

JAN 23 2020

A BILL FOR AN ACT

RELATING TO AIR TOURISM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature recognizes that air tourism
2 activities, including commercial helicopter tours, are popular
3 with visitors to the State, financially lucrative for many
4 private companies, and strengthen the State's visitor industry.
5 The legislature also recognizes, however, that many state
6 residents have grown increasingly agitated by low-flying
7 aircraft over residential areas generating constant noise
8 throughout entire days, including on weekends and holidays.

9 The legislature notes that its options for regulating air
10 tourism are limited due to federal preemption. The state
11 department of the attorney general, in its March 21, 2019,
12 testimony before the state house committee on the judiciary,
13 stated that "Congress, by its enactment of the Federal Aviation
14 Act of 1958, as amended by the Noise Control Act of 1972,
15 preempted state and local control over aircraft noise". At
16 issue was proposed legislation that would, in part, make it
17 unlawful for any person to operate certain air tourism aircraft



1 within one mile of any residential neighborhood, except at
2 certain times or on holidays. In the opinion of the department
3 of the attorney general, the restriction in question fell
4 "squarely within the type of aircraft regulation that the
5 federal government has preempted".

6 The legislature finds that the United States Federal
7 Aviation Administration mandates automatic dependent
8 surveillance-broadcasts (ADS-B) at certain airports throughout
9 the nation. ADS-B technology provides air trackers with real
10 time position, altitude, and velocity of aircraft through on-
11 board transmitters. However, while the Federal Aviation
12 Administration mandates the use of these broadcasts in Honolulu
13 and Kahului, the administration does not mandate their use at
14 airports in Lihue, Hilo, and Kona.

15 The legislature recognizes congressional efforts to require
16 federal authorities to develop appropriate aircraft regulations
17 and enforce those regulations to address these concerns. The
18 legislature also believes that the State, in the meantime,
19 should take steps to develop non-preempted state laws or
20 voluntary guidelines that would address local concerns about the
21 air tourism industry.



1 The purpose of this Act is to establish a Kauai air tourism
2 working group, which shall consist of various stakeholders, that
3 shall develop a pilot program to manage the negative impacts of
4 excessive noise from tour aircraft on the island of Kauai,
5 consider other actions to address air tracking technology needs
6 on Kauai, and report to the legislature.

7 SECTION 2. (a) There is established within the department
8 of transportation, for administrative purposes, a Kauai air
9 tourism working group. The working group shall:

10 (1) Develop a voluntary pilot program to manage the
11 negative impacts of excessive noise from tour aircraft
12 on the island of Kauai's residential communities,
13 cultural sites, state and county parks, and natural
14 environment. Before implementing the pilot program,
15 the working group shall:

16 (A) Identify and prioritize areas throughout the
17 island of Kauai most negatively impacted by the
18 recreational air tourism industry; and

19 (B) Through the use of noise impact modeling and
20 geographic information system mapping, identify
21 appropriate flight paths, flight altitudes, and



1 distances from the island of Kauai's residential
2 communities, cultural sites, state and county
3 parks, and natural environment;

4 (2) Recommend a specific state-sponsored tracking system,
5 similar to the Los Angeles helicopter noise
6 initiative, that uses Webtrak or similar technology to
7 determine in real time the aircraft that cause
8 disruptions on the island of Kauai and to facilitate
9 the filing of complaints;

10 (3) Determine the cost of necessary software, maintenance,
11 and other expenses relating to the aforementioned
12 state-sponsored tracking system;

13 (4) Explore methods to encourage businesses in the
14 recreational air tourism industry to use automatic
15 dependent surveillance-broadcasts that are accessible
16 to members of the public on the island of Kauai.

17 Methods to be considered shall include:

18 (A) Tax credits and other incentives; and

19 (B) Increases in applicable fees and rental rates for
20 leased lands; and



1 (5) Consider other actions to address excessive noise from
2 air tourism aircraft.

3 (b) The following individuals shall serve as members of
4 the working group:

5 (1) The director of transportation or the director's
6 designee, who shall serve as the chairperson of the
7 working group;

8 (2) The chairperson of the board of land and natural
9 resources, or the chairperson's designee from the
10 division of state parks, department of land and
11 natural resources; and

12 (3) The chairperson of the board of directors of the
13 Hawaii tourism authority, or the chairperson's
14 designee.

15 (c) The chairperson of the working group shall invite the
16 following persons to serve as members:

17 (1) One representative from the Hawaii Helicopter
18 Association;

19 (2) One representative from the Kauai Visitors Bureau;

20 (3) One representative from the Sierra Club;



- 1 (4) One representative from the Kauai recreational air
2 tourism industry;
- 3 (5) One representative from Stop Disrespectful Air
4 Tourism! (Stop DAT!);
- 5 (6) One representative from a Kauai-based organization
6 that perpetuates the Hawaii culture impacted by air
7 tourism;
- 8 (7) One Kauai resident who has experienced hearing
9 excessive aircraft noise near the resident's home; and
- 10 (8) One member of the public who has experienced hearing
11 excessive aircraft noise while visiting a state or
12 county park or beach on the island of Kauai.
- 13 (d) The working group shall report the outcome of its
14 pilot program and its findings and recommendations, including
15 any proposed legislation, to the legislature no later than
16 twenty days prior to the convening of the regular session of
17 2022.
- 18 (e) The department of transportation, upon recommendation
19 by the working group, shall hire a consultant to assist the
20 Kauai air tourism working group in the completion of the report
21 required under subsection (d). The consultant shall have



S.B. NO. 3107

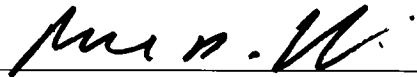
1 experience in facilitation, consensus-building, and community-
2 based approaches. Notwithstanding any law to the contrary, the
3 department, in selecting a consultant from among consultants who
4 are equally qualified in the foregoing areas, shall select the
5 consultant with the most experience in geographic information
6 systems, ambient noise analysis, and aircraft technology.

7 SECTION 3. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$250,000 or so much
9 thereof as may be necessary for fiscal year 2020-2021 to hire a
10 consultant for the completion of the Kauai air tourism working
11 group report.

12 The sum appropriated shall be expended by the department of
13 transportation for the purposes of this Act.

14 SECTION 4. This Act shall take effect on July 1, 2020.
15

INTRODUCED BY: _____



By Request



S.B. NO. 3107

Report Title:

Tourism; Aircraft; Noise; Working Group; Appropriation

Description:

Establishes a Kauai Air Tourism Working Group to develop a pilot program and consider other actions to address excessive noise from air tourism aircraft on the island of Kauai. Requires a report to the Legislature. Makes an appropriation.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

