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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

# H. R.

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

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## IN THE HOUSE OF REPRESENTATIVES

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

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# 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.



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February 13, 2023

Honorable Chris Lee  
Hawaii State Senate, District 25  
State Capitol, Room 219  
Honolulu, HI 96813

**TRANSMITTED VIA ELECTRONIC SUBMISSION**  
**SUBJECT: SB 969 – Helicopter Noise - OPPOSE**

Honorable Senator Lee,

On behalf of the over 1,000 aircraft owners and pilots across the State of Hawaii, we must respectfully oppose Hawaii House Bill (HB) 1201, which would declare helicopter noise a public nuisance and authorize a private right of action against an operator.

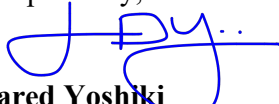
Simply put, SB 969 runs afoul of well-settled federal law and could open the door to frivolous lawsuits. The Federal Aviation Administration (FAA) has exclusive authority over aviation leaving the state of Hawaii with no legal grounds to set acceptable or unacceptable noise thresholds for helicopter operations. Moreover, the state has no authority to set boundaries for where noise violations could be issued. See 49 U.S.C. § 47521 & 41713; Advisory Circular 36-1H (Nov. 15, 2001).

Last year the State of Hawaii enacted legislation requiring permits for tour operators and also required the Department of Transportation to promulgate regulations for how this permit would be implemented. Tour operators have yet to see draft regulations that would impact the very noise concerns SB 969 seeks to address. Rather than introduce new legislation, seeking to double down and remedy the same problem, it would be prudent to allow current law to take effect and then gauge its effects.

This legislation will have a detrimental impact on the aviation industry in the state and the state's economy and will create a chilling effect on private investment in aviation industries and infrastructure looking to do business in Hawaii. Simply put the passage of this legislation would incentivize high-technology aviation businesses to invest in other states eager to support these growing aviation sectors.

For these reasons, AOPA must respectfully OPPOSE SB 969.

Respectfully,

  
**Jared Yoshiki**  
*Western Pacific Regional Manager*



March 1, 2023

COMMITTEE ON JUDICIARY  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

*SB969SD1: RELATING TO NOISE POLLUTION. Establishes that noise generated by helicopters in excess of a certain decibel level constitutes a public nuisance and a source of noise pollution in violation of the State's noise pollution law. Establishes fines and a private right of action for individuals to sue helicopter owners and operators for committing a public nuisance. Establishes exceptions.*

Committee Hearing Date: March 1, 2023 @ 9:30AM

Aloha Chair Rhodes, Vice Chair Gabbard, and Committee Members,

Jack Harter Helicopters opposes the proposed changes SB969 would make to Hawaii Revised Statute 342F.

Although the language in SB 969 is incomplete because it is missing the decibel level value and a specific distance from an airport at which a violation of this proposed law would occur, it is clear that, if enacted, this bill would make flying a helicopter in the State of Hawaii almost impossible for commercial or personal use. This bill would also flood our legal system with frivolous legal actions if passed into law.

The US Congress has granted preemptive authority to the Federal Aviation Administration (FAA) over the operation of aircraft in the National Airspace System (NAS). This was done to provide a safe and sustainable aviation system across the entire country. This bill would violate the FAA's sole jurisdiction over the operation of aircraft in the NAS by making the lawful operation of a helicopter (in compliance with the Federal Aviation Regulations (FARs)), a violation of a sound limit established in the Hawaii Revised Statutes.

The FAA is keenly aware of safety issues related to aviation. The FAA has some authority to establish noise limits in the areas surrounding airports for the sake of the communities surrounding these facilities that are vital to our economy. To the best of my knowledge, there has never been a helicopter that exceeded the FAA's noise limits during operation near an airport or heliport.

A bill similar to SB969 was recently passed by the New York State Legislature. New York Senate Bill S7493 was vetoed by the governor of New York. A statement from the Helicopter Association International included the following information about the New York governor's veto,

*"In a statement announcing her decision, Governor Hochul cited preemption as her primary reason for the veto. "Recent federal case law makes clear that nonfederal actors must carefully consider how state and local restrictions interact with federal laws governing aviation and must be attentive to federally mandated processes for enacting policy in this area," she said. "Certain elements of this legislation run counter to the federal scheme regulating New York's airports and airspace. Therefore, I am constrained to veto this bill.""*

In a 2021 letter to Suzanne Case, former Chair of the Hawaii Department of Land and Natural Resources Land Board from Raquel Girvin, FAA Regional Administrator for the Western-Pacific Region, Ms. Girvin explained in great detail the authorities and duties of the FAA and the authority of the State of Hawaii related to helicopter (aviation in general) noise. I have included that letter in this document and I am hopeful that this letter will help make it clear that the State of Hawaii would be in violation of the FAA's congressionally-mandated, exclusive authority to regulate the National Airspace System if SB969 was to be passed through the legislature and signed by the governor.

Thank you for considering our testimony and we urge your committee to **oppose passage of SB969SD1**.



Casey Riemer  
Special Project Manager

Senate Committee on Judiciary  
Hawaii State Legislature

Wednesday, March 1<sup>st</sup>, 2023

**RE: Opposition to Senate Bill 969**

As representatives of the international vertical flight industry, the Helicopter Association International (HAI) would like to express our serious concerns regarding SB 969. HAI represents more than 1,100 companies and over 16,000 industry professionals in more than 65 countries. Each year, HAI members safely operate more than 3,700 helicopters and remotely piloted aircraft approximately 2.9 million hours. HAI is dedicated to the promotion of vertical flight as a safe, effective method of commerce and to the advancement of the international vertical flight community.

HAI strongly opposes SB 969. The bill runs afoul of well-settled federal law and opens the door to frivolous lawsuits. The Federal Aviation Administration (FAA) and the federal Department of Transportation (DOT) have exclusive authority over aviation. The state of Hawaii has no legal grounds to set an acceptable or unacceptable noise threshold for helicopter operations, nor does the state have authority to set other requirements for where, when, or how noise violations could be issued. Below we provide a brief overview of several of the larger issues with the Act.

First, SB 969 appears to directly infringe federal law related to aircraft noise emissions. The FAA has been delegated exclusive responsibility by Congress to regulate aircraft noise, and has exercised that authority, preempting any state or local regulation. See, e.g., 49 U.S.C. § 44715; 14 C.F.R. Part 36; *Advisory Circular 36-1H* (Nov. 15, 2001); and *City of Burbank v. Lockheed Air Terminal*, 411 U.S. 624 (1973).

Second, the FAA has also been delegated (and further exercised) exclusive responsibility over the safe and efficient management of the U.S. navigable airspace system. See, e.g., *Blue Sky Entertainment, Inc. v. Town of Gardiner*, 711 F.Supp. 678, 692 (N.D.N.Y. 1989). The provisions for private injunctions, private damages, and state fines all would directly restrict how helicopters operate in Hawaii, and all of them are preempted by federal oversight.

Third, 49 U.S.C. § 41713, as enforced by DOT, expressly prohibits Hawaii from regulating the prices, routes, and services of air carriers. See, e.g., *Friends of the East Hampton Airport v. Town of East Hampton*, 841 F.3d 133, 139 (2d Cir. 2016). Likewise, many helicopter operations over Hawaii are conducted by air carriers, as federally defined, and this bill would restrict their routes, as well as impact their services and prices. Hawaii may not directly or indirectly implement requirements that re-regulate air carriers.

Fourth, Hawaii cannot circumvent the preemptive effect of federal statutes by using private litigation as a means of enforcement. If enacted, SB 969 would allow any person who is “aggrieved by a violation” to bring a civil action against the operator or owner of the helicopter. Preemption also applies if a state, rather than regulating directly, grants individuals a private right of action. See, e.g., *Whitten v. Vehicle*



*Dedicated to the Advancement of the International Helicopter Community*

*Removal Corp.*, 56 S.W.3d 293, 310 (Tex. App. 2001). HAI is also concerned that SB 969 would allow Hawaii's Department of Transportation to rely on decibel readings collected by private residents, without any independent verification of their accuracy. In comparison, speed cameras for traffic enforcement must be carefully calibrated and are used only by trained law enforcement officers.

Fifth, the bill describes the noise that it prohibits as a "public nuisance." Yet courts previously have concluded that a nuisance claim cannot be premised on the operation of aircraft in compliance with federal law. For example, in *St. Lucie County v. Town of St. Lucie Village*, 603 So.2d 1289, 1293 (Fla. 4th Dist. Ct. 1992), the court held that noise from aircraft operating at an airport in compliance with FAA requirements could not constitute a nuisance. *See also Wells v. Kentucky Airmotive, Inc.*, 2014 WL 4049894, \*4-5 (Ky. App. August 15, 2014) and *Friends of Merrymeeting Bay v. Central Maine Power Co.*, No. BCD-CV-2020-36, slip op. (Me. Super. Jan. 15, 2021), *aff'd* No. BCD-21-43, slip op. (Me. January 11, 2022).

Lastly, it is important to note that SB 969 replicates the intent of New York SB7493-A; a bill that was vetoed on December 15, 2022, for being at odds with federal preemption. In a letter addressed to the NY Senate, Governor Hochul explained that "regulation of aircraft and airspace is primarily a federal responsibility, and federal law significantly constrains the State's ability to legislate in this area. Recent federal case law makes clear that non-federal actors must carefully consider how state and local restrictions interact with federal laws governing aviation." HAI understands that the Hawaii Attorney General provided similar testimony regarding SB 969 on February 14, 2023. Therefore, we urge the state of Hawaii to recognize the federal mandates and prohibitions for enacting policies within this realm.

The helicopter community strives to be good stewards of the environment and good neighbors to residents who live and work in the Aloha state. While we appreciate the issues that SB 969 intends to address, the proposed bill presents many impractical, insurmountable, and unlawful legal and logistical problems. HAI remains committed to working with other operators, legislators, leaders, and community members around the state to proactively address concerns and answer questions.

Sincerely,



Cade Clark  
Vice President of Government Affairs, HAI

**SB-969-SD-1**

Submitted on: 2/25/2023 8:16:17 AM

Testimony for JDC on 3/1/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cathy Goeggel	Individual	Support	Written Testimony Only

Comments:

I live in downtown Honolulu. Some days, I count flyovers at 6 per hour. I understand the need for medivac and military flights, but there are too many civilian helos !!!! please, we need some peace!

Mahalo

**SB-969-SD-1**

Submitted on: 2/25/2023 4:48:26 PM

Testimony for JDC on 3/1/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Will Caron	Individual	Comments	Written Testimony Only

Comments:

It's the military helicopters that are by the far the biggest nuisance, but we're exempting them in this bill. There is no sane reason why military helicopters need to do constant fly-bys right over neighborhoods.

The DOD has a \$1.9 TRILLION budget this fiscal year, and the military can't make detours to avoid flying over residential areas? The helicopter convoys are literally just flying to and fro to burn fuel so they can buy more to justify that ridiculous budget. And none of it actually keeps anyone safe. The military industrial complex is about profiting from violence—of course it's not going to keep us safe. It requires more and more violence in order to continue generating profit!



SB969 SD1 says, "(a) Any helicopter that generates a sound level of more than \_\_\_\_ decibels for bass sound, measured using the dBC weighting system, from a complainant's site at ground level... (b) The department may accept decibel readings gathered by complainants as evidence of a violation of this chapter.

Since my property at 41-1019 Nenu Street experiences such numerous helicopter flyovers, as helicopters cut away from the seashore on their return to the airport via the Pali Lookout pass, I'd like to offer my property for professional audio recording of helicopter flyovers – without letting helicopter companies know this is being done, so they don't avoid flyovers on those days.

Ultimately, the best methods to ensure that tourist helicopters' decibel levels are kept extremely low is to:

- restrict entirely any flights over land;
- restrict helicopters to a proper height and distance away from shore;
- mandate helicopter returns to their proper airport by traveling only over the ocean, never over land.

I support exceptions to SB969 SD1 for helicopters used in emergency services...and also for government agencies' helicopters, when absolutely necessary (so long as these government agencies notify the community of intended flyovers).

I urge you to support, strengthen, and design stringent enforcement for, SB969 SD1.

February 28, 2023

Hawaii State Legislature  
415 S Beretania St,  
Honolulu, HI 96813

Aloha,

The purpose of this letter is to provide testimony regarding SB969, which establishes that noise generated by helicopters in excess of a certain decibel level constitutes a public nuisance.

I appreciate the opportunity to submit my testimony for consideration in this important matter. I have been actively monitoring this issue for about 3 years, ever since I moved from town to Kaneohe. This is an issue near-and-dear to my heart, as I now begin each day with the sound of four helicopters loudly buzzing directly above my home. This continues until about late sun the afternoon.

In my experience, the issue with four helicopters has been progressively getting worse since the pandemic. It has been my observation, with some exceptions, that most four helicopter operators try to be good neighbors by flying at-altitude and offshore. The noise from these flights is still detectable from onshore, but certainly is not as jarring and disruptive as direct over-flights. There is one company that in my experience is the exception: Schuman Aviation Co. Ltd., dba Magnum Helicopters and Makani Kai Air (“Magnum”). This is the company I have the most experience with because they fly directly over my home all day long and refuse to stop.

Magnum operates several small, doorless, Vietnam-era helicopters which fly counter-clockwise daily around Oahu (much of it over residential neighborhoods). You will see them flying low over the Pearl Harbor area, Queens Beach, Kaneohe and all the way up the windward coastline. Their helicopters are especially loud because they are old, they have no doors, and have none of the latest noise suppression technology.

After filing many complaints with no responses, I was finally able to speak to the Magnum owner and GM on different occasions. Both listened intently but were basically unapologetic about the noise and safety issues and instead seemed to keep reminding me that only the FAA can tell them when, where, and how to fly. When asked why they cannot just fly off-shore like others, they say their helicopters are not equipped with proper

flotation devices so they cannot safely fly over the water. Of course this is a silly excuse, why not just properly equip the helicopters, we are on an island after all? Bottom line is that they aren't going to change anything until they are forced to - period.

Kailua and Kaneohe even adopted neighborhood board resolutions prohibiting helicopter tour over-flights and requiring other well-thought out controls such as requiring the latest noise suppression technology etc. However, Magnum refuses to acknowledge these boards authority.

As we all understand by now, these companies are regulated by the FAA. It's become clear that the FAA does not have the resources (or will, it seems) to deal with small tour helicopter operators. This represents a massive regulatory loophole which (some) tour operators seems to exploit.

These overflights may sound like a minor nuisance, right? But consider that each overflight generates about 7 minutes of noisy disturbance from above as the helicopter slowly travels up the coastline. Magnum alone flies 2x helicopters, 6x days/week, 5x flights per day each. That amounts to 60 over-flights per week. To be clear - that's 60 flights directly over densely-populated neighborhoods by helicopters that were designed and built in the 1960's [emphasis added]. They certainly pose a noise disturbance, and I would also argue significant safety concerns for residents.

An example to consider, I'll be enjoying the day at a quiet windward park like Kualoa Regional Park or Kahana. A few families, kids and couples are scattered around and fisherman dot the coastline. The scene is peaceful and serene. Then, from many miles away, a high-pitched buzzing sound becomes noticeable.

For several more minutes this buzzing continues to intensify as it nears and, one-by-one, each of the park visitors who was previously enjoying their day at the beach looks up and searches the sky to find the source of the loud disturbance. The helicopter flies over and then several more minutes of buzzing as it continues up the pristine coastline. The park visitors look back down, shake their head and try to get back to their day. Then, 30-40 minutes later, this whole scene plays out again. Its really hard to quantify the impact this has on people and the community.

I cannot think of another example of an industry in Hawaii that disproportionately impacts so many... all for the enjoyment of so few.

Please help us resolve the noise and safety issues with tour helicopters in Hawaii and you'll be doing a tremendous service to everyone in the community. I am here to help in anyway possibly, Mahalo nui loa!

Sincerely yours,

A handwritten signature in cursive script that reads "Kevin Doherty". The signature is written in black ink and is positioned above the typed name.

Kevin Doherty  
Kaneohe Resident



**LATE**

**SB-969-SD-1**

Submitted on: 2/28/2023 9:50:31 PM

Testimony for JDC on 3/1/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ryan Willis	Individual	Oppose	Written Testimony Only

Comments:

This needs to be amended. I have military helicopters fly over my house multiple times a day at all times during the day. 10:30pm, 4:30am, 5:00am, 9:00pm, and many others. They fly so low it shakes the doors and windows.

I have inquired with the Army Garrison Commander and he said they are training. But why does it have to be over residential areas and during such inopportune times. They have 2000 miles in any direction to "train"

**LATE**

**SB-969-SD-1**

Submitted on: 2/28/2023 9:53:15 PM

Testimony for JDC on 3/1/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kanoe Willis	Individual	Oppose	Written Testimony Only

Comments:

This needs to be amended. I have military helicopters fly over my house multiple times a day at all times during the day. 10:30pm, 4:30am, 5:00am, 9:00pm, and many others. They fly so low it shakes the doors and windows.

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