



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

S.B. NO. 1069, S.D. 1, RELATING TO REDUCTION OF NOISE FROM HELICOPTER OPERATIONS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, March 21, 2019

TIME: 2:05 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Clare E. Connors, Attorney General, or
Michael Q.Y. Lau, Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General provides the following comments, and respectfully suggests that changes be considered if the bill advances.

The purpose of this bill is to establish a tax credit for taxpayers who install a helicopter noise canceling technology system. It also prohibits commercial flights of tour helicopters within one mile of residential neighborhoods at certain times.

The bill as drafted is subject to a preemption challenge with respect to flight prohibition. Congress, by its enactment of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972, preempted state and local control over aircraft noise. *City of Burbank v. Lockheed Air Terminal, Inc.*, 411 U.S. 624, 628-29 (1973). The power to regulate an aircraft's flight paths, hours, and altitudes resides exclusively with the Federal Aviation Administration. *Skysign International Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1117 (9th Cir. 2002). "Aircraft" means "any contrivance invented, used, or designed to navigate, or fly in, the air." 49 United States Code section 40102(a)(6). This definition includes tour helicopters.

Section 2 on page 3, lines 11-20, proposes to add a new section to chapter 263, Hawaii Revised Statutes to make it unlawful for any person to operate a commercial tour helicopter within one mile of any residential neighborhood, except between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Saturday, or between the hours of 9:00 a.m. and 6:00 p.m. on a Sunday or a designated state holiday.

The wording in section 2 falls squarely within the type of aircraft regulation that the federal government has preempted. Accordingly, we respectfully suggest that section 2 on page 3, lines 11-20, be deleted.

Thank you for the opportunity to comment on this bill.



**STATE OF HAWAII
DEPARTMENT OF TAXATION**

830 PUNCHBOWL STREET, ROOM 221

HONOLULU, HAWAII 96813

<http://tax.hawaii.gov/>

Phone: (808) 587-1540 / Fax: (808) 587-1560

Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Chris Lee, Chair
and Members of the House Committee on Judiciary

Date: Thursday, March 21, 2019
Time: 2:05 P.M.
Place: Conference Room 325, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 1069, S.D. 1, Relating to Reduction of Noise from Helicopter Operations

The Department of Taxation (Department) offers the following comments regarding S.B. 1069, S.D. 1, for the Committee's consideration.

S.B. 1069, S.D. 1, establishes a new income tax credit for helicopter noise canceling technology. A summary of key provisions are as follows:

- Adds a new section to chapter 235, Hawaii Revised Statutes (HRS), establishing a helicopter noise canceling technology system tax credit;
- Sets the amount of the credit as an unspecified dollar amount for each system installed by the taxpayer on a helicopter owned by the taxpayer and operated primarily within the State for the taxable year;
- Limits the credit to one tax credit per helicopter;
- Creates a carryforward where a credit that exceeds the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted;
- Requires a taxpayer to submit to the Department a certification from a qualified inspector or other qualified person that the helicopter and the helicopter's noise-canceling technology system meet the credit's requirements;
- Defines "helicopter noise canceling technology system" as any modification or equipment that is installed onto a helicopter with the effect of reducing the amount of noise emitted from the helicopter to an unspecified maximum sound level (measured in decibels), as measured at an unspecified distance (measured in feet) from the helicopter;
- Makes the credit available for taxable years beginning after December 31, 2019, and ending before January 1, 2022;
- Adds a new section to chapter 263, HRS, making it unlawful to operate a commercial

flight of a tour helicopter within one mile of any residential neighborhood during certain nighttime and early morning hours and on certain holidays; and

- Has a defective effective date of July 1, 2050.

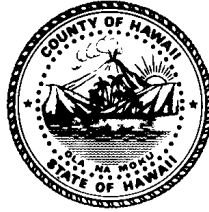
The Senate Committee on Ways and Means amended the previous version of this measure by limiting the credit to one per helicopter, requiring taxpayers to submit to the Department a certification from a qualified inspector or other qualified person that the helicopter and its noise-canceling technology system meets the credit's requirements, postponing the credit's applicability to taxable years beginning after December 31, 2019, requiring helicopter noise to be measured from a prescribed distance, clarifying the restrictions on times at which commercial flights of tour helicopters may be operated within one mile of residential neighborhoods, and defecting the effective date to July 1, 2050.

The Department appreciates the inclusion of language requiring taxpayers to submit a certification form from a qualified inspector or other qualified person that the helicopter and the helicopter's noise-canceling technology system meet the credit's requirements for noise reduction. If the Committee wishes to advance this measure, the Department respectfully requests that this requirement be maintained. However, given the Department's lack of subject-matter expertise in aviation, the Department also suggests that the Legislature add language defining "qualified inspector or other qualified person," and language specifying exact amounts of required sound level reduction and measurement distance, rather than having those elements determined by administrative rule. This will help effectuate better tax administration and reduce taxpayer and industry confusion.

The Department also appreciates the delay of applicability to taxable years beginning after December 31, 2019. This will allow time for the Department to make the necessary form, instruction, and computer system changes before the credit takes effect.

Thank you for the opportunity to provide comments.

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 74-5044 Ane Keohokālole Hwy., Bldg C • Kailua-Kona, Hawai'i 96740
(808) 323-4444 • Fax (808) 323-4440

March 19, 2019

Representative Chris Lee
Representative Joy A. San Buenaventura
Committee on Judiciary

Dear Chair Lee, Vice Chair San Buenaventura, and Committee Members:

RE: SB 1069, SD1 Relating to Reduction of Noise from Helicopter Operations

SB 1069, SD1 offers a tax credit (in an undetermined amount) for installation of "noise canceling technology," and limits the hours of a helicopter's operations. Given the noise complaints that helicopters generate, this kind of approach might be welcome news, if it makes a meaningful difference.

I will defer to the experts to suggest what the appropriate decibel level should be to qualify for such a credit, and how much the credit should be. But I would ask this Committee to be as stringent as reasonably possible. To qualify for the benefit of a tax credit, the helicopter industry must become a responsible and considerate corporate member of our community, and it is not there yet.

Respectfully Submitted,

Harry Kim
MAYOR

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Tax Credit for Helicopter Noise Canceling Technology System

BILL NUMBER: SB 1069, SD-1

INTRODUCED BY: Senate Committee on Ways & Means

EXECUTIVE SUMMARY: Establishes an income tax credit of \$_____ for each helicopter noise canceling technology system installed by the qualified taxpayer. Sunsets 12/31/2021. A direct appropriation would be preferable as it would provide some accountability for the taxpayer funds being utilized to support this effort. Meaning, we as taxpayers know what we're getting and we know how much we're paying for it.

SYNOPSIS: Adds a new section to chapter 235, HRS, to establish the credit. The amount of the credit would be \$_____ per system installed.

The credit is not refundable but may be carried forward until exhausted.

Provides that all claims for this credit, including any amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed.

Defines "helicopter noise canceling technology system" as any modification or equipment that is installed onto a helicopter with the effect of reducing the amount of noise emitted from the helicopter to a maximum sound level of ___ dBA as measured ___ feet from the helicopter.

Defines "qualified taxpayer" as a taxpayer who installs a helicopter noise canceling technology system on a helicopter owned by the taxpayer and which is operated primarily within the State for the taxable year.

Provides that the credit shall be available for taxable years beginning after December 31, 2018, and ending before January 1, 2022.

Adds a new section to chapter 263, HRS, to make it unlawful for any person to operate a commercial flight of a tour helicopter within one mile of any residential neighborhood between the hours of 6:00 p.m. and 8:00 a.m. Monday through Saturday, or between the hours of 6:00 p.m. and 9:00 a.m. on Sundays or holidays.

EFFECTIVE DATE: July 1, 2050.

STAFF COMMENTS: The Foundation's comments will be limited to the tax credit.

Lawmakers need to keep in mind two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount.

The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would lawmakers be as generous about the expenditure of these funds when our kids are roasting in the public school classrooms, there isn't enough money for social service programs, or our state hospitals are on the verge of collapse?

If lawmakers want to subsidize the purchase of this type of equipment, then a direct appropriation would be more accountable and transparent. Lawmakers also could consider mandating adoption of the technology.

Furthermore, the additional credit would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive in amount. A direct appropriation may be a far less costly method to accomplish the same thing.

Digested 3/19/2019



Dedicated to the Advancement of the International Helicopter Community

March 19, 2019

To: Chair Chris Lee
Vice Chair Joy San Buenaventura
House Committee on Judiciary

From: Cade Clark, Vice President of Government Affairs
Helicopter Association International

Subject: **Measure:** SB 1069
Hearing Date: March 21, 2019
Time: 2:05 p.m.
Location: Conference Room 325, State Capitol

Bill Description: Establishes a tax credit for taxpayers who install a helicopter noise canceling technology system on a helicopter owned by the taxpayer and operated primarily within the State during the taxable year. Prohibits commercial flights of tour helicopters within one mile of any residential neighborhood except between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Saturday, or between the hours of 9:00 a.m. and 6:00 p.m. on a Sunday or a date designated as a state holiday.

HELICOPTER ASSOCIATION INTERNATIONAL’S (HAI) POSITION: OPPOSED

Helicopter Association International (HAI) opposes SB 1069 as introduced. SB 1069 provides a tax credit for taxpayers that install helicopter noise canceling technology. The bill defines helicopter noise canceling technology system as “any modification or equipment that is installed onto a helicopter with the effect of reducing the amount of noise emitted from the helicopter”. This definition is ambiguous as the generally accepted phraseology to address noise mitigation is “quiet technology” and the bill does not define the maximum dBA sound level. HAI supports implementation of available quiet technology that lessens the impact of noise. However, no technology currently exists to cancel noise. Additionally, the open-ended language does not provide information on what to expect in the way of incentive or the budget impact respectively for either operator or the state.

SB 1069 also prohibits commercial flights of tour helicopters within one mile of any residential neighborhood except between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Saturday, or between the hours of 9:00 a.m. and 6:00 p.m. on a Sunday or a date designated as a state holiday. This proposed language is in violation of federal preemption.

49 U.S.C. §§ 40103(a)(1) states: “The United States government has exclusive sovereignty over the airspace of the United States.” Based on this, the Federal Aviation Administration (FAA) on July 20, 2018 released the following statement regarding federal preemption:

Congress has provided the FAA with exclusive authority to regulate aviation safety, the efficiency of the navigable airspace, and air traffic control, among other things. State and local governments are not permitted to regulate any type of aircraft operations, such as flight paths or altitudes, or the navigable airspace.

However, these powers are not the same as regulation of aircraft landing sites, which involves local control of land and zoning. Laws traditionally related to state and local police power – including land use, zoning, privacy, and law enforcement operations – generally are not subject to federal regulation.

Cities and municipalities are not permitted to have their own rules or regulations governing the operation of aircraft.

However, as indicated, they may generally determine the location of aircraft landing sites through their land use powers.

SB 1069 would allow state government to regulate aircraft operations, including flight paths and altitudes. Such authority is exclusively granted to the FAA. The language of this bill seeks to provide federal authority to the state which is not permitted. As such, HAI strongly opposed SB 1069.

HAI appreciates the opportunity to provide comment on SB 1069 and seeks to serve as a resource to the Hawaii legislature on issues pertaining to the helicopter industry.

HAI is the professional trade association for the civil helicopter industry. HAI's 1,500 plus organizational members and 1,800 individual members operate more than 4,500 helicopters approximately 2.3 million flight hours each year in 73 nations. HAI is dedicated to the promotion of the helicopter as a safe, effective business tool and to the advancement of the international helicopter community.

SB-1069-SD-1

Submitted on: 3/20/2019 6:11:08 AM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Neil Frazer	Frazer-Frantz Family Hui	Support	No

Comments:

I respectfully request that Section 2 be amended to specify: (a) allowable noise limits in decibels as well as (b) higher altitude requirements and (c) wider distance requirements than are presently in the bill.



LATE

State of Hawaii House Committee on Judiciary
Thursday, March 21, 2019; 2:05pm
for SB 1069 SD1
Testimony comments of Eric Lincoln, Blue Hawaiian Helicopters

Chair Lee, Vice Chair San Buenaventura and members of the House Judiciary Committee,

Thank you for the opportunity to provide comments on SB 1069 SD1, which establishes a tax credit for taxpayers who install a helicopter noise-canceling technology system on a helicopter owned by the taxpayer and operated primarily within the State during the taxable year. It also prohibits commercial flights of tour helicopters within one mile of a residential neighborhood except between 8:00 a.m. and 6:00 p.m. on Monday through Saturday, or between 9:00 a.m. and 6:00 p.m. on Sunday or a state holiday.

Blue Hawaiian is Hawaii's first air tour operator, founded in 1985, and is the only air tour operator to offer tours and employ Hawaiian residents on Oahu, Kauai, Maui and the Big Island. We firmly believe that our tours are more than just sightseeing, they function as "flying classrooms" for our passengers to learn about the rich history of Hawaii, its culture, and its diverse geography.

We understand the importance of addressing noise concerns and want to contribute positively to the discussion about this bill and any other related measures. We are concerned that state level regulations pertaining to flight times and restrictions may be pre-empted by federal law. Regardless of the outcome of this legislation, we are committed to work collaboratively through the state Department of Transportation's working group on noise matters. Please do consider us a resource in these policy discussions.

Thank you again for the opportunity to testify.

SB-1069-SD-1

Submitted on: 3/19/2019 7:28:10 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lois Crozer	Individual	Support	No

Comments:

SB-1069-SD-1

Submitted on: 3/19/2019 9:46:01 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Wong	Individual	Support	No

Comments:

Dear Chair and Committee,

I request that Section 2 address and eliminate commercial helicopter noise impacts on our communities by stipulating noise decibel limits together with higher altitude and wider distance requirements, and enforcement of same.

According to the FAA Flight Standards District Office, these helicopters are flying under FAA air space. Therefore they are not controlled by the FAA and are within State air space, and can be controlled by the State DOT Airports division. Therefore State laws are necessary to protect our communities from these impacts, and SB 1069 is our remaining opportunity to advocate for this at the Legislative level this year.

Sincerely,

Linda Wong,

Diamond Head

SB-1069-SD-1

Submitted on: 3/20/2019 9:01:42 AM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeannine Johnson	Individual	Support	No

Comments:

Aloha mai kākou,

My neighborhood experiences loud invasions of helicopter noise on a daily, even hourly, basis. It is more than just a nuisance. It negatively impacts our quality of life, afflicting our health with undue stress, disrupting our sleep and depriving us the right to the quiet enjoyment of our homes. If I had neighbors as noisy as the helicopters who fly incessantly overhead, I could ask HPD for help. I've called the FAA to report noisy helicopters at 11 pm, 4 am, and many times in-between without relief. Is it fair that residents have to suffer endlessly while the helicopter industry suffers no consequences? So although I support Senate Bill 1069, all commercial flights of tour helicopters within one mile of a residential neighborhood should be prohibited PERIOD. Mahalo for your kākou.

SB-1069-SD-1

Submitted on: 3/20/2019 2:05:47 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara J. Service	Individual	Support	No

Comments:

Aloha Chair Lee, Vice Chair San Buenaventura and committee members.

I live in the Waiialae-Kahala area where we are periodically inundated with aircraft noise. The hours that helicopters may fly over residential areas should be restricted and I would suggest adding airplanes with propellers to the list. I appreciate that tour helicopters, as part of the tourist industry, are entitled to make money BUT the rights of residents to peace and quiet must be considered. Once more than 10 helicopters flew over my townhouse within a half hour. Sometimes, helicopters fly very close overhead after 9:00 p.m., when I presume there are no "tours."

Please restrict the hours that non-emergency aircraft may fly over residential areas.

Mahalo!

Barbara J. Service MSW (ret)

Senate District 9

House District 19

SB-1069-SD-1

Submitted on: 3/20/2019 2:07:06 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sasha Ota	Individual	Support	No

Comments:

We are desperate for relief from the excessive noise. Please do something!

LATE

SB-1069-SD-1

Submitted on: 3/20/2019 8:03:41 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Enomoto	Individual	Support	No

Comments:

I live up on Waialae Nui Ridge at 1717 Uhi PL 96821. According to this site, my current elevation is 423 ft / 129 m. When the military helicopters are flying over my house my windows rattle, I can't talk on the phone and this sometimes happens at 10:30 at night. During the day these are Blackhawks and usually several hundred feet overhead, but on more than one occasion they have flown such that I can see right through the side doors of the aircraft. When they Ospreys are flying over and not in full horizontal flight configuration the noise is even louder. It is more the low thumping of the blades that I hear than the turbo fans.

I've had commercial helicopters over my house with a gimbal mounted camera shooting footage of our hill and again causing a racket and also invading my privacy not knowing what they are taking pictures of.

I've called the FAA. Kaneohe Marine Corp. The Army but all claim that they were flying within the parameters of the law. This problem has gotten worse over the 10 years that I've lived here and I see no end in site or ways as a citizen to bring this to the right people in government or the military.

1. Have them fly over the water = Kahala and not over residential areas.
2. Seems a crash would be disastrous over the city than having a single aircraft ditch in the ocean
3. This affects the value of my property and simply the peace and quiet I originally bought my house for.

Thanks,

Mark Enomoto

LATE

SB-1069-SD-1

Submitted on: 3/20/2019 11:09:53 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Bishop	Individual	Support	No

Comments:

HOUSE JUDICIARY COMMITTEE (JUD)

Thursday 21 March 2019 2:05 p.m Conference Room 325

IN SUPPORT OF THE INTENT OF SB1069 SD1

Aloha Chair Lee, Vice-Chair San Buenaventura, and Committee Members:

Mahalo for the opportunity to testify in support of the intent of SB1069 SD1.

The number of tour helicopters flying over residential areas and natural resource attractions has grown exponentially to the detriment of the quality of life of Hawai'i residents, so I welcome the intent of SB1069 SD1 with the following recommendations:

1. Prohibit tour helicopters from flying over any residential areas at any time;
2. Prohibit tour helicopters from flying below 1500 feet over any natural resource attraction; and
3. Reengage the FAA on updating SFAR NO. 71—Special Operating Rules for Air Tour Operators in the State of Hawaii

Mahalo,

Lisa Bishop

Honolulu, Hawaii

LATE

House Committee on Judiciary
Representative Chris Lee, Chair
Representative Joy San Buenaventura Vice Chair

Thursday, March 21, 2019, Hearing
House Conference Room 325
2:05 PM Hearing

Senate Bill 1069, SD1
Relating to Reduction of Noise from Helicopter Operations

Aloha Chair Lee, Vice Chair San Buenaventura and Committee Members:

Excessive aircraft noise compromises the health and well-being of the Hawaii 's people, and statutory remedies are long overdue. Senate Bill 1069, when amended with improvements specific to helicopter noise impacts, can offer significant relief to thousands of suffering citizens in Hawai'i, particularly on O'ahu and Hawai'i Island.

The crescendo of community complaints building island-wide across the State demonstrate that tour helicopters have been increasingly inundating and impacting established communities with incessant noise invasion. While the Hawaii Helicopter Association¹ was recently established to collaboratively address tour helicopter issues within the industry as well noise impacts on the clearly affected communities below their flight paths, not all helicopter operators are cooperative or willing to mitigate and avoid helicopter overflight noise impacts. At least one tour helicopter operator in fact blatantly flaunts their misconduct on a daily basis.²

More than a million annual visitors to the Diamond Head State Monument conservation district, both within the natural crater and hiking to the panoramic Summit, are incessantly impacted by the discordant thundering of low-flying tour helicopters piercing the surrounding environment two-to-three times hourly, eight hours per day, every day of the week. Their flight path is uncontrolled, cutting low over historic Kapi'olani Park and the surrounding residential areas, ascending to the slopes of Diamond Head and skimming the ridge to blast over the echoing crater.

The embedded cultural and scenic values of Hawai'i Nei must be *respected*, not exploited. As State Senator Gabbard recently stated, "When you look at Paradise, you want to keep it Paradise."

Tour helicopters fly **under** the FAA Class B air space that is controlled by the FAA air traffic control towers and CERAP radar control facility at the airport. In Honolulu, air space controlled by FAA Air Traffic Control begins at the 4,000-foot level near Diamond Head according to the FAA Honolulu Flight Standards District Office. Therefore, the State DOT Airports Division and their governing statutes would have jurisdiction over any flights below the Class B air space.

¹ <https://hawaiihelicopterassociation.org/>

² <http://www.magnumhelicopters.com/>

Thus it is the State's responsibility and purview - not the FAA's - to curtail and control local tour helicopter flights flying under Class B airspace with clear laws supported by consistent enforcement and penalties for non-compliance and repeated violations. No longer can this be excused as a difficult task with such new technology as the Flight Radar 24 app that anyone can use to detect maverick flights.

Commercial tour helicopter operators repeatedly fly as low as 300 feet over residential areas, constituting helicopter harassment that causes unbearable living conditions for thousands of Island residents and places the health and well-being of entire communities at stake. The adverse consequences of low-altitude overflights and associated unsafe gliding distances, escalating noise disturbances, and incessantly intrusive, jarring and exhausting disruptions cause daily and hourly adverse impacts on the quality of life for Hawaii's residents.

State government has discretion to address its citizens' mounting concerns regarding relentless helicopter aircraft noise. The State Department of Transportation, as airport owner and proprietor, must work in concert with the affected communities to address the increasing adverse impacts by low-flying tour helicopters.

Recommendations

It is therefore respectfully recommended that Senate Bill 1069, SD1, be amended to progressively include comprehensive Sections addressing tour helicopter noise impact remedies, as described below:

Quiet technology. Such technology must be defined in clear and measurable terms, with parameters and incentives for required implementation, and statutory stipulations for installation and proven, measurable effects.

In previous testimony on such measures this Legislative Session, questions have arisen concerning the veracity and effective performance of "noise canceling technology." The now inactive measures stated that 75% of helicopters serviced and maintained annually must be equipped with such undefined technology. However it remains to be determined that this is not simply a market ploy and tax-break scheme.

Helicopter noise levels are generated by various mechanical components, including rotor and engine noise, and the cumulative noise level must be reduced to a specific decibel limit to be tolerably effective. Yet just as the worst offenders with the loudest helicopters flauntingly and repeatedly buzz Honolulu's rooftops and the residents below, they are also likely to flaunt their disregard of this option by remaining part of the 25% not covered by this envisioned requirement.

Increased tour helicopter flights with uncontrolled flight paths have drastically increased noise impacts on Hawai'i's established communities and their citizens. If not controlled, expanded helicopter fleets and increased numbers of flights by large baseline operations with so-called "quiet technology," as well as by smaller operations with obnoxious sound levels in violation of altitude and decibel limits, will continue to be responsible for a massive increase in cumulative helicopter noise impacts with greater frequency.

A required decibel threshold must be specified for an enforceable sound level limit in the vicinity of populated areas such as Oahu's shoreline communities, as well as conservation areas and visitor attractions including the Diamond Head State Monument. In traditionally quiet neighborhoods, pristine environmental areas, forest preserves and critical habitat areas, humans and endangered species alike are also being adversely impacted by the penetrating noise generated by low-flying helicopters.

The aircraft's overall noise level must be no greater than 65 decibels as independently measured by regular qualified inspections with calibrated instruments designed for this purpose.³

Minimum flight altitude and distance. Maintaining greater height and distance reduces tour helicopter noise levels. Additionally, to operate safely near Hawai'i's congested communities, conservation areas and other land forms, helicopters must have a safe glide path offshore in emergency situations. Many Hawaii helicopter operators have experienced such episodes, and inviting more by maintaining the status quo is not an option.

Flight patterns of commercial helicopter operators must be directed away from shoreline communities and established neighborhoods. Presently communities are placed at risk because of the random flight activities that are uncontrolled, and thus wholly unacceptable.

Below and outside of the FAA Class B air space, tour helicopters must maintain 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft.⁴

Flight Hours. Commercial tour helicopter flights during the day must be required to be offshore from shoreline residential neighborhoods, with no flights before 9 AM or at night after 8 PM, Mondays through Fridays; or between 5 PM and 10 AM on weekends and designated local and national holidays. Further, flight hours must be enforced, with penalties for violations.

Penalties. Monitoring and enforcement with tiered penalties tied to the number of violations must be implemented, together with revocation of commercial licenses for continued violations. Penalties for violations should be strictly enforced and commensurate with the violation and number of violations over a given period of time. Should there be recurring violations, the penalties should accordingly increase substantially, ultimately resulting in revocation of the operator's license.

³ The 65-decibel sound level limit is stipulated in the Honolulu Land Use Ordinance to ensure protection of surrounding residential neighborhoods from excessive noise during live outdoor performances.

⁴ Reference: U.S. Department of Transportation Federal Aviation Administration Title 14, Section 91.119 - Minimum Safe Altitudes.

Clearly, restrictions and controls must be imposed on commercial tour helicopter operations and intrusive noise disturbance above and around Hawai'i's established residential communities, together with consistent enforcement and stipulated penalties associated with violations.

To be effective in protecting the public health and welfare in the greater public interest, Senate Bill 1069 must address and cure disruptive noise impacts and environmental consequences caused by low-flying commercial helicopter operations. Therefore this measure must necessarily be a bold first step toward quieting residential areas now significantly suffering from helicopter noise impacts.

Flight altitudes must be increased significantly and flight patterns must be controlled. Flight distance from residential communities and natural land forms must be increased. Hours of operation must restrict early morning flights and weekend flights near populated communities, parks and recreational shorelines.

In view of the greater public health and welfare, please strengthen SB 1069, SD1 accordingly. The affected residents, schools and businesses in Hawai'i's impacted communities cannot wait another year for this to happen.

Testimony respectfully submitted by Michelle S. Matson

LATE

SB-1069-SD-1

Submitted on: 3/21/2019 1:14:07 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Hong	Individual	Comments	No

Comments:

Aloha,

i feel SB1069 is a step in the right direction regarding our community complaints about tour helicopter noise, but needs some revisions in order to better address this concern.

I was the manager of Hanauma Bay Nature Preserve for twenty-one years, and was a dive tour guide during college, so I'm sensitive to the needs of our tourists. I feel that sightseeing from a helicopter is a wonderful experience. However, I also see the need for controls.

Since retiring from the City seven years ago, I'm usually home during the day. My house happens to be right on the flight corridor between the base of Koko Crater and Hanauma Bay, so I'm also quite aware of the recent proliferation of tour helicopters (and airplanes) heading to and from our majestic Kaiwi Coast, and the growing complaints from my neighbors. As a drone enthusiast for many years, I know that this type of noise can be quite offensive to the peaceful neighborhood environment.

Some of the helicopters fly over our houses at a high enough altitude as to not be noticed. However, there are many others that fly rather low, imposing unnecessary noise on the residents. I don't think their customers have presently been made aware of the disruption they're causing to Hawaii's lifestyle, and how inconsiderate their pilot is, but this might change if corrections aren't soon made.

Noise suppressors can be part of the answer, but I feel the most can be gained by either setting a minimum altitude (sorry, don't know what it should be), or requiring the flights to be offshore and away from homes. Prohibiting flights at night is not needed, since these craft do not sightsee when it's dark.

Drastic restrictions were implemented at Hanauma Bay in 1990 in response to community outcry about the impact of out-of-control tourism. There is no doubt that these restrictions were needed, but they were late in coming, and thus extremely damaging to many newly formed tour companies. Please don't let the same scenario play out in this situation.

Mahalo for your efforts to preserve Hawaii's unique Ssense of Place.

Alan Hong, (808) 729-7929

sanbuenaventura2 - Kevin

From: RT Distributors <rtubbs@hawaii.rr.com>
Sent: Thursday, March 21, 2019 4:40 PM
To: JUDtestimony
Subject: Please vote YES on SB 1069

I live in what used to be a quiet, Waimanalo farm/residential area, just outside the rain forest about a 1/2 mi. from the foot of the Koolau. In **Jan. 2019, on a Saturday I counted 44 helicopters, jets, and planes, flying overhead** beginning at 8:00am to 6:30 pm.! We hear the commercial jets, the military doing maneuvers at Bellows (until 9:30pm), the fire rescue teams looking for lost people, the crews working on the power lines on top the mountains, and most loudly , and the lowest flying along with the military, the tourist operators, giving their tourists an up-close view of the Koolau. They are very loud. I wonder if they have changed the flight patterns. I've lived here for 18 years, and this has been a growing problem in the last two.

My poor German Shepard suffers the most. As a pure bred, she has very sensitive ears and barks at every single tour helicopter, plane and jet. **The lower they are the crazier she gets**, running up the steep property, standing up on her hind feet with front paws on the lanai railing, especially when they fly as low a half mile up, as if to say "STOP IT!!!" I have resorted to getting her a shock collar because she barks very loudly but despite shocking her with maximum voltage, I cannot stop her or the overhead madness. **It's making me regret I live in Hawaii, my birthplace.**

Please vote to help reduce the noise. I am tired of the tours making their money at the expense of my sanity.

Sincerely,
Mary Tubbs, M.Ed.

I oppose SB 1069 unless important improvements are made to this bill.

A significant number of us have lived in homes in this area for well over five decades and it was a livable peaceful neighborhood before. Its not near an airport. Now that livable neighborhood is being disrupted multiple times every hour(at times every ten minutes) by aircraft noise - of which the helicopter is an obvious part of.

The numerous tour helicopters are loud and low flying. This does not include the occasional safety helicopter.

I'm referring to a daily routine of tour helicopters negatively affecting the health and well being of those thousands of residents and their children across the state.

The research is clear proving the harmful effects on residents and students that are in flight paths of aircraft.

To initiate any further studies would only beg the question " for what purpose" if not for a desired outcome.

Any noise reduction equipment would not address this issue - we need a solution and not the appearance of a solution.

The residents need tour helicopters to redirect their flight path over the ocean or to be at altitudes no lower than 4000 feet.

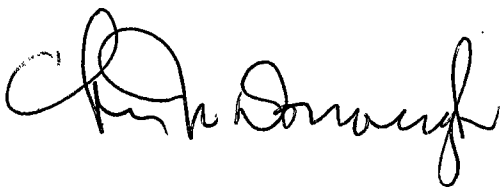
There needs to be easily identifiable letters/numbers readable from the ground on the belly of the craft.

Violation of the flight path or violation of the altitude would result in four figure fines.

Flight permits would reflect this improved flight pattern.

This issue requires your prompt attention. In summary, just as you wouldn't allow a commercial operation to enter your living room or your childs classroom w/ a 80-100 db disruptive noise, so do you owe the residents and students the same consideration.

We your constituents ask you to please represent our values of health and well being over the profits of a company.



Chris McDonough

LATE TESTIMONY

March 21, 2019

Chair Lee and Committee Members

I'm writing concerning Bill 1069 regarding aircraft noise, asking you to revise and careful make corrections, and forward this bill, and make sure it satisfies the communities you are here to represent.

A unanimous consensus around my neighbor hood and others communities is something drastic needs to be done. And please do not settle on a band aid that won't stick. All this traffic has disrupted the peace that we once had, lost to a handful of entrepreneurs who put the buck before the Aloha.

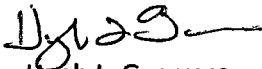
The antiquated flying restrictions were okay years ago when there were only a handful of helicopter and propelled aircraft. The rules were created for a small volume of traffic. I constantly have to pause to make a have a phone call or just a conversation talking to someone, or turn up the volume to watch a program.

The FAA has allowed all this flights over land without any enforcement. Its like putting the cart before the Horse. If they choose not to protect the citizens of Honolulu, I think you need to take up the challenge

As Kamaina who's been in this area since it opened in 1954, I am sorry to say the state has failed to protect her aina and community.

Would you follow through with hearing and moving forward Bill 1069, and put some meat on this bill.

Sincerely



Hugh L. Guerrero

I oppose SB 1069 unless important improvements are made to this bill.

A significant number of us have lived in homes in this area for well over five decades and it was a livable peaceful neighborhood before. Its not near an airport. Now that livable neighborhood is being disrupted multiple times every hour(at times every ten minutes) by aircraft noise - of which the helicopter is an obvious part of.

The numerous tour helicopters are loud and low flying. This does not include the occasional safety helicopter.

I'm referring to a daily routine of tour helicopters negatively affecting the health and well being of those thousands of residents and their children across the state.

The research is clear proving the harmful effects on residents and students that are in flight paths of aircraft.

To initiate any further studies would only beg the question " for what purpose" if not for a desired outcome.

Any noise reduction equipment would not address this issue - we need a solution and not the appearance of a solution.

The residents need tour helicopters to redirect their flight path over the ocean or to be at altitudes no lower than 4000 feet.

There needs to be easily identifiable letters/numbers readable from the ground on the belly of the craft.

Violation of the flight path or violation of the altitude would result in four figure fines.

Flight permits would reflect this improved flight pattern.

This issue requires your prompt attention. In summary, just as you wouldn't allow a commercial operation to enter your living room or your childs classroom w/ a 80-100 db disruptive noise, so do you owe the residents and students the same consideration.

We your constituents ask you to please represent our values of health and well being over the profits of a company.



Chris McDonough

HONOLULU STAR-ADVERTISER

President and Publisher Dennis Francis
Editorial Page Editor Lucy Young-Oda

Vice President / Editor Frank Bridgewater
lyoungoda@staradvertiser.com
529-4831

Deputy Editorial Page Editor Stephen J. Downes

Editorial Page Staff Maureen O'Connell / Vicki Viotti

OAHU PUBLICATIONS INC.

Board of Directors

Dennis Francis Colbert Matsumoto
Larry Johnson Jeffrey Watanabe
Duane Kurisu Michael Wo

Bill # 1069
L. Bissard - Fred Ammended Bill

ISLAND VOICES

State needs to protect neighborhoods from tour helicopters

By Rick Warshauer

Last Tuesday, the state Department of Transportation-Airports Division held a public meeting in Hilo to announce another roundtable committee to discuss the impact of the helicopter tour industry on the residents of East Hawaii. Those present filled a banquet room, and scores vented their frustration, impatience, mental health impacts and anger. They noted that for decades, residential communities have had to suffer the many impacts from the daily, incessant air tours passing over their communities, from Volcano to Hakalau.

Loud voices, anger, threats, recorded flight noise, tears and pleas were aimed at representatives of the Federal Aviation Agency and state DOT-Airports. Except for one or two requesting reduced or

spread-out flights over neighborhoods, most of the speakers were adamant that they wanted all tour flights to avoid residential neighborhoods altogether — and called instead for the tours to fly well offshore.

This was the most recent of numerous meetings over many years that have only perpetuated the over-flight problems and allowed ever-growing numbers of helicopters

over people's homes "all day, every day, 365 days a year." Over some areas, numbers of up to 150 over-flights a day were noted at the meeting; countless times have been previously reported to



Rick Warshauer, a longtime Volcano resident, is a retired field biologist; he has flown countless hours in helicopters with pilots who avoided residential areas.

agencies, to air tour companies and to politicians.

The only result has been more irresponsible flights and more afflicted neighborhoods. All relevant agencies have ignored residents' quality of life over operator profits and tourists' experience — they even get a tax break. One person described watching two helicopters narrowly averting a mid-air collision over her neighborhood, and others alluded

to threats against the helicopters. Puna residents, especially, have been pushed way too far.

Guided by agency requests, air tour companies use the guise of "fly neighborly," but instead, they

just over-fly neighborhoods with reckless disregard. Why can't the air tour companies avoid these impacts to so many East Hawaii residents and fly offshore like they presently do off North and West Hawaii? It is simply that they are externalizing some of their costs at the expense of thousands of less-wealthy East Hawaii residents because they don't give a whit about these residents and because they have been banking on agencies to feel the same way and to continue to let them.

Answering questions just after the meeting, the FAA admitted it could only continue its feckless inaction. State DOT wants another set of meetings to find middle ground — an equivalent ineffective response.

It is time for a change — now, not after another roundtable stall tactic, not after a tragic circum-

stance, but right now. Cumulative danger, anger and threats have grown to an emergency situation, both for residents and for helicopters full of tourists. This deserves emergency action, right away.

State agencies have provided permissions for these helicopter tour companies to fly out of airports, to park helicopters on state land, to run heliports and landings on private land, and to ignore health consequences. These state agencies need to take emergency action to rescind those permissions and to re-issue them with strict requirements to avoid flying over or near neighborhoods and to fly off-shore routes.

Gov. David Ige: please direct them to do so. Act now — don't take the long wait for the FAA to say again that there is nothing that the feds can do.

LIVE TESTIMONY

as a credential in where Trum

Helicopter logs (from: Lani Blissard
4133 Papu Circle
Honolulu, HI 96816)

(misc. hours on 6/9/18, 6/10/18, 6/11/18, 6/13/18, 6/16/18, 6/25/18, 7/5/18) (all logs were called in to helicopter complaint # - (808) 639.5566)

(Sat.)

6/9/18 (trade winds, somewhat cloudy)

4:12 - magnum heli

4:16 - magnum heli

(Sun)

6/10/18 (windy, intermittent clouds)

2:10 - magnum heli

2:17 - magnum (extra close & loud)

2:35 - Blue Hawaiian(?)

2:55 - Red heli, long tail

2:58 - Red heli "

3:07 - Red heli " "

3:16 - magnum

3:23 - Blue Hawaiian

3:33 - Blue " "

3:38 - Blue " "

3:48 - Red - long tail

4:04 - Red - " "

4:09 - Red - " "

4:13 - magnum

4:14 - magnum

} extra loud & close

(Mon)

6/11/18 (trade winds)
N O 155

Red heli - long tail

08:05 - Red (?) (sun glare)

08:15 Red heli

08:21 magnum

(2)

Helicopter Logs

from: 4133 Papo side

(cont. - 6/11/18)

Hono W, HI 96816

08:28 - Blue Hawk

08:50 - 1/2 Blue, 1/2 Black (?)

08:55 - Red one - long tail

08:58 - Red " "

09:02 - Red " "

09:15 - Magnum

09:16 - Red - long tail

09:18 - Magnum

09:20 - Blue Hawk

09:25 - Blue Hawk

09:27 - Blue Hawk

(45 mins - not here)

10:13 - Red one, long tail

10:14 - Red " "

10:16 - Red. " "

(30 mins - not here)

10:44 - Blue Hawk

10:45 - Blue Hawk

(1 hr. - not here)

11:36 - magnum

12:18 - magnum (extra low, loud)

12:44 - Red - long tail

1:15 magnum

1:20 magnum

1:40 Blue Hawk

1:46 Blue - but long tail (not Blue Hawk)

③

(Cont. 6/11/18)

Helicopter Logs

from: 4133 Papu Circle
Honolulu, HI
96816

1:48 - Blue Hawk

1:51 - Blue Hawk

2:15 - Magnum

(Wed.)

6/13/18:

11:15 - Blue Hawk

11:17 - Magnum (extremely close)

11:20 - Blue Hawk

11:22 - Blue Hawk

11:40 - Red? (long tail) (sun glare)

11:45 - Blue Hawk

12:00 - Red one (extra low) - long tail

12:05 - Red "

12:15 - Red " "

12:16 - Magnum

12:22 - Red

12:24 - Blue Hawk

12:26 - Blue Hawk

12:31 - Blue Hawk

12:55 - yellow & black?

1:05 - Red - (very close)

1:15 - Magnum

1:27 - Red one - long tail

1:30 - Green one, long tail

2:02 - Blue Hawk

(4)

Helicopter Logs

from: 4133 Papu Circle

Honolulu, HI

96816

(cont. - 6/13/18)

2:05 - magnum

2:11 - Blue Hawk

2:15 - magnum

(sat.) 6/16/18 - (cloudy, no wind)

10:47 - (extra low) - Red(?) (sun glare)

10:49 - Red one, - long tail

10:50 - Red " "

11:01 - Blue Hawk

11:04 - Yellow - & black?

11:04 - Blue Hawk

11:05 - magnum

11:13 - magnum

11:42 - magnum?

11:45 - Blue Hawk

11:58 - Red one - long tail

11:59 - Red? Black? (sun glare) (long tail)

12:03 - Red one - long tail

12:05 - Red or black (long tail) sun glare

12:06 - magnum

12:09 - Red one, long tail

12:10 - magnum

(5)

Helicopter Log

From: 4133 Papu Circle

(weather good, no rain,
↓ light wind)

Honolulu, HI

96816

(Cont.)
(Mon.)

6/25/18

(Called in on 6/26/18)

08:22 - Red heli, long tail

08:36 - Red/orange, "

08:38 - Blue Hawaiian

08:42 - Blue (turg?) (but not Bl. Hawk) long tail

08:43 - Blue Hawaiian

08:52-08:55 - 4 military helis.

08:57 - magnum

09:04 - Red? long tail (sun glare)

09:06 - Red, long tail

09:16 - magnum

09:22 - magnum (extremely low)

09:47 - Blue Hawk

09:52 - Blue Hawk

10:01 - military?

10:03 - Red, long tail

10:20 - Red " "

10:22 - yellow, long tail

10:24 - Red? (looking into sun)

10:42 - Blue Hawk

10:48 - Red/orange - long tail

10:55 - Red, long tail

10:56 - Blue Hawk

11:02 - magnum

11:05 - Blue (but not Bl. Hawk) long tail

(6)

Helicopter Log

from: 4133 Papu Arch
Honolulu, HI
96816

(cont.)

6/25/18

11:11 - magnum

11:14 - magnum

11:23 - Red one-long tail

11:25 - Red " "

11:26 - orange/red (?) (sun glare)

11:28 - Blue Hawk

11:31 - Blue Hawk

11:50 - Blue Hawk

11:52 - Red, long tail

11:53 - Red, "

11:58 - magnum

12:10 - Red, long tail

12:18 - Red, " "

12:25 - Red, " "

(Thurs) 7/5/18 (note: 7/4/18 not recorded but very heavy

heli traffic) (4th of July)

↓ (weather mostly clear, trade winds)

-0902 - magnum

-0903 - magnum

↓

(cont. next pg.)