a long-time advocate of clear rules authorizing UAS in a safe manner within the national airspace. CTA has been continually involved in the Federal Aviation Administration (“FAA”) rulemaking activities concerning the operation and certification of small UAS. We also are a partner with several other organizations and the FAA in the *Know Before You Fly* campaign, which educates prospective drone users about the safe and responsible operation of UAS.

The explosive growth of the UAS industry has prompted legislators in many states and localities to propose legislation regulating the industry or otherwise trying to address potential concerns related to UAS. Before considering new legislation, however, lawmakers should evaluate whether (i) proposed regulations are preempted, (ii) the conduct at issue may already be addressed by existing state laws, and (iii) UAS-specific legislation is warranted.

Creating technology-specific criminal offenses and penalties is a reactionary approach to innovation. To arbitrarily treat identical harms differently based on their enabling instrumentality would create a patchwork of regulation where similar offenses lead to different results, chilling development and forestalling exciting new technologies. HB 314 should not be adopted because it would be preempted, would arbitrarily regulate conduct based on the use of a UAS, and would duplicate existing laws.



## I. THE BILL UNLAWFULLY ATTEMPTS TO ESTABLISH NO-FLY ZONES

HB 314 would create a patchwork of no-fly zones, including *inter alia* the airspace around emergency response vehicles, certain critical infrastructure, prisons, police stations, and schools. As discussed below, no-fly zones may be established only by the federal government. State and local laws purporting to establish such zones are preempted.

The Supremacy Clause of the U.S. Constitution states that “the Constitution and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land.”<sup>1</sup> As noted by the Supreme Court, this gives Congress the power to preempt state law.<sup>2</sup> There are three types of preemption: express preemption (when Congress specifically preempts a state law);<sup>3</sup> field preemption (when a federal framework of regulation is “so pervasive . . . that Congress left no room for the States to supplement it’ or where a ‘federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject’”);<sup>4</sup> and conflict preemption (when state laws “conflict with federal law, including when they stand ‘as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress’”).<sup>5</sup> Congress has occupied the field with regard to air navigation. As the Supreme Court has observed:

Federal control is intensive and exclusive. Planes do not wander about in the sky like vagrant clouds. They move only by federal permission, subject to federal inspection, in the hands of federally certified personnel and under an intricate system of federal commands. The moment a ship taxis onto a runway it is caught up in an elaborate and detailed system of controls.<sup>6</sup>

On December 17, 2015, the FAA released a UAS Fact Sheet reminding state and local jurisdictions that they lack authority to regulate airspace.<sup>7</sup> In particular, the UAS Fact Sheet identified regulations that impose operational bans or otherwise regulate navigable airspace as problematic.<sup>8</sup> It notes that “[s]ubstantial air safety issues are raised when state and local governments attempt to regulate the operation or flight of aircraft” and “[a] navigable airspace free from inconsistent state and local restrictions is essential to the maintenance of a

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<sup>1</sup> U.S. Const., Art. VI, Cl 2.

<sup>2</sup> See, e.g., *Arizona v. United States*, 132 S. Ct. 2492 (2012).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* (quoting *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947)).

<sup>5</sup> *Id.* (quoting *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941)).

<sup>6</sup> *Burbank v. Lockheed Air Terminal*, 411 U.S. 624, 633-34 (1973)(quoting *Northwest Airlines, Inc. v. Minnesota*, 322 U.S. 292, 303 (Jackson, concurring)).

<sup>7</sup> State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet, Federal Aviation Administration Office of the Chief Counsel (Dec. 17, 2015) (“UAS Fact Sheet”)

[https://www.faa.gov/uas/resources/uas\\_regulations\\_policy/media/UAS\\_Fact\\_Sheet\\_Final.pdf](https://www.faa.gov/uas/resources/uas_regulations_policy/media/UAS_Fact_Sheet_Final.pdf).

<sup>8</sup> UAS Fact Sheet at 3.

safe and sound air transportation system.”<sup>9</sup> HB 314 would intrude into this purely federal regulatory system by establishing no-fly zones at the local level.

The FAA has issued numerous letters to localities cautioning against the adoption of no-fly zones.<sup>10</sup> It has specifically stated that any “prohibition of UAS being flown within certain distances of sports stadiums, airports, or other venues constitutes . . . an operational restriction and would be inconsistent with the Federal statutory and regulatory framework.”<sup>11</sup>

CTA also notes that, pursuant to Section 2209 of the FAA Extension, Safety, and Security Act of 2016, Public Law 114-190 (July 15, 2016), the FAA is establishing procedures for designating no-fly zones around fixed critical infrastructure facilities. To the extent the proposed legislation would subvert this process by establishing Hawaii-specific criteria for identifying critical infrastructure and establishing no-fly zones, it is preempted.

For these reasons, at minimum the sections of HB 314 proposing to establish no-fly zones should be stricken.

## **II. DRONE-SPECIFIC REGULATIONS DIRECTED AT PRIVACY ARE PREEMPTED AND UNNECESSARY**

HB 314 proposes drone-specific prohibitions on privacy. Specifically, Section 3 of the Bill would create a new statutory provision criminalizing the use of drones to photograph a person in a private place. The FAA has previously noted that similar prohibitions directly “solely at UAS” constitute operational restrictions which are preempted.<sup>12</sup>

Although drone privacy regulations are preempted, states remain “free to apply any generally applicable voyeurism laws” to drone operations.<sup>13</sup> As HB 314 implicitly recognizes, existing Sections 711-1110.9 and 711-1111 of the Hawaii Revised Statutes establish a right to privacy and preclude the use of “any device” to invade a person’s privacy without their consent. There is no reason to single out drone operations. Simply put, a person’s rights to privacy should not hinge on the technology used to conduct surveillance, or engage in harassment.

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<sup>9</sup> UAS Fact Sheet at 2.

<sup>10</sup> See, e.g., Letter from Christopher R. Stevenson, FAA Office of the Chief Counsel, Enforcement Division, to Mark A. Winn, Assistant City Attorney, City of Petersburg (Sept. 16, 2016); Letter from Brandon C. Goldberg, FAA Office of the Regional Counsel, Southern Region to Alexander Karden, City Prosecutor, City of Orlando, Florida (Jan. 21, 2016) (“FAA Orlando Letter”); Brandon C. Goldberg, FAA Office of the Regional Counsel, Southern Region to Austin D. Roberson, Cobb County Attorney’s Office (Jun. 9, 2016) (“FAA Cobb County Letter”); Brandon C. Goldberg, FAA Office of the Regional Counsel, Southern Region to David Wolpin, Esq., Counsel for the City of Aventura, Florida (May 26, 2016) (“FAA Aventura Letter”).

<sup>11</sup> FAA Cobb County Letter at 1.

<sup>12</sup> FAA Aventura Letter at 1.

<sup>13</sup> See, e.g., *id.*; FAA Aventura Letter at 1.

Chairman Angus L.K. McKelvey  
January 30, 2017  
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Moreover, amending existing laws and adopting new statutes targeting specific technologies may cause confusion for both law enforcement and for harmed parties, and would unnecessarily generate the need to amend laws as new technologies that potentially could be used to invade a person's privacy are developed.

For the above reasons, CTA opposes enactment of HB 314.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas K. Johnson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Douglas K. Johnson  
Vice president, Technology Policy  
djohnson@cta.tech

Greetings,

I support this bill and I thank the legislature for taking the time to address the safety and privacy concerns that are associated with the new technology. That being said I would like to voice one concern regarding a portion of section 3 which basically states that no person shall operate an unmanned aerial vehicle within five miles of an airport.

If this standard is applied to the various classes of drone operators (recreational, part 107, part 333, and those with the more conventional certificate of waiver of authorization) it will be very restrictive and will impact a number of legitimate uses. As current FAA regulations have protocols to obtain authorization in controlled airspace I would strongly encourage you to revise the bill in order to not prohibit this activity when the operators are in compliance with federal regulations.

I was fortunate enough to attend a presentation at the State Aerospace Summit last October by George Purdy who is an airport firefighter on Lanai. He literally spent years working with the FAA to get the clearances needed to conduct an exercise in controlled airspace. Likewise I can tell you that the Honolulu Fire Department has been engaged with federal authorities and it would be a considerable setback to their hard work as well.

Aside from the implications to the first responder communities I also feel this restriction would have adverse effects on private companies, hobbyists, and educational institutions that have or are in the process of acquiring UAS technologies. So please consider amending the bill accordingly. Having said that; I hope this bill moves forward and I applaud your efforts to protect the larger community and to provide oversight.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, January 28, 2017 11:08 PM  
**To:** CPCtestimony  
**Cc:** mrckima@gmail.com  
**Subject:** \*Submitted testimony for HB314 on Jan 31, 2017 14:00PM\*

**HB314**

Submitted on: 1/28/2017

Testimony for CPC on Jan 31, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marcia Kimura	Individual	Support	No

Comments:

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My name is Ricky Li, I am a resident of Honolulu, living in the Liliha area, and I am a commercial drone operator. Licensed thru the FAA part 107 unmanned aerial system (drone) exam. I stand in support for the most part of spirit of this bill in making local rules/regulations match federal UAS rules.

However, the 5 mile limit is something that is imposed for hobbyist pilots and not commercial operators once they obtain their license & can get FAA clearance for operation within the vicinity of an airport/airfield.

Also, if one takes into consideration that on the mainland a 5 mile circle is a relatively small area, such an exclusion zone is not very problematic. However here in Hawaii the area it encompasses is huge by comparison except on the big island.

On Oahu, the 5 mile airport exclusion zone, covers most of Downtown Honolulu (it ends somewhere just after kamakee street in ward, and right before where auahi meets Ala Moana where borders used to be), almost all of Aiea and parts of Pearl Ridge area. Not to mention right on the outside of the Honolulu airport exclusion zone, is the barbers point 5 mile exclusion zone. This near/almost overlapping 10 mile exclusion zone, severely limits what commercial operators can do.

A Honolulu based drone operator would not be able to do any realty video/pictures for any houses within that 10 mile area (even if we did manage to get FAA approval) previously mentioned. A building inspection company would not be able to do an inspection of a building in downtown Honolulu at all, even though by FAA guidelines they would be permitted, as long as the UAV does not fly above 400 feet of the highest point of the structure they are inspecting plus they notify airport traffic control of their operation. This is before you even take into consideration that on the north shore the mokuleia/dillingham field, and Schofield barracks would impose another almost over lapping 10 mile exclusion circles of their own. Not to mention all of Kailua would be excluded because of Marine Corps base Hawaii.

Also as the bill stands, the Pacific Aviation Museum Pearl Harbor's popular remote control Biggest Little Airshow in Hawaii would not be possible because it is smack dab in the center of the proposed 5 mile exclusion zone.

Lastly, within the FAA regulations, it is not a blanket 5 mile circle ban, depending on the size of the airport. Hilo for example the restricted area is as small as 2.5 miles, while other smaller airfields it's simply "do not fly over the airfield while it is in operation/business hours."

As I have indicated, I am in support for the majority of the bill but would like the 5 mile exclusion modified to allow for commercial operation and/or other use if appropriate permissions from the appropriate authorities (FAA for example) can be obtained.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 30, 2017 10:48 AM  
**To:** CPCtestimony  
**Cc:** sue.leeloy@hawaiicounty.gov  
**Subject:** Submitted testimony for HB314 on Jan 31, 2017 14:00PM

**HB314**

Submitted on: 1/30/2017

Testimony for CPC on Jan 31, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Susan L.K. Lee Loy	Individual	Support	No

Comments: I stand in strong support of HB 314.

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**LATE**

## HB314: Opposed

Jan 30, 2017

HB314 as drafted is adverse, directly and indirectly, to Hawaii business, education, environment, public safety, and reputation; it should be rejected. A better approach is outlined below.

The bill has two parts: the first tries to create State law that supplants or copies Federal law regarding UAS use and creates penalties for some cases of violation; the second introduces the term 'UAS' in various existing privacy protection law.

The former part is unnecessary, and unexecutable, for many reasons. Hawaii law already defines a UAS as an aircraft; thus all FAA or other Federal rules regarding air safety automatically apply in Hawaii to all UAS. Secondly, the FAA UAS ruleset structure is by necessity, very complex and condition-dependent, altered by numerous exemptions and waivers, with periodic major rule changes (eg FAR 107 now, Beyond Line of Sight within 2017). The Hawaii laws that this bill envisions creating would have to be constantly updated to meet all the dynamics and dimensions of FAA rules. The issue of Preemption, which has a long legacy in manned aircraft, must also be considered. As currently practiced by FAA, the arise of UAS does not change preemption, regarding the navigable airspace; however regarding land owner permission, access rights, and geofencing technology or other property-based aspects, FAA leaves the door open to local interpretation – although none of this is tested. Creating anything other than landowner-associated rules would lead to massive legal complications.

Enforcement of these laws, if enacted, would be extremely difficult, as reliable technical means are needed to discover, track, and identify the UAS and its operator; equipping, training, and deploying an enforcement workforce to perform this mission is a costly, and possibly technically unachievable, action. Throughout, collecting prosecution-quality data is an insurmountable task. Observe the extensive UAS action today, any Friday evening at fireworks time at the Hawaiian Village Hilton. All of it is illegal, none of it policed, and the collection of necessary legal-action data impossible.

While HB314 as drafted considers establishing *limits* for UAS operations, the FAA at General Counsel and Dept of Transportation level have been dealing with *increasing* the role UAS have in promoting US competitiveness thru Education; UAS and future national economic competitiveness are clearly linked. Generation of a critical-thinking UAS workforce is central to that competitiveness. Thus FAA has cleared the way for Educational use of UAS in an unregulated fashion, following 'Community Based Organization' UAS rules, just as the FAA UAS Integration Office has created multiple means for Pubic Agencies to gain access to UAS operations where appropriate for disaster preparation and response actions. This progressive spirit in FAA regarding UAS use in Education and Disaster Ops should be our guide to the future of UAS use in Hawaii. Bill 314 as written would counter that spirit, lead to confusion, and reduce or terminate UAS progress in Hawaii.

A main driving force behind the need for expanded knowledge, experimentation, and testing thru the Educational channel is to generate knowledge that can deal accurately and effectively with the future of Air Safety as broadened by UAS. Valid technical means are needed to marshal the UAS future, clearly



segregating those operational aspects where damage or catastrophic effect could occur, including malicious effect, and creating mitigating strategies. Thus, professional nonprofit ASTM – American Society for Testing and Materials – has been empowered to consider establishment of Standards for UAS - performance, power, fires safety, etc. At the same time, FAA has created ASSURE, a networked Center of Excellence in UAS Technology, to perform the testing and establish the causal relationships that will lead to Standards. These informing actions require a critical-thinking, trained workforce, further placing demand on the educational system and underlining its criticality. As the emphasis on Education broadens to help with Standards and Design Excellence, so will the technical scope of UAS capability and its value to society grow.

Hawaii is not the only state concerned about these issues, as reflected in Bill 314, including legal overlap and preemption. To deal with these issues, Department of Commerce, in conjunction with 45 significant members of Industry, was directed by President Obama in 2015 to evaluate and recommend (1) the roles of federal, state and local governments in the regulations and enforcement of drone laws; (2) the expansion of access to airspace beyond the Small UAS Rule; and (3) the consideration of ways to fund the expanded provision of services needed to support UAS integration. Issues such as implied in HB314 are evaluated, and postures created, thru this ongoing activity under DoC's RTCA – DAC (Radio Telecommunication Council for Aircraft, Drone Advisory Committee) - which has been advising on these complex issues (initially for manned aircraft) since its founding 80 years ago.

In fact, the very day of HB 314 Reading in Honolulu Jan 31, RTCA-DAC is holding its second public meeting, this in Reno. The FAA has announced that this meeting, which is open to the public, will focus on the FAA's efforts to integrate Unmanned Aircraft Systems/Drones into the national airspace. The Drone Advisory Committee is comprised of industry heavyweights representing interests including the FAA, university representatives, international airlines, and drone industry influencers.

The FAA's announcement indicates that the Drone Advisory Committee's objectives during this meeting will be to evaluate the approval of three tasks groups focusing on (1) the roles of federal, state and local governments in the regulations and enforcement of drone laws; (2) the expansion of access to airspace beyond the Small UAS Rule; and (3) the consideration of ways to fund the expanded provision of services needed to support UAS integration. Thus at the national level, the subjects included in HB314 are being discussed in parallel.

While it may seem appropriate to create local laws as envisioned by HB314, the picture is different when the full scope of similar work elsewhere is considered - in Government, in University, in Professional Society – and the dynamics of the Industry, and the needs for enforcement, are recognized. A much better approach is outlined below.

The second part of HB314 as drafted is also unnecessary, as the privacy laws already use terms such as 'any device', which would include UAS. Beyond that, there are numerous structural issues with the proposed draft language.

Again, the issues of Privacy and Protection from At a National scale, Dept of Commerce was directed to look into Privacy Protection in 2015-2016 at direction of White House, via Presidential Memo on the subject. Coming from a year-long review were a set of Best Practices on Privacy and Public Rights protection, issued jointly by DHS and FAA. Interestingly, no laws were found needing to be changed, but compliance procedures needed to be aligned. So significant is this policy that in applying for Federal grants in UAS operations, compliance with the Best Practices is a contract term.

In my view, the confusion, complication, and unenlightened approach towards UAS outlined in HB314 will directly degrade business growth in all sectors touched by UAS here - education, workforce development, agriculture, manufacturing, environment, public safety, public health, disaster resilience, creative media and film, entertainment and tourism, and our joint humanitarian efforts with PACOM and the NGOs.

Further, the adverse tone and message of HB314 directly countermands the effort Hawaii Legislature funded in 2015 to build up the Hawaii component of Pan Pacific UAS Test Range Complex, PPUTRC, harming our participation in that FAA-supported national effort. The very purpose of that funded activity, along with 6 similar FAA Test Ranges across the nation, is to develop for FAA and the nation, test methods, practices, and results for operations *well outside* the bounds of current regulation – and thus inform the future of UAS regulations.

Direct adverse effects are measured by lack of investment or hesitation to participate in Hawaii UAS business by private companies, granting institutions, and research labs, in the negative environment created by HB314. Secondary effects include loss of reputation with the national Government and Industrial leadership which will limit the ability of Hawaii to attract investment in collateral domains such as the supporting industries - sensors, analytic software, future-ready education, and robotics in general; lack of ability to attract conferences of the UAS industry; and departure of our UAS-inspired young people to other states for their careers .

A much more positive approach would be to follow the lead in Alaska, Texas, Georgia, and other states, each of which have created a Legislative Task Force that considers the path forward for UAS. Associating with these States as well as with the RTCA and ASTM task forces, but with our own State as a focus, we can most effectively capitalize on this emergent technology, bringing values of UAS into our mainstream from a positive perspective.

Ted Ralston

Waimanalo HI 808.738.6814

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 30, 2017 1:57 PM  
**To:** CPCtestimony  
**Cc:** worldcat30@gmail.com  
**Subject:** Submitted testimony for HB314 on Jan 31, 2017 14:00PM

**HB314**

Submitted on: 1/30/2017

Testimony for CPC on Jan 31, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
george purdy	Individual	Oppose	No

Comments: This bill does not support the growth of UAS industry here in Hawaii. The future of kids in STEM will be handicapped and businesses will fail to support Hawaii new economy in Aerospace industry. We need to redo a better bill that is elastic enough to move at the speed this industry is moving. Hawaii is set to be A leader in the pacific if government will listen. Emergency services need full support to grow UAS program now to save tourists and local lives. Saving from programs will be in the millions of dollars! I am in the emergency services and a business owner in UAS Drone Services Hawaii. I am a veteran and most important born and raised here. I have worked hard to build a local company to support hawaii on cost savings growing local workers. Thank you. Redo this bill!

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 30, 2017 2:02 PM  
**To:** CPCtestimony  
**Cc:** sasha\_98@ymail.com  
**Subject:** Submitted testimony for HB314 on Jan 31, 2017 14:00PM

**HB314**

Submitted on: 1/30/2017

Testimony for CPC on Jan 31, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sasha Ota	Individual	Comments Only	No

Comments: Drones need to be more tightly regulated. They fly over my property next to my house and hover and I don't know what they're filming or why. Are they checking to make sure that no one is home before they come to steal? Police say there's nothing they can do.

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**Sent:** Monday, January 30, 2017 2:31 PM  
**To:** CPCtestimony  
**Cc:** ted.ralston@gmail.com  
**Subject:** \*Submitted testimony for HB314 on Jan 31, 2017 14:00PM\*

**HB314**

Submitted on: 1/30/2017

Testimony for CPC on Jan 31, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
edward ralston	u hawaii	Oppose	Yes

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 31, 2017 6:24 AM  
**To:** CPCtestimony  
**Cc:** pua62488@gmail.com  
**Subject:** \*Submitted testimony for HB314 on Jan 31, 2017 14:00PM\*

**HB314**

Submitted on: 1/31/2017

Testimony for CPC on Jan 31, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Margaret Ralston	Individual	Oppose	No

Comments:

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