



**STATE OF HAWAII
DEPARTMENT OF TAXATION**

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To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Thursday, February 21, 2019

Time: 11:00 A.M.

Place: Conference Room 308, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 421, H.D. 2, Relating to the General Excise Tax

The Department of Taxation (Department) appreciates the intent of H.B. 421, H.D. 2, and offers the following comments for the Committee's consideration.

H.B. 421, H.D. 2, establishes a new five-year general excise tax (GET) exemption for amounts received from the servicing and maintenance of helicopters in an aircraft service and maintenance facility, provided that 75% of the helicopters serviced and maintained annually in a facility that services helicopters are equipped with quiet technology. A summary of key provisions are as follows:

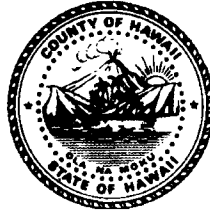
- Amends section 237-24.9, Hawaii Revised Statutes (HRS), to explicitly include helicopters within the definition of "Aircraft";
- Limits the statute's provision on minimum facility size to those facilities servicing and maintaining jet aircraft;
- Adds language to the definition of "aircraft service and maintenance facility" mandating that for a facility that services and maintains helicopters, no less than seventy-five per cent of the helicopters serviced and maintained annually in an aircraft and maintenance facility shall be equipped with quiet technology;
- Defines "quiet technology" as the use of design, technologies, and structure modifications to rotocraft to reduce or redirect the sound generated by the engine exhaust, tail, or the main rotor, and that reduces the craft's total overall noise level by no fewer than an unspecified number of decibels; and
- Effective January 1, 2020 and will repeal on December 31, 2024.

The Department notes that the House Committee on Economic Development & Business amended the previous version of this measure by amending the definition of "quiet technology" to mean the use of design, technologies, and structure modifications that reduce the craft's total overall noise level by no fewer than an unspecified number of decibels.

The Department appreciates the inclusion of a minimum threshold of decibels by which the helicopter's noise level must be lowered for "quiet technology" to qualify for the credit. However, the Department notes that it still lacks the subject-matter expertise to verify exactly how any "design, technologies, and structure modifications" are reducing or redirecting helicopter sound, or if the applicable technology used by Taxpayer has reduced or redirected sound by the required amount to effectuate the purpose of the credit. The Department thus recommends that another agency with relevant subject-matter expertise be responsible for certifying taxpayer compliance. This will help minimize taxpayer confusion, prevent improper claims and abuse of the exemption, and avoid unexpected losses in revenue.

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

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February 19, 2019

Representative Angus L.K. McKelvey, Chair
Committee on Economic Development and Business

Dear Chair McKelvey and Committee Members:

RE: HB 421, HD1 Relating to General Excise Tax

Thank you for this opportunity to testify against HB 421, HD1.

Helicopters are a valued component of our tourism industry. They also have been a source of endless complaints from communities that lie in their flight paths, and there should be no doubt that noise can constitute both a nuisance and a health hazard, especially in otherwise tranquil rural areas.

Helicopter companies are now asking the Legislature for special treatment (what they argue is "parity" or "equity") with respect to the general excise tax. There is no suggestion of economic hardship; there is no credible argument (that I know of) that new facilities will be attracted to Hawai'i; and there is no suggestion that the industry would use its savings to better accommodate those who live in their fly-over country. The exemption will simply add to the companies' bottom line.

This year's bill is slightly better than last year's version, in that it asks for only a five-year general excise tax exemption, and it adds a provision that "75% of the helicopters serviced and maintained annually in the facility are equipped with quiet technology."

I appreciate that the prior committee has added a definition of "quiet technology." But I also ask you to recognize the frank testimony of Jack Harter Helicopters that "there is no such thing as a 'quiet helicopter.'" As far as I can tell, there is no hint as to how effective so-called "quiet technology" is or will be. At a minimum, that needs further clarification.

As you struggle to balance your budget, one must ask whether the added profits for these companies' owners could be better utilized in meeting the multiple needs that Hawai'i faces. To me, the answer is that our transportation, education, social service needs, etc., should be a higher priority.

In addition, I don't think it would be unfair to say that tax giveaways should be reserved for good corporate citizens.

I have met with tour operators and asked them to develop a plan to address noise and safety. They have taken some initial steps, and I commend them for that. Moreover, I am hopeful that tour operators and community members can work together. However, the history laid out in SCR 183 (2018) is eye-opening:

"In 2000, the National Environmental Policy Act, in conjunction with the National Parks Air Tour Management Act of 2000, required an Air Tour Management Plan to be implemented at various national parks throughout the country... The objective of an Air Tour Management Plan is "to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences and tribal lands...In 2005, the project was upgraded to an Environmental Impact Statement, and the Federal Aviation Administration published a notice of opportunity for commercial air tour operators granted interim operating authority to review and self-correct annual authorizations. In 2008, Federal Aviation Administration and National Park Service staff met with Hawai'i air tour operators, and acoustic monitoring of three sites at Hawai'i Volcanoes National Park was conducted. In 2011, a preliminary draft Air Tour Management Plan for Hawai'i Volcanoes National Park was published, but...seven years later, in 2018, there [was] still no final Air Tour Management Plan for Hawai'i Volcanoes National Park...In addition, after more than sixteen years, no Air Tour Management Plan for any national park in the nation has been completed..."

How can our residents be asked to tolerate the status quo when it has been 15 years since the Federal Aviation Administration and National Park Service asked for comments on an Air Tour Management Plan Environmental Assessment, and eight years since a preliminary draft Air Tour Management Plan for Hawai'i Volcanoes National Park was published. That is an outrage.

I would urge a No vote on HB 421, HD1 at least until the helicopter industry proves itself to be a better neighbor, it is established that "quiet technology" actually makes a difference, and this Legislature determines that the benefits to the broader community of this tax giveaway outweigh the benefits to the helicopter industry.

Respectfully Submitted,


Harry Kim
MAYOR

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Exemption for Helicopter Repair and Maintenance

BILL NUMBER: HB 421, HD-2

INTRODUCED BY: House Committee on Economic Development & Business

EXECUTIVE SUMMARY: The bill seeks to exempt helicopter repair and maintenance from the GET. However, the bill as drafted perpetuates inequity because propeller aircraft would not be so exempted.

SYNOPSIS: Amends the definition of “aircraft” in HRS section 237-24.9 to include a helicopter.

Amends the definition of “aircraft service and maintenance facility” to define it as a facility for aircraft service and maintenance; provided that: (1) a facility that services and maintains jet aircraft shall be not less than thirty thousand square feet in area, which may include ancillary space that is integral to the facility, such as parts and inventory warehouse space, tool rooms, and related administrative and employee space; and (2) for a facility that services and maintains helicopters, no less than seventy-five per cent of the helicopters serviced and maintained annually shall be equipped with quiet technology.

Defines "quiet technology" as the use of design, technologies, and structure modifications to rotocraft [sic] to reduce or redirect the sound generated by the engine exhaust, tail, or the main rotor, and that reduces the craft's total overall noise level by no fewer than _____ decibels.

EFFECTIVE DATE: Takes effect on January 1, 2020, and sunsets on December 31, 2024.

STAFF COMMENTS: Back in 1997, Continental Airlines was considering building a \$24 million jet maintenance hangar close to the Honolulu International Airport. To lure the project away from Guam and Saipan, our lawmakers at the time offered incentives, including a GET exemption. The exemption applied to servicing and maintenance of aircraft, or from the construction of an aircraft service and maintenance facility. But “aircraft,” as used in the exemption statute, was and still is restricted to aircraft with two or more jet engines. Small carriers with propeller planes don’t qualify, raising some questions about whether this exemption helps the industry fairly. Is it simply a reflection of the economic realities – namely that the big planes can fly elsewhere to have the maintenance work done, while smaller aircraft are effectively trapped here? A better approach may be to have the exemption apply (or be repealed) across the board; the current structure leaves the impression that big business skates by where small business is left behind.

In addition, the requirement that 75% of the helicopters serviced and maintained annually be equipped with quiet technology is problematic:

1. The GET is a transaction-based tax, so the facts necessary to apply it need to be known when the transaction happens. Whether the 75% test is met is necessarily unknown until the close of the taxable year.
2. The word “rotorcraft” in the definition of “quiet technology” appears to be misspelled.

Digested 2/17/2019

February 7th, 2019

Aloha Chair, Vice Chair and Committee.

I am writing in support of HB 421 which would provide tax exemption for maintenance of certain helicopters.

As an Employee of Hawaii Helicopters which operates on Maui and Big Island. HB 421 will provide equality for smaller aviation operators which seek to promote the use of quiet technology. With relieving businesses of a tax not felt by similar aviation operators, this will help promote our states economy.

Sincerely,

A handwritten signature in black ink, appearing to read 'Justin Brooke', with a long horizontal flourish extending to the left.

Justin Brooke

Director of Operations

Hawaii Helicopters

Aviation Tech Associates LLC



February 9, 2019

Aviation Tech Associates is an aircraft services and supply company offering FAA approved repair/alteration kits for the Airbus Helicopters EC130/H130 model helicopters to customers in North America and Australia.

Blue Hawaiian Helicopters was one of a handful of companies that prompted the manufacturers to develop "Quiet Technology" helicopters to meet their Fly Neighborly program and National Park Service noise abatement requirements.

As a result, Airbus Helicopters (formerly Eurocopter) introduced the EC130/H130 model helicopter and Blue Hawaiian Helicopters became the launch customer. This aircraft has become a very popular choice amongst various operations within the industry. The EC130/H130 helicopter is recognized worldwide for its "Quiet Technology"

At Aviation Tech Associates, we support the adoption of HB 421, as it will create incentive for the operators to incorporate "Quiet Technology" helicopters into their fleet.

Respectfully,

A handwritten signature in black ink, appearing to read "Robert Pistorino". The signature is written in a cursive, flowing style.

Robert Pistorino
Aviation Tech Associates



February 7, 2019

Chair, Vice Chair and Committee,

My name is Eric Hamp and I am the Director of Safety for Blue Hawaiian Helicopters. Mahalo for allowing me to voice my support of HB 421 which would provide tax exemption for maintenance of certain helicopters.

HB 421 will provide tax relief on helicopter maintenance allowing the sustainability of our company and therefore benefitting the state's economy.

Please support HB 421.

Sincerely,

Eric Hamp
Director of Safety
Blue Hawaiian Helicopters

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House Committee on Finance
Thursday, February 21, 2019, Hearing
House Conference Room 308
11:00 AM

Supporting Comments and Recommendations for House Bill 421, HD2
Relating to the General Excise Tax

Aloha Chair Luke and Committee Members:

House Bill 421 is at last a preliminary opportunity to benefit the citizens of Hawai'i by launching discussion on long-overdue remedies to curtail and control aircraft noise. Excessive aircraft noise compromises the health and well-being of the Hawaii 's people.

The crescendo of community complaints building island-wide across the State from Hawai'i to Kaua'i demonstrate that tour helicopters have been increasingly inundating and impacting our 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 in mitigating and avoiding 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 up on the panoramic Summit, are incessantly impacted by the discordant reverberations 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.

Thus it is the State's responsibility and purview - not the FAA's - to curtail and control local tour helicopter flights with clear laws supported by consistent enforcement

¹ <https://hawaiihelicopterassociation.org/>

² <http://www.magnumhelicopters.com/>

and escalating 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.

Therefore it is strenuously recommended that HB 421, HD2 be further augmented and progressively comprised of more comprehensive Sections to address the above, as respectfully suggested 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.

Minimum flight altitude and distance. To operate safely over Hawai'i's congested communities, conservation areas and other land forms, helicopters must have a safe gliding distance to the shoreline when emergencies occur. Many Hawaii helicopter operators have experienced such episodes, and there is no excuse to invite more by maintaining the status quo.

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.³

Flight Hours. Commercial tour helicopter flights during the day must be required to be offshore from shoreline residential neighborhoods, with no flights at night after 8 PM. This must be enforced with penalties for violations.

Penalties. 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.

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

In view of the greater public health and welfare, please strengthen HB 421, HD2 accordingly. The affected residents, schools and businesses in our communities cannot wait another year for this to happen.

Testimony respectfully submitted by Michelle S. Matson

³ Reference: U.S. Department of Transportation Federal Aviation Administration Title 14, Section 91.119 - Minimum Safe Altitudes.

LATE

HB-421-HD-2

Submitted on: 2/21/2019 10:51:01 AM

Testimony for FIN on 2/21/2019 11:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Scott Martin | Individual | Support | No |

Comments:

Aloha,

My name is Scott Martin and reside at 1980 Iwi Way. My neighborhood is inudated with prop plane and helicopter noise on a daily basis. It negatively effects our quality of life here on the beautiful islands. Flight patterns should change so as to not effect the residence.

Thank you