

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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

LATE

KIRK CALDWELL
MAYOR



LOUIS M. KEALOHA
CHIEF

CARY OKIMOTO
JERRY INOUE
DEPUTY CHIEFS

OUR REFERENCE GK-AS

February 9, 2017

The Honorable Clarence K. Nishihara, Chair
and Members
Committee on Public Safety, Intergovernmental
and Military Affairs
The Honorable Rosalyn H. Baker, Chair
and Members
Committee on Commerce, Consumer Protection
and Health
The Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Nishihara and Baker and Members:

SUBJECT: Senate Bill No. 710, 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 Senate Bill No. 710, with amendments, Relating to Unmanned Aerial Vehicles.

This bill is a new law protecting the personal information and privacy laws that complement federal rules and regulations 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 4, line 14, by replacing the height restriction with "no less than two hundred fifty feet and not more than four hundred feet."

In addition, proposed amendments to the section of "*Prohibited uses by law enforcement agencies; exceptions*" on page 5, line 17, to give 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 Clarence K. Nishihara, Chair
and Members
Committee on Public Safety, Intergovernmental
and Military Affairs
The Honorable Rosalyn H. Baker, Chair
And Members
Committee on Commerce, Consumer Protection
and Health
Page 2
February 9, 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 Senate Bill No. 710, 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

LATE



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

TO: Senator Clarence Nishihara, Chair Public Safety, Intergovernmental and Military Affairs (PSM)
Senator Glenn Wakai, Vice-Chair, Public Safety, Intergovernmental and Military Affairs
Senator Rosalyn Baker, Chair Consumer Protection & Health (CPH)
Senator Michelle Kidani, Vice-Chair Consumer Protection & Health
Members of the Joint PSM/CPH Committee

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

RE: SENATE BILL 710 RELATING TO UNMANNED AERIAL VEHICLES
Testimony in **OPPOSITION with suggested amendments**

Dear Chairs Nishihara and Baker, Vice-Chairs Wakai and Kidani, and Members of the Joint 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 Senate Bill 710. We have suggested **amendments** that if incorporated, will ameliorate our objections so that we will then be in a neutral position on this measure. Alternatively, Hawaii could consider modeling its state law on that of other states, such as Arizona or Louisiana, that have taken a comprehensive approach to drone regulation that does not raise federal preemption or First Amendment challenges.

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 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's 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;

Finally, while the above amendments are aimed at addressing MPAA's concerns, other state's have a more balanced comprehensive approach to regulating this area, which we provide for your consideration.

Arizona:

<http://www.azleg.gov/legtext/52leg/2r/bills/sb1449h.pdf>

Louisiana:

<http://www.legis.la.gov/legis/ViewDocument.aspx?d=1012765>

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.