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.....  
(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

# H. R.

To impose safety requirements on commercial air tour flights, and for other purposes.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Mr. CASE introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To impose safety requirements on commercial air tour flights, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe and Quiet Skies  
5 Act of 2023”.

1 **SEC. 2. REQUIREMENTS FOR COMMERCIAL AIR TOUR**  
2 **FLIGHTS.**

3 (a) PROHIBITION OF OVERFLIGHTS.—Notwith-  
4 standing any other provision of law, a commercial air tour  
5 may not operate within a half mile of the following:

6 (1) A military installation.

7 (2) A national cemetery.

8 (3) A unit of the National Wilderness Preserva-  
9 tion System.

10 (4) A unit of the National Park System.

11 (5) A unit of the National Wildlife Refuge Sys-  
12 tem.

13 (b) USE OF AUTOMATIC DEPENDENT SURVEIL-  
14 LANCE-BROADCAST (ADS-B) OUT EQUIPMENT.—The  
15 Administrator of the Federal Aviation Administration  
16 shall revise section 91.227 of title 14, Code of Federal  
17 Regulations, to require the use of ADS-B Out (as such  
18 term is defined in such section) during the entire oper-  
19 ation of a commercial air tour.

20 (c) STERILE COCKPIT RULE.—The Administrator  
21 shall issue such regulations as are necessary to—

22 (1) impose the requirements of section 121.542  
23 of title 14, Code of Federal Regulations, on a com-  
24 mercial air tour and a pilot of a commercial air tour  
25 (including a commercial air tour that does not hold

1 a certificate under part 121 of title 14, Code of Fed-  
2 eral Regulations);

3 (2) define tour-giving and providing an oral  
4 narration of the air tour as duties that are not re-  
5 quired for the safe operation of the aircraft for a  
6 commercial air tour (including a commercial air tour  
7 that does not hold a certificate under part 121 of  
8 title 14, Code of Federal Regulations); and

9 (3) define a critical phase of flight for a com-  
10 mercial air tour (including a commercial air tour  
11 that does not hold a certificate under part 121 of  
12 title 14, Code of Federal Regulations) to include all  
13 ground operations involving taxi, takeoff, and land-  
14 ing, and all other flight operations regardless of alti-  
15 tude of operation.

16 (d) MINIMUM ALTITUDES.—

17 (1) IN GENERAL.—Notwithstanding any other  
18 provision of law, a commercial air tour may not op-  
19 erate at an altitude of less than 1,500 feet.

20 (2) EXCEPTIONS.—

21 (A) SAFE HARBOR.—An operator of a  
22 commercial air tour may fly below the altitude  
23 described in paragraph (1) for reasons of safety  
24 if unpredictable circumstances occur.

1 (B) FAA REQUIREMENTS.—The Adminis-  
2 trator may permit an operator of a commercial  
3 air tour to operate below the altitude described  
4 in paragraph (1) for flight operations for take-  
5 off and landing.

6 (3) RULE OF CONSTRUCTION.—If a reasonable  
7 individual would believe a commercial air tour could  
8 not safely fly at a minimum altitude of 1,500 feet  
9 for the duration of the flight given the conditions at  
10 takeoff, the safe harbor described in paragraph  
11 (2)(A) shall not apply.

12 (e) OCCUPIED AREAS.—

13 (1) IN GENERAL.—Notwithstanding any other  
14 provision of law, a commercial air tour may not op-  
15 erate within half a mile of an occupied area unless  
16 the aircraft has noise suppression technology that  
17 brings noise to the lesser of—

18 (A) a maximum level of 55 dbA as meas-  
19 ured from such occupied area; and

20 (B) a maximum level required in such oc-  
21 cupied area by a requirement imposed pursuant  
22 to section 3(a) of this Act or section 40128(e)  
23 of title 49, United States Code.

24 (2) REGULATIONS.—The Administrator shall  
25 revise subparts F and H of part 36 of title 14, Code

1 of Federal Regulations, and related appendices, to  
2 reduce noise limits in accordance with paragraph  
3 (1).

4 **SEC. 3. DELEGATED AUTHORITY TO STATE AND LOCAL**  
5 **REGULATORS.**

6 (a) IN GENERAL.—Notwithstanding any other provi-  
7 sion of law, a State or locality may impose additional re-  
8 quirements on commercial air tours (but may not waive  
9 any requirements described in this Act or in the amend-  
10 ments made by this Act), including—

- 11 (1) banning such tours;
- 12 (2) imposing day and time flight restrictions;
- 13 (3) regulating the total number of flights per  
14 day;
- 15 (4) regulating route requirements over occupied  
16 areas;
- 17 (5) prohibiting flights over State or local parks,  
18 ocean recreation, cemeteries, and other areas of  
19 State interest; and
- 20 (6) requiring commercial air tours to operate at  
21 lower decibels for purposes of noise requirements.

22 (b) FAA EXCEPTIONS.—The Administrator may in-  
23 validate a requirement imposed pursuant to subsection (a)  
24 if required for flight operations for takeoff and landing.

1 **SEC. 4. PUBLIC ENGAGEMENT THROUGHOUT FEDERAL**  
2 **AND STATE REGULATORY PROCESS.**

3 During the promulgation of any regulation required  
4 by this Act or the drafting and update of the Air Tours  
5 Common Procedural Manuals, the requirements of the Ad-  
6 ministrative Procedure Act shall apply.

7 **SEC. 5. PENALTIES.**

8 The Administrator shall impose penalties for viola-  
9 tions of this Act or the amendments made by this Act,  
10 including revoking any certifications or permits issued to  
11 operate a commercial air tour.

12 **SEC. 6. CONFORMING AMENDMENTS.**

13 (a) IN GENERAL.—Section 40128 of title 49, United  
14 States Code, is amended—

15 (1) in the section heading by striking “**na-**  
16 **tional parks**” and inserting “**tribal lands**”;

17 (2) by striking “a national park or” in each  
18 place in which it appears;

19 (3) by striking “park or” in each place in which  
20 it appears;

21 (4) in subsection (a)(1)(C), by striking “or vol-  
22 untary agreement under subsection (b)(7)”;

23 (5) by striking subsection (a)(2) and inserting  
24 the following:

25 “(2) APPLICATION FOR OPERATING AUTHOR-  
26 ITY.—Before commencing commercial air tour oper-

1       ations over tribal lands, a commercial air tour oper-  
2       ator shall apply to the Administrator for authority  
3       to conduct the operations over the tribal lands.”;

4               (6) by striking subsection (a)(3);

5               (7) by redesignating paragraph (4) of sub-  
6       section (a) as paragraph (3);

7               (8) by striking subsection (a)(5);

8               (9) in subsection (b)(1)(A)—

9                       (A) by striking “over the park” and insert-  
10       ing “over the lands”; and

11                      (B) by striking “paragraph (4)” and in-  
12       serting “paragraph (3)”;

13               (10) by striking subsection (b)(1)(C);

14               (11) by striking subsection (b)(3);

15               (12) by redesignating paragraphs (4) through  
16       (6) of subsection (b) as paragraphs (3) through (5),  
17       respectively;

18               (13) by striking subsection (b)(7);

19               (14) by striking subsection (c)(2)(B);

20               (15) by redesignating subparagraphs (C)  
21       through (I) of subsection (c)(2) as subparagraphs  
22       (B) through (H), respectively;

23               (16) in subsection (c)(3)(B), by striking “at  
24       the” in each place in which it appears;

25               (17) in subsection (d)(1)—

1 (A) by striking “over a national park  
2 under interim operating authority granted  
3 under subsection (c) or”; and

4 (B) by striking “or voluntary agreement”;  
5 (18) by striking subsection (e);

6 (19) by striking subsection (f) and inserting the  
7 following:

8 “(e) TRIBAL AUTHORITY.—

9 “(1) IN GENERAL.—Notwithstanding any other  
10 provision of law, a tribal entity may impose addi-  
11 tional requirements on commercial air tours (but  
12 may not waive any requirements described in the  
13 Safe and Quiet Skies Act of 2023 or in the amend-  
14 ments made by the Safe and Quiet Skies Act of  
15 2023), including—

16 “(A) banning such tours;

17 “(B) imposing day and time flight restric-  
18 tions;

19 “(C) regulating the total number of flights  
20 per day;

21 “(D) regulating route requirements over  
22 occupied areas;

23 “(E) prohibiting flights over tribal parks,  
24 ocean recreation, cemeteries, and other areas of  
25 tribal interest; and



1           “(F) requiring commercial air tours to op-  
2           erate at lower decibels for purposes of noise re-  
3           quirements.

4           “(2) FAA EXCEPTIONS.—The Administrator of  
5           the Federal Aviation Administration may invalidate  
6           a regulation imposed pursuant to paragraph (1) if  
7           required for flight operations for takeoff and land-  
8           ing.

9           “(3) TRIBAL ENTITY.—In this subsection, the  
10          term ‘tribal entity’ means—

11           “(A) a tribal organization (as such term is  
12           defined in section 4 of the Indian Self-Deter-  
13           mination and Education Assistance Act of 1975  
14           (25 U.S.C. 5304));

15           “(B) a tribally designated housing entity  
16           (as such term is defined in section 4 of the Na-  
17           tive American Housing Assistance and Self-De-  
18           termination Act of 1996 (25 U.S.C. 4103)); or

19           “(C) an Indian-owned business or a tribal  
20           enterprise (as such terms are defined in section  
21           3 of the Native American Business Develop-  
22           ment, Trade Promotion, and Tourism Act of  
23           2000 (25 U.S.C. 4302)).”;

24           (20) in subsection (g)(1), by striking “over a  
25          national park” and inserting “over tribal lands”;

1 (21) in subsection (g)(2), by striking “over a  
2 national park” and inserting “over tribal lands”;

3 (22) by striking subsection (g)(4);

4 (23) by redesignating paragraphs (5) through  
5 (8) of subsection (g) as paragraphs (4) through (7),  
6 respectively; and

7 (24) by redesignating subsection (g) as sub-  
8 section (f).

9 (b) ANALYSIS.—The table of section for chapter 401  
10 of title 49, United States Code, is amended by striking  
11 the item relating to section 40128 and inserting the fol-  
12 lowing:

“40128. Overflights of tribal lands.”.

13 **SEC. 7. NTSB RECOMMENDATIONS.**

14 (a) IN GENERAL.—The Administrator shall imple-  
15 ment all recommendations concerning operators under  
16 part 135 of title 14, Code of Federal Regulations, that—

17 (1) were issued by the National Transportation  
18 Safety Board; and

19 (2) are considered by the Board to be open un-  
20 acceptable response.

21 (b) PART 135 REGULATION.—The Administrator—

22 (1) shall require all commercial air tours to op-  
23 erate pursuant to part 135 of title 14, Code of Fed-  
24 eral Regulations; and

1           (2) may not permit a commercial air tour to op-  
2           erate pursuant to part 91 of title 14, Code of Fed-  
3           eral Regulations.

4 **SEC. 8. DEFINITIONS.**

5           In this Act, the following definitions apply:

6           (1) ADMINISTRATOR.—The term “Adminis-  
7           trator” means the Administrator of the Federal  
8           Aviation Administration.

9           (2) ALTITUDE.—The term “altitude” means  
10          the distance above ground level between an aircraft  
11          and the highest obstacle that is within 2 miles of the  
12          location over which such aircraft is flying at any  
13          time.

14          (3) COMMERCIAL AIR TOUR.—The term “com-  
15          mercial air tour” means any flight conducted for  
16          compensation or hire in a powered aircraft where a  
17          purpose of the flight is sightseeing or intentional  
18          parachuting. If the operator of a flight asserts that  
19          the flight is not a commercial air tour, factors that  
20          can be considered by the Administrator in making a  
21          determination of whether the flight is a commercial  
22          air tour include—

23                  (A) whether there was a holding out to the  
24          public of willingness to conduct a sightseeing or

1 intentional parachuting flight for compensation  
2 or hire;

3 (B) whether a narrative was provided that  
4 referred to areas or points of interest on the  
5 surface;

6 (C) the area of operation;

7 (D) the frequency of flights;

8 (E) the route of flight;

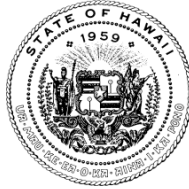
9 (F) the inclusion of sightseeing or inten-  
10 tional parachuting flights as part of any travel  
11 arrangement package; or

12 (G) whether the flight in question would or  
13 would not have been canceled based on poor vis-  
14 ibility of the surface.

15 (4) dbA.—The term “dbA” means the A-  
16 weighted sound level or unit of measurement de-  
17 scribing the total sound level of all noises as meas-  
18 ured with a sound level meter using the A weighting  
19 network.

20 (5) OCCUPIED AREA.—The term “occupied  
21 area” means land area that is used by people, in-  
22 cluding residential areas, commercial areas, and rec-  
23 reational areas.

JOSH GREEN, M.D.  
GOVERNOR



**TESTIMONY BY:**  
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**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
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April 13, 2023  
10:00 A.M.  
State Capitol, Teleconference

**S.C.R. 73**  
**REQUESTING THE DEPARTMENT OF TRANSPORTATION TO CONDUCT AN ASSESSMENT REPORT TO**  
**EVALUATE THE FEASIBILITY AND PRACTICALITY OF IMPLEMENTING HIGHER LEVELS OF**  
**COMMERCIAL GENERAL LIABILITY INSURANCE FOR THE GENERAL AVIATION INDUSTRY AND**  
**HELICOPTER OPERATIONS AT AIRPORTS IN THE STATE.**

House Committee on Transportation

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The Department of Transportation (DOT) provides **comments** on this measure, which requests that the DOT conduct an assessment report to evaluate the feasibility and practicality of implementing higher levels of commercial general liability insurance for the general aviation industry and helicopter operations at airports in the State.

The DOT recognizes that commercial general liability insurance requirements for permittees of State airport property are low compared to other airports. The DOT will reevaluate the commercial general liability insurance requirements and report recommended changes to the Legislature no later than 20 days prior to the convening of the Regular Session of 2024.

Thank you for the opportunity to provide testimony.



House Committee on Transportation  
April 13, 2023

Re: Support for SCR73

REQUESTING THE DEPARTMENT OF TRANSPORTATION TO CONDUCT AN ASSESSMENT REPORT TO EVALUATE THE FEASIBILITY AND PRACTICALITY OF IMPLEMENTING HIGHER LEVELS OF COMMERCIAL GENERAL LIABILITY INSURANCE FOR THE GENERAL AVIATION INDUSTRY AND HELICOPTER OPERATIONS AT AIRPORTS IN THE STATE.

Aloha Chair Todd, Vice Chair Kila, and members of the committee!

We are writing to support Senate Concurrent Resolution 73. These measures request the Department of Transportation to assess implementation of higher levels of commercial general liability insurance for the general aviation industry and helicopter operations at airports in the state.

Blue Hawaiian has the highest commitment to safety. Our aircraft are equipped with technologies and equipment like Helicopter Terrain Awareness and Warning Systems (HTAWS), automatic dependent surveillance-broadcast (ADS-B), aircraft floats and upgraded with the newest GARMIN glass-cockpit avionics to exceed the federal regulatory requirements for helicopter air tour safety. To further our safety commitment, Blue Hawaiian Helicopters is the only air tour operator in Hawaii to be a member of the Tour Operators Program of Safety, as well as to also have a Voluntary FAA Safety Management System (SMS) implementation program and an accepted and approved Voluntary FAA Aviation Safety Action Program (ASAP).

We have consistently urged the legislature to increase the aviation insurance coverage minimums as a mechanism to promote the adoption of safety measures by the aviation industry. Hawaii airports require commercial general liability insurance coverage in the amount of \$1 million combined single limit and \$2 million in the aggregate, whereas preliminary research indicates that airports like McCarran Airport in Las Vegas and Phoenix have minimum requirements of \$10 million.

We seek to serve as a resource to policymakers, including the legislature.

Thank you for the opportunity to testify.

Aloha

As a consultant that has worked with Hawaii's DOT Airport's division on a few general aviation projects, as an active aviation developer that is host to many aviation businesses, I am writing to provide written testimony for item SCR73/SR65

Airport insurance requirements for aviation businesses and users are intended to protect both the traveling public/community, and airport facilities to insure there is adequate coverage in the event of an accident or natural disaster with an airport business operator. As an industry standard, airport lease agreements often do, but should include language requiring a variety of insurance coverages with current limits, and specifically should include provisions that those insurance limits are subject to review and adjustment by the airport. Below is an example of recommended language that the regulation should consider, from a current FBO master lease agreement

....."LANDLORD (Airport) shall have the right at any time during the term of this Lease to review the type, form and coverage limits of the insurance enumerated herein. If, in the opinion of LANDLORD, the insurance provisions in this Lease are not sufficient to provide adequate protection for LANDLORD and the members of the public using XXXXXX Airport, LANDLORD may require the TENANT to obtain insurance sufficient to provide such adequate protection. Insurance requirements shall be applied uniformly to all TENANTS engaged in similar type operations on the XXXXXX Airport, and such requirements shall be consistent with industry standards.

Notwithstanding anything to the contrary contained in this Section, whenever, and separately with respect to each occurrence, the operations and /or products offered by TENANT or its subtenants change (either as an increase or decrease in required coverage and limits) during the term of this Lease, the coverage and limits of coverage in Section that apply to TENANT or its subtenants may change as determined in writing by the City Risk Manager or designee; provided, however that in no event shall the insurance coverage limits that are required from any existing (as of the Effective Date) subtenant of TENANT apply until the second anniversary of the Effective Date, and then only to the extent that such insurance coverage limits have been updated and LANDLORD has required compliance with such limits by LANDLORD's other tenants at the Airport which are similarly-situated to TENANT".....

Aviation insurance coverages, need to be kept at current limits that properly reflect the specific risk at any one airport, as they are unique in their operations and types of aircraft users and businesses, and as well the limits should reflect the current costs of medical and property coverage where any insurance limits would need to apply. Such a review, and modification to any insurance limits, do in fact provide a level of safety for the public, and consistent with federal DOT policy relative to carriage regulations for

the movement of people, limits should be established to protect the industry's highest obligation for a "duty to care"

Lastly, airports need to uniformly apply their insurance limit requirements at any one airport, and in any system of airports, where they review the specific inherent risks. In the case of Hawaii, given that commercial service operations from general aviation provide for the movement of people, goods and support tourism, a review of those risks, and the need for higher insurance coverages to assure the safety standards are enough to protect the public is reasonable. As well, the State should consider the characteristics of each operator, and again apply the insurance standards uniformly so there an established level playing field between commercial operators.

Respectfully submitted

photograph

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