

STAND. COM. REP. NO.

1373

Honolulu, Hawaii

MAR 24 2023

RE: H.B. No. 1201  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2023  
State of Hawaii

Sir:

Your Committees on Health and Human Services and  
Transportation and Culture and the Arts, to which was referred  
H.B. No. 1201, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO NOISE POLLUTION,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish noise generated by helicopters exceeding a certain decibel level as a public nuisance and a source of noise pollution in violation of the State's noise pollution law;
- (2) Establish fines for any owner or operator of a helicopter in violation;
- (3) Establish a private right of action, allowing any aggrieved person to bring a civil action against the owner or operator of the helicopter in violation and collect damages and litigation costs; and
- (4) Establish exceptions for:



- (A) Helicopters owned or operated by a government agency or organization or used to supply emergency services; and
- (B) Violations that occur within a certain radius of an airport.

Your Committees received testimony in support of this measure from one individual. Your Committees received testimony in opposition to this measure from the Department of the Attorney General, Aircraft Owners and Pilots Association, and Helicopter Association International. Your Committees received comments on this measure from the Department of Health and Department of Transportation.

Your Committees find that excessive noise can adversely affect an individual's health and quality of life and can cause stress-related illnesses, high blood pressure, speech interference, hearing loss, sleep disruption, and lost productivity. Your Committees further find that helicopters have become a significant source of noise pollution in the State. This measure addresses this issue by establishing a maximum allowable decibel level for noise generated by helicopters and setting fines and private rights of action for violations, with certain exceptions.

Your Committees acknowledge the concerns raised in testimony that this measure may be subject to constitutional challenge and be preempted by federal law, as regulation of air traffic and relating noise fall under the exclusive jurisdiction of the federal government pursuant to the Federal Aviation Act. However, your Committees believe that the private citizen has a right as a private attorney general to pursue and enforce existing laws. Therefore, it is necessary to amend this measure to address these issues.

Accordingly, your Committees have amended this measure by:

- (1) Deleting language that would have:
  - (A) Established noise generated by helicopters exceeding a certain decibel level as a public



nuisance and a source of noise pollution in violation of the State's noise pollution law;

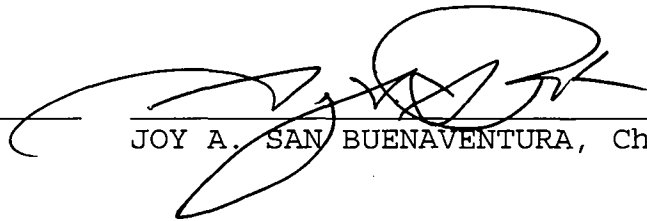
- (B) Established fines for any owner or operator of a helicopter in violation; and
  - (C) Established exceptions for violations that occur within a certain radius of an airport;
- (2) Clarifying that any person who is aggrieved by a violation of the Federal Aviation Act and existing federal laws shall have a private right of action and may bring a civil action against the owner or operator of the helicopter;
  - (3) Inserting an effective date of June 30, 2050, to encourage further discussion; and
  - (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Transportation and Culture and the Arts that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1201, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1201, H.D. 1, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on behalf of the members of the Committees on Health and Human Services and Transportation and Culture and the Arts,



CHRIS LEE, Chair



JOY A. SAN BUENAVENTURA, Chair





