

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
ROSS M. HIGASHI
EDUARDO P. MANGLALLAN
PATRICK H. MCCAIN
EDWIN H. SNIFFEN

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

February 24, 2022
9:30 a.m.
State Capitol, Teleconference

S.B. No. 3272, S.D. 1
RELATING TO TRANSPORTATION

Senate Committee on Commerce & Consumer Protection and Ways & Means

The Department of Transportation (DOT) supports the intent of this bill.

S.B. 3272, S.D. 1 establishes the Air Noise and Safety Task Force. Requires the Director of Transportation to adopt rules to require tour aircraft operators to report details of each flight taken by the tour aircraft operation on a monthly basis.

Thank you for the opportunity to provide testimony.

LATE

**2TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT WITH
COMMENTS FOR SB 3272 SD1**

Hearing Date: Tuesday February 24, 2022

Time: 9:30 a.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) proving **COMMENTS** on SB 3272 SD1, Relating to Transportation.

HAJ supported the previous version of the bill as it required tour aircraft operators to have commercial general liability insurance coverage of at least \$10,000,000. Sufficient insurance coverage is vital to protecting our residents if they suffer: 1) bodily injury and death; or 2) property damage from an incident involving tour aircraft operations. Unfortunately, the insurance requirements for the measure were removed from the previous version of this measure.

Requiring insurance coverage has become increasing necessary given recent incidents involving helicopter crashes. Further, these tour aircraft operators conduct flights in airspace over our local residential neighborhoods and need to have proper insurance minimums in place to assure that residents are properly compensated if there is an incident that results in bodily injury or death. As stated in the committee report, "small aircraft operations constitute a significant risk to passengers and residents on the ground." Accordingly, HAJ recommends that the \$10,000,000 in minimum general liability insurance coverage be reincluded to assure that residents can be properly compensated.

HAI appreciates the legislature's commitment to assuring that there is sufficient recourse for injuries resulting from commercial activities in Hawaii. Thank you for allowing us to testify regarding this measure. Please feel free to contact us should you have any questions or desire additional information.

O'AHU TOUR HELICOPTER SAFETY AND NOISE INTER-ACTION GROUP

TESTIMONY in STRONG SUPPORT

Senate Committee on Commerce and Consumer Protection
Senate Committee on Ways and Means
February 24, 2022 Decision Making
9:30 AM

SENATE BILL 3272, SD1
“Relating to Transportation”

LATE

Aloha Joint Committee Co-Chairs Baker and Dela Cruz,
Co-Vice Chairs Chang and Keith-Agaran
and Committee Members:

Senate Bill 3272 establishes a helicopter noise and safety task force, and requires the State Department of Transportation Director to adopt rules to require tour aircraft operators to report details of each flight taken in order to renew an annual tour aircraft operation permit.

Helicopter Noise and Safety Task Force

A Helicopter Noise and Safety Task force must have statutory requirements to be productive and effective. The recent “Helicopter Air Noise and Safety Task Force” (HANSTF) was comprised solely of air industry and tour helicopter operators and thus grossly ineffective and unproductive, with *no stated goals or objectives and no results*, despite clear community involvement during their few public meetings with responsive and respectful professional facilitators. From the outset, fair and balanced Community representation on the task force from each island was clearly denied, and public testimony with questions and recommendations came last.

Senate Bill 3272 provides a new Section under HRS 261 to establish a Helicopter Noise and Safety Task Force within the State Department of Transportation with the following requirements, and recommended additional language is underscored:

The task force shall:

- (1) Identify key noise and safety issues facing Hawaii relating to helicopters;
- (2) Address increasing safety and community disruption concerns;
- (3) Explore and recommend changes needed to law and business practices to protect the public from the inherent dangers presented by helicopters; and
- (4) Engage with and respond to public concerns in determining regulatory or voluntary changes in helicopter operations.

The co-chairs of the task force shall invite the following persons to join the task force:

- (1) At least one community advocate from each island to represent the areas impacted by helicopter noise and the impacted public’s tour helicopter noise and safety concerns;
- (2) At least one representative from the helicopter industry, not to exceed the number of community representatives on the task force.

Annual Flight Records Report

Senate Bill 3272 strengthens HRS 261-12 by requiring tour aircraft operators upon annual permit renewal to provide the State Department of Transportation with a written report to be made available to the public of each tour operation that occurred during the duration of the

expiring permit, including the following with recommended additional language underscored:

- (A) The date and time that the aircraft took off and landed;
- (B) The number of individuals aboard the aircraft during the operation;
- (C) The true and accurate flight path from takeoff through landing, including clear identification of specific flight paths, altitudes and distances away from each island's defined noise sensitive areas; and
- (D) A disclosure if the aircraft deviated from its intended flight plan.

Comprehensive public information has disclosed that tour helicopters constitute a significant risk to residents on the ground. Over the two years prior to the Tier 1 Tour Helicopter pandemic lockdown, the following commercial helicopter crashes and emergencies occurred in Hawai'i:

- September 18, 2018 - Novictor Robinson-44 crash in **Wahiawa**, O'ahu;
- October 22, 2018 - Novictor Robinson-44 crash at **Kaneohe Bay** recreational sand bar;
- February 21, 2019 - K&S "Paradise" Hughes-369E crash in **Waipio Valley**, Hawai'i Island;
- April 16, 2019 - K&S "Paradise" Hughes-369E crash in **Sacred Falls State Park**, O'ahu;
- April 29, 2019 - Novictor Robinson-44 crash on a **Kailua Town** street with **3 fatalities**;
- May 21, 2019 - Schuman "Magnum" Hughes-369D emergency landing in **Diamond Head State Monument Crater Park** with 3,300 daily visitors;
- December 26, 2019 - Safari Eurocopter-AS350 crash on a **Kauai cliff face near the Na Pali Coast** with **7 fatalities**;
- March 5, 2020 – Blue Hawaiian Eurocopter 130 hard landing in **Puna**, Hawai'i Island.

In 2016 a fatal tour helicopter crash occurred in **Pearl Harbor near the USS Arizona memorial and the Pearl Harbor nuclear submarine base**.

Conclusion: Hawai'i can no longer risk tour helicopters crashing and burning within Hawai'i's protected Natural Resources, established communities, and coastal nuclear defense areas.

Yet despite strong and repeated messages of community outcry by the larger public on O'ahu, Resolutions adopted by eighteen (18) O'ahu community boards, several private tour helicopter operators in Hawai'i have been and continue to be egregiously disregarding existing regulations and environmental impacts with their overriding preference to fly *wherever, whenever and however they want*.

Therefore, because of the intense significant adverse noise and safety impacts to Hawaii's, communities and established peaceful neighborhoods and schools, public beaches and parks, Diamond Head and Olomana State Monuments, and natural habitats and preserves, the revocable State permits for tour helicopter operations should clearly include a stringent condition for compliance with flying at least one (1) mile offshore of State Monuments, State Parks, Natural Habitats and Reserves, public beaches and public parks, and communities and established neighborhoods and schools.

February 19, 2022 - Officer dies in California when Robinson 44 helicopter slams into Newport Beach bay, hours after Miami Beach crash

The fatal helicopter crash in California:

<https://www.nbclosangeles.com/news/local/orange-county-huntington-beach-police-helicopter-crash-rescue-newport-beach/2832103/>

came hours after another chopper plummeted into the Atlantic Ocean near beachgoers in Miami Beach:

[Helicopter crashes into ocean at crowded Miami Beach, injuring two – video | US news | The Guardian](#)

Helicopter crashes into ocean at crowded Miami Beach, injuring two



Helicopter crashes near Miami Beach swimmers

A helicopter crashed Saturday into the ocean waters off Miami Beach, plummeting a few feet away from swimmers in a crowded stretch popular among tourists, officials said. (Feb. 19) AP

USA TODAY:

<https://apple.news/ABxp2YP39RkyS3JbttClSUQ>

February 22, 2022 - Four dead in Helicopter Crash at U.S. Naval Facility on Kaua'i

<https://www.staradvertiser.com/2022/02/23/breaking-news/officials-identify-4-people-killed-in-kauai-helicopter-crash/>

The helicopter was participating in a training operation when it “just went down,” killing everyone on board – 3 from Kaua'i.



New York Times:

[Four Dead in Helicopter Crash at U.S. Naval Facility in Hawaii - The New York Times \(nytimes.com\)](https://www.nytimes.com/2022/02/23/us/politics/helicopter-crash-kauai.html)

When will the next one happen in Hawai'i Nei?

Mahalo for expeditiously scheduling Senate Bill 3272, SDI, for Senate Decision Making today.



LATE

February 23, 2022

To:

[COMMITTEE ON COMMERCE AND CONSUMER PROTECTION](#)

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

[COMMITTEE ON WAYS AND MEANS](#)

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

From: Casey Riemer, Special Projects Manager
Jack Harter Helicopters

Subject: S.B. No. 3272 SD1 RELATING TO TRANSPORTATION

Hearing Date: February 24, 2022 (9:30AM)

Aloha,

Jack Harter Helicopters is writing to comment on SB3272 SD1. If this and a few other bills currently being considered by the State Legislature as passed as they are currently written, they would have grave negative effects on the entire aviation industry in Hawaii. We do support one portion of SB3272 SD1 and we oppose one part of the bill.

If passed as written, SB3272SD1 would establish an Air Noise and Safety Task Force. We support this proposal. We have participated for more than 2 years on the executive committee of the Hawaii Air Noise and Safety Task Force (HANSTF) and would be willing to continue our participation on the Task Force following the stated goals that appear in SB3272 SD1. We do have concerns about the language in SB3272 SD1 referencing changing laws and regulations related to the operation of air tour aircraft and urge close consultation with members of the FAA before finalizing this bill.

We strongly oppose the sections of SB3272 SD1 that change the requirements of the Air Tour Permit related to reporting of operations. This section of SB3272 SD1 would be in violation of the FAA Grant Assurances Paragraph 22 because tour aircraft operators would be the only type of operation at HI DOT airports required to compile and submit such reports. This portion of the changes to HRS 261-12 would be unjustly discriminatory just like the increased insurance requirements that were initially included in this bill.

During the last two years, I participated on the Executive Committee of the Hawaii Air Noise and Safety Task Force (HANSTF). The HANSTF was formed primarily in response to increasing aircraft noise concerns on Oahu and Hawaii Island. The President of the Helicopter Association International (HAI) worked with the Hawaii Department of Transportation (HI DOT) Representatives to form the HANSTF. The Task Force was co-chaired by administrative officials from, Airports Division (HI DOT-A). Representatives from the Aircraft Owners and Pilots Association (AOPA), The General Aviation Council of Hawaii, the Tour Operators Program of Safety (TOPS), and the Hawaii Helicopter Association served on the executive committee. The FAA and the National Parks Service participated in “advisory roles”. Members of the Hawaii State Legislature and the US Congress participated in some of the HANSTF sessions.

It is my understanding the purpose of the HANSTF was to gather information from the community regarding their concerns about aviation noise and safety, to educate the non-aviation participants about the rules and procedures that the aircraft operators must follow, and then come up with a set of actions to address those concerns. The COVID-19 pandemic caused the HANSTF process to proceed at a much slower than desired pace. HI DOT-A participants were dealing with an entirely new set of variables at their facilities and frankly, I was amazed that they continued to participate in the process. It was clear from the interactions with the community, that there was frustration with the process.

My participation in the HANSTF led me to think that the process was going to lead to the establishment of the following:

- A series of mediated meetings to discuss aviation noise hot spots, regulations under which aircraft operate in those areas, pre-existing agreements between operators and communities, potential modifications to existing agreements, new agreements/procedures. (Similar meetings were facilitated by HI DOT on Maui and Kauai in the 1990s.)

- A system/means of collecting aircraft sound complaints that operators, community members, and politicians will accept and utilize. The system would be web-based and have staff to facilitate the function of the system and to communicate with users. Periodic reports would go out to all who want them or they could be available online. *Planenoise.com* was referenced as one system that could be used and the Hawaii Helicopter Association offered to make the system that they paid to establish (and operate) on this platform available for use at no charge.

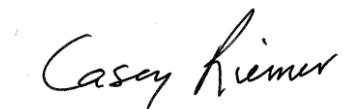
- A network of sound meters in areas with consistent complaints about aviation sound that is perceived to be noise (above acceptable levels). When there are complaints about aviation sounds, the system can be checked and data can be pulled for analysis and actions could be taken if sound levels exceeded federally established aviation sound limitations. An FAA air traffic representative commented that other airport systems had established similar systems that were very effective in producing accurate and undisputable sound data which is essential to resolve the issues of “when does sound become noise”.

In a very unexpected action, HI DOT-A officials removed their agency from their role in the HANSTF a few weeks ago. When HI DOT-A withdrew from the HANSTF, over \$1,000,000 in FAA Airport Improvement Program (AIP) grant funding that HAI had worked very hard to acquire was returned to the FAA grant program. This grant money could have been used to fund the programs that the

HANSTF was working to establish. It needs to be clearly noted that this AIP funding is only available to airport operators like HI DOT-A that participate in the FAA Grant Assurances Program.

In closing, we urge you to seek out those who understand the FAA regulations and the Federal Grant Assurances to learn how the aviation system works before you take actions that would have tremendous unintended consequences to the aviation system that is essential for the economic well-being of the State of Hawaii.

Respectfully Submitted,

A handwritten signature in black ink that reads "Casey Kiener". The signature is written in a cursive, flowing style.

SB-3272-SD-1

Submitted on: 2/22/2022 10:17:51 AM

Testimony for CPN on 2/24/2022 9:30:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|--------------|--------------|--------------------|----------------------------|
| Debra Laeha | Individual | Support | No |

Comments:

Aloha,

I am writing in strong support of SB3272

My husband (born and raised on Oahu) and I were fortunate to purchase a home in the beautiful Maunawili Valley in 1997. This once peaceful valley is now inundated with tour helicopters flying overhead every day, all day, all year long. The incessant drone from these helicopters reverberates off of the Ko‘olau Mountains which amplifies the noise. The volume of tour helicopter (and now fixed-wing aircraft) flights over Maunawili has increased exponentially to the point where it has become unbearable--it will be even worse once international travelers return!

Over the past five years, I have lodged complaints to the FAA, submitted testimony for various bills, met with several tour helicopter operators to discuss the issue, and attended the recent dog and pony HANSTF meetings with the hope that our voices might be heard. Unfortunately, these efforts have gone nowhere due largely to **the lack of data** which lies in the hands of the tour operators.

SB3272 will allow for the collection of the tour flight data needed to identify a solution that will bring the community and tour operators together. Since the tour operators should already maintain this data, it should not be an undue burden for them to provide it.

For the sake of our skies, the peace of our communities, and what is truly the right thing to do, I beg you to pass this bill so we may come to some resolution.

Mahalo for your consideration,

Deb Laeha