



STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 11, 2025
3:01 P.M.
State Capitol, Room 224



S.B. 1197
RELATING TO AIRCRAFT

Senate Committee on Transportation and Culture and the Arts

The Department of Transportation (DOT) **supports SB1197**, which seeks to enhance aircraft safety regulations by requiring the Director of Transportation to establish rules that increase the minimum insurance requirements for tour aircraft operators.

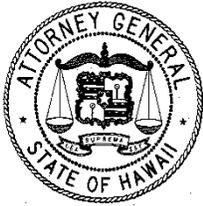
The safety of air tour operations in Hawai'i remains a significant concern. Recent incidents, including fatal crashes, underscore the need for stronger safety measures and financial accountability within the industry. HDOT has previously supported similar legislation and has engaged with the helicopter industry to address these concerns. Last year, we met with industry representatives to express our safety priorities, and we recognize their subsequent efforts to increase discussions and initiatives aimed at improving air safety, including the organization of a safety conference.

While we appreciate the industry's proactive steps, HDOT continues to advocate for the implementation of three critical safety measures to further protect passengers and the public:

1. Mandatory activation of tracking devices on all helicopters to enhance real-time monitoring and improve emergency response capabilities.
2. Installation of flotation devices on all helicopters operating over water to increase survivability in the event of an emergency landing.
3. Enhanced crash-resistant fuel systems and shielding to reduce the risk of explosions following an accident.

Until these safety measures are fully implemented, raising insurance requirements is a necessary step to incentivize the adoption of improved safety technologies and protocols, ensuring greater protection for passengers, operators, and the broader community.

Thank you for the opportunity to provide testimony.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:
S.B. NO. 1197, RELATING TO AIRCRAFT.

BEFORE THE:
SENATE COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS

DATE: Tuesday, February 11, 2025 **TIME:** 3:01 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Stuart N. Fujioka, Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill.

The purpose of this bill is to require tour aircraft operators in the State to carry aircraft liability insurance coverage in an amount to be determined by the Legislature. The preamble of the bill states the Legislature's finding that the use of helicopters for business and recreational purposes brings risks of property damage, bodily injury, and even death, and that these dangers highlight the need for greater safety and risk mitigation among tour helicopter operators in the State.

Despite the bill's intent to address safety concerns, it may be subject to legal challenge as a federally preempted insurance requirement under 14 CFR Part 205, which establishes federal rules for aircraft accident liability insurance. Under the Supremacy Clause of the United States Constitution (article VI, clause 2), federal law generally takes precedence over conflicting state laws.

14 CFR § 205.5 sets forth the minimum liability insurance coverage requirements for air carriers based on their classification and passenger capacity. For example, air taxi operators must maintain coverage of at least \$75,000 for any one person in any one occurrence, \$300,000 per involved aircraft for each occurrence, and \$100,000 for each occurrence for loss of or damage to property. In *Blue Sky Entertainment, Inc. v. Town of Gardiner*, 711 F. Supp. 678 (N.D.N.Y. 1989), the federal court held that a town ordinance imposing minimum liability insurance requirements for parachute jumping and

aircraft flights was preempted by federal regulation. Similarly, this bill's requirement of an unspecified minimum amount of liability insurance coverage could be found to conflict with federal law and would likely be preempted.

The Department respectfully asks the Committee to hold the bill due to the preemption concern discussed above. Thank you for the opportunity to testify.



Senate Committee on Transportation and Culture and the Arts
February 11, 2025

Re: Support SB 1197, Relating to Aircraft

Aloha Chair Lee, Vice Chair Inouye, and members of the committee,

We are writing to support SB 1197, Relating to Aircraft. This bill requires the Director of Transportation to adopt rules that require tour aircraft operators to have aircraft liability insurance coverage.

Blue Hawaiian continues to support safety in the industry, and we firmly believe that adequate insurance coverage is the right thing to do for the customer and community.

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 that 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 believe that increased aviation insurance requirements will promote increased adoption of technology, equipment, and programs that increase safety.

We look forward to engaging with policy leaders and wish to be a resource to the legislature.

Thank you for the opportunity to testify in support of this measure.

**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT WITH
COMMENTS FOR SB 1197**

Hearing Date: Tuesday February 11, 2025

Time: 3:01 p.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in **SUPPORT WITH COMMENTS** on SB 1197, Relating to Aircraft.

HAJ supported the previous version of the bill as it required tour aircraft operators to have commercial general liability insurance coverage. 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.

Requiring insurance coverage has become increasingly necessary given recent incidents involving helicopter crashes which resulted in catastrophic injury, loss of life, and substantial property damage. For example, the Kailua helicopter crash killed all who were onboard, and the wreckage fell onto a Kailua neighborhood. 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 their passengers, along with Hawaii residents are properly compensated if there is an incident that result in bodily injury or death.

HAJ has supported the \$1,000,000 in minimum general liability insurance coverage in previously to assure that residents can be properly compensated. The current minimum insurance coverage is far too low for as many of these operators employ is less than the auto or home coverage of many of the legislative members reviewing this bill. Furthermore, many

of these operators are a part of Hawaii's tourist industry, and many tourists may not be aware how low the current Hawaii's insurance minimums are for these operators.

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.

SB-1197

Submitted on: 2/9/2025 7:23:54 PM

Testimony for TCA on 2/11/2025 3:01:00 PM

Submitted By	Organization	Testifier Position	Testify
Eileen Hilton	Testifying for Windward Coalition	Support	Written Testimony Only

Comments:

Dear Senator Lee,

On behalf of the Windward Coalition, I am writing to express our strong support for Senate Bill 1197, which aligns with our mission to enhance the quality of life for residents in Windward O‘ahu and address pressing community challenges.

Senate Bill 1197, which requires the Director of Transportation to adopt rules mandating tour aircraft operators to carry aircraft liability insurance coverage, is essential for ensuring public safety, accountability, and responsible operation within Hawaii’s tour aircraft industry.

Tour aircraft operations are popular with many tourists but pose inherent risks to passengers, operators, and the general public.

A requirement for tour aircraft operators to maintain adequate liability insurance coverage, SB 1197 would help address critical safety and financial accountability concerns. This bill promotes responsible business practices within the aviation sector by holding operators accountable for potential risks associated with their services. It also prioritizes public safety while fostering sustainable tourism practices.

Additionally, liability insurance ensures that victims of accidents or incidents involving tour aircraft are adequately compensated for bodily injury or property damage. This aligns with federal regulations under 14 CFR Part 205, which mandate similar insurance requirements for U.S. air carriers engaged in air transportation. SB1197 extends this principle to Hawaii’s tour aircraft operators, filling a gap in local regulation.

I urge the committee to advance SB1197 and ensure its swift passage into law. This legislation is a necessary step toward safeguarding our community while maintaining the integrity of Hawaii’s aviation industry. Thank you for considering this important measure.

Sincerely,

Eileen Hilton MD

President, Windward Coalition

808.254.8088

LATE

SB-1197

Submitted on: 2/11/2025 10:04:49 AM

Testimony for TCA on 2/11/2025 3:01:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicole Battjes	Testifying for Rainbow Helicopters	Support	In Person

Comments:

RE: Opposition to Senate Bill 1197

Rainbow Helicopters expresses serious concerns regarding Senate Bill 1197. See comments below:

Federal Preemption and Compliance with FAA Regulations

SB 1197 proposes additional insurance requirements for tour operators operating at state-controlled airports. However, such state-imposed mandates conflict with federal requirements including the Federal Aviation Administration's (FAA) exclusive authority over aviation safety, as well as air carriers.

Key concerns include:

- **Violation of FAA Grant Assurances:** The bill's insurance mandate could put Hawaii's airport system at risk of losing millions in federal Airport Improvement Program (AIP) funding, and enforcement action by the FAA. Federal grant assurances prohibit states from imposing discriminatory or restrictive requirements that affect operations at federally assisted airports.
- **Federal Preemption on Aviation Safety:** The FAA maintains exclusive jurisdiction over aviation safety, including setting insurance requirements for air operators, as well as over the operations of air carriers (which conduct most air tours in Hawaii). The FAA already mandates liability insurance for air tour operators. Federal preemption is critical to maintain consistent regulations and uniformity to ensure operational efficiency and safety across state lines. In 2007, the FAA reminded the Hawaii Attorney General that there is "no room for State efforts to 'supplement' in this manner the Federal accident liability insurance regime." Accordingly, any state-imposed regulation on this matter is preempted by federal law and could be subject to legal challenges, resulting in unnecessary litigation costs for the state.

Negative Impact on the Air Tour Industry and Economy

The proposed insurance requirements additionally would impose substantial financial burdens on air tour operators, threatening the viability of small businesses and potentially harming Hawaii's economy.

Key concerns include:

- **Increased Costs for Operators:** Mandating insurance coverage at levels not aligned with market availability could significantly raise operational costs. Given the volatility of the insurance

market, many operators—especially small businesses—may struggle to obtain the required coverage at a sustainable cost.

- **Reduced Competition and Consumer Choice:** Increased financial burdens could force smaller operators out of business, leading to industry consolidation, less competition, and fewer options for consumers.
- **Adverse Effects on Hawaii's Tourism Industry:** Air tours are a vital part of Hawaii's tourism sector, supporting jobs and generating revenue for local businesses. Restrictive policies could lead to job losses and economic downturns in affected communities.
- **Inadequate Implementation Timeline:** The proposed effective date of July 1, 2025, does not provide sufficient time for operators to adapt to new requirements, further exacerbating compliance challenges.

Rainbow Helicopters is committed to working with the Hawaii State Legislature to develop solutions that address concerns while maintaining compliance with FAA regulations. We urge policymakers to explore alternative approaches that do not conflict with federal law or impose undue burdens on operators and the state's economy.

We welcome the opportunity for further discussion and collaboration to ensure any legislative actions support both public interests and the sustainability of Hawaii's air tour industry.



Senate Committee on Transportation, and Culture, and the Arts
Hawaii State Legislature
Monday, February 10, 2025

RE: Opposition to Senate Bill 1197

As the leading representatives of the vertical flight industry, Vertical Aviation International (VAI) expresses serious concerns regarding Senate Bill 1197. VAI represents over 1,100 companies and more than 16,000 professionals across 65+ countries. Each year, our members safely operate more than 3,700 helicopters and remotely piloted aircraft, logging approximately 2.9 million flight hours. VAI is committed to promoting vertical flight as a safe, effective mode of commerce and advancing the industry's community.

Federal Preemption and Compliance with FAA Regulations

SB 1197 proposes additional insurance requirements for tour operators operating at state-controlled airports. However, such state-imposed mandates conflict with federal requirements including the Federal Aviation Administration's (FAA) exclusive authority over aviation safety, as well as air carriers.

Key concerns include:

- **Violation of FAA Grant Assurances:** The bill's insurance mandate could put Hawaii's airport system at risk of losing millions in federal Airport Improvement Program (AIP) funding, and enforcement action by the FAA. Federal grant assurances prohibit states from imposing discriminatory or restrictive requirements that affect operations at federally assisted airports.
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**VERTICAL AVIATION
INTERNATIONAL**

- **Reduced Competition and Consumer Choice:** Increased financial burdens could force smaller operators out of business, leading to industry consolidation, less competition, and fewer options for consumers.
- **Adverse Effects on Hawaii's Tourism Industry:** Air tours are a vital part of Hawaii's tourism sector, supporting jobs and generating revenue for local businesses. Restrictive policies could lead to job losses and economic downturns in affected communities.
- **Inadequate Implementation Timeline:** The proposed effective date of July 1, 2025, does not provide sufficient time for operators to adapt to new requirements, further exacerbating compliance challenges.

VAI is committed to working with the Hawaii State Legislature to develop solutions that address concerns while maintaining compliance with FAA regulations. We urge policymakers to explore alternative approaches that do not conflict with federal law or impose undue burdens on operators and the state's economy.

We welcome the opportunity for further discussion and collaboration to ensure any legislative action supports both public interests and the sustainability of Hawaii's air tour industry.

Sincerely,

Katia Veraza

Assistant Director of Government Affairs & Regional Relations

Vertical Aviation International



LATE

February 11, 2025

COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS

Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair

SB1197: RELATING TO AIRCRAFT.

Requires the Director of Transportation to adopt rules that require tour aircraft operators to have aircraft liability insurance coverage.

Committee Hearing Date: February 20, 2024 9:35AM

Aloha Chair Lee, Vice Chair Inouye, and Committee Members,

Jack Harter Helicopters opposes *SB1197* that would make changes to Hawaii Revised Statute 261-12.

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. If passed, this bill would limit the operation of tour aircraft in the NAS unless the operator of the aircraft met the minimum insurance requirements contained in this bill. A tour helicopter or airplane operator that is otherwise in compliance with the Federal Aviation Regulations (FARs), but is unable to obtain a State of Hawaii, Air Tour Operators Permit would be denied access to the NAS. Any state-imposed regulation on this matter is preempted by federal law and could be subject to legal challenges, resulting in unnecessary litigation costs for the state.

Paragraph 23 of the Federal Grant Assurances requires the State of Hawaii, Department of Transportation, Airports Division to operate the airports in the State of Hawaii in a non-discriminatory manner. This bill includes language that would establish discriminatory policies in that airplanes and helicopters that are not engaged in tour flights would not be subject to the same insurance requirements. Non-compliance with the Federal Grant Assurances would put approximately \$100 million in federal grants that the state's airport system depends upon for the operation and development of the airports under their control.

Negative Impact on the Air Tour Industry and Economy

The proposed insurance requirements additionally would impose substantial financial burdens on air tour operators, threatening the viability of small businesses and potentially harming Hawaii's economy.

Key concerns include:

- **Increased Costs for Operators:** Mandating insurance coverage at levels not aligned with market availability could significantly raise operational costs. Given the volatility of the insurance market, many operators—especially small businesses—may struggle to obtain the required coverage at a sustainable cost.
- **Reduced Competition and Consumer Choice:** Increased financial burdens could force smaller operators out of business, leading to industry consolidation, less competition, and fewer options for consumers.
- **Adverse Effects on Hawaii’s Tourism Industry:** Air tours are a vital part of Hawaii’s tourism sector, supporting jobs and generating revenue for local businesses. Restrictive policies could lead to job losses and economic downturns in affected communities.
- **Inadequate Implementation Timeline:** The proposed effective date of July 1, 2025, does not provide sufficient time for operators to adapt to new requirements, further exacerbating compliance challenges.

Thank you for considering our testimony and we urge your committee to **oppose passage of SB1197** through your committee.



Casey Riemer
Special Project Manager