



**WRITTEN 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, S.D. 1, RELATING TO AIRCRAFT.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Wednesday, February 19, 2025 **TIME:** 9:35 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Stuart N. Fujioka,
Deputy Attorney General, at 587-2992)

Chair Keohokalole and Members of the Committee:

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

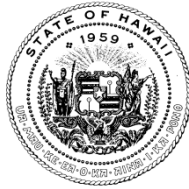
The purpose of this bill is to require tour aircraft operators in the State to carry aircraft liability insurance coverage in an amount to be determined by the Legislature. The preamble of the bill states the Legislature's finding that the use of helicopters for business and recreational purposes brings 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.



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

February 19, 2025
9:35 A.M.
State Capitol, Room 229

**S.B. 1197, S.D. 1
RELATING TO AIRCRAFT**

LATE

LATE

Senate Committee on Commerce and Consumer Protection

The Department of Transportation (DOT) **supports S.B. 1197, S.D.1**, 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.



LATE

February 17, 2025

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, 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 19, 2025 9:35AM

Aloha Chair Keohokalole, Vice Chair Fukunaga, and Committee Members,

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

SB1197 SD1 amends HRS 261-12 to include a minimum amount of insurance to the Air Tour Permit that the State of Hawaii requires air tour operators to obtain. SB1197 SD1 also changes the introductory language of HRS261-12 (b) to read,

“Tour aircraft operations. Notwithstanding any other law to the contrary, no tour aircraft operation shall be permitted in any airport under the State's control without having a permit.”.

Webster defines *notwithstanding* as “*in spite of*”. So, we read the revision of HRS261-12 (b) to say, ***in spite of and other law to the contrary***, ... We don't think the State of Hawaii should be passing or amending laws that are contrary to other laws. The Department of the Attorney General has already submitted testimony asking the previous committee accepting testimony on this bill to hold it after stating,

“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 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.

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

Casey Riemer
Special Project Manager



LATE

Senate Committee on Transportation and Culture and the Arts
February 19, 2025

Re: Support SB 1197, SD1, Relating to Aircraft

Aloha Chair Dela Cruz, Vice Chair Moriwaki, and members of the committee,

We are writing to support SB 1197, SD1, 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. We are familiar with aviation liability insurance requirements in other jurisdictions and continue to advocate for Hawaii law to require adequate insurance.

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: Wednesday February 19, 2025

Time: 9:35 a.m.

LATE

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.



LATE

LATE

Senate Committee on Commerce and Consumer Protection
Hawaii State Legislature
Tuesday, February 18, 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 over 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 of dollars 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.
- **Established Legal Precedent:** In 2007, the FAA clarified to the Hawaii Attorney General that federal law preempts state-imposed aircraft accident liability insurance requirements. The FAA explicitly stated there is "no room for State efforts to 'supplement' the Federal accident liability insurance regime." Any attempt to regulate in this area is legally preempted and could result in costly litigation 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.

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

SB-1197-SD-1

Submitted on: 2/18/2025 7:49:21 PM

Testimony for CPN on 2/19/2025 9:35:00 AM

LATE

LATE

Submitted By	Organization	Testifier Position	Testify
Nicole Battjes	Testifying for Rainbow Helicopters	Oppose	Written Testimony Only

Comments:

Opposition to SB 1197 – Protecting Hawai‘i’s Air Tour Industry and Economy

Dear committee members,

*I am writing to express my strong opposition to **Senate Bill 1197**, which would impose additional insurance requirements on air tour operators at state-controlled airports. As an air tour operator in Hawai‘i, I take immense pride in providing safe, memorable experiences for visitors and residents while contributing to our local economy. However, the provisions in SB 1197 threaten the viability of my business and the livelihoods of those who depend on it.*

SB 1197 contradicts federal law by imposing state-level insurance requirements that conflict with the Federal Aviation Administration (FAA)’s exclusive authority over aviation safety. The FAA already mandates comprehensive liability insurance for air tour operators, ensuring industry-wide safety and regulatory consistency. In 2007, the FAA made it clear to Hawai‘i’s Attorney General that states cannot impose additional aircraft accident liability insurance mandates. If this bill moves forward, it could expose the state to legal challenges, unnecessary litigation costs, and potential loss of federal Airport Improvement Program (AIP) funding.

Beyond the legal issues, SB 1197 would place severe financial burdens on small businesses like mine. The proposed insurance requirements:

- ***Would drastically increase operational costs**, making it difficult—if not impossible—for small operators to stay in business. The aviation insurance market is volatile, and securing excessive coverage at reasonable rates is not always feasible.*
- ***Could drive small operators out of the market**, reducing competition and limiting consumer choice. Larger companies may absorb these costs, but small, family-run businesses will struggle to survive.*
- ***Threaten Hawai‘i’s tourism sector**, which heavily relies on air tours. Visitors come to experience our breathtaking landscapes from the sky, and restricting this industry will lead to job losses and economic downturns in affected communities.*
- ***Fail to provide a reasonable compliance timeline**, as the proposed effective date of July 1, 2025, does not allow sufficient time for operators to meet the new requirements.*

Hawai'i's air tour industry is committed to safety, regulatory compliance, and responsible operations. We urge you to consider collaborative solutions that address concerns without violating federal law or imposing undue burdens on our small businesses.

I respectfully ask you to oppose SB 1197 and support policies that preserve Hawai'i's aviation heritage, economic strength, and the livelihoods of local operators. I would welcome the opportunity to discuss this issue further and provide firsthand insight into how this bill would impact my business.

Thank you for your time and consideration.

Sincerely,
Nicole Battjes

CEO

Rainbow Helicopters



LATE

LATE

Senate Committee on Commerce and Consumer Protection
Hawaii State Legislature
Wednesday, February 19, 2025

RE: Opposition to Senate Bill 1197

The National Air Transportation Association (NATA), National Business Aviation Association (NBAA), and Vertical Aviation International (VAI), express our serious concerns regarding Senate Bill 1197.

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 over 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 of dollars 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.
- **Established Legal Precedent:** In 2007, the FAA clarified to the Hawaii Attorney General that federal law preempts state-imposed aircraft accident liability insurance requirements. The FAA explicitly stated there is "no room for State efforts to 'supplement' the Federal accident liability insurance regime." Any attempt to regulate in this area is legally preempted and could result in costly litigation 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.

NATA, NBAA, and 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,

Karen Huggard, Vice President of Government Affairs – NATA

Phil Derner, Western Region Director – NBAA

Katia Veraza, Assistant Director of Government Affairs – VAI

LATE

LATE

**SB1197 SD1 Relating to Aircraft –
*Written Testimony***

Position: Oppose

Testifier: Richard Schuman

Organization: Individual

Date Submitted: February 19, 2025 at 7:44 PM

Hearing Date: February 19, 2025 at 9:35 AM

Thank you for allowing me to submit late testimony on SB1197.

I was born and raised on Windward Oahu. I have owned and operated a successful Tour Helicopter business on Oahu since 1996.

My company has never injured or killed any passengers in almost 30 years of conducting helicopter tour business on Oahu. For good reason.

This bill needs to be killed for two significant reasons:

1. The State Attorney General has issued its concerns because of the conflict with Federal Law.
2. This is a competition elimination bill promoted by a mainland company that currently leads the State of Hawaii in Air Tour Accidents, Passenger injuries and Passenger deaths.

This bill does nothing for the safety of Aerial Tours either by helicopter or airplanes. It will minimize the noise impact by simply eliminating almost all the competition.

Mainland mentality, if you can't offer a safe product or service the the Free Independent Travel can seek out on their own and choose from, why not try to eliminate the competition using legislation.

If Senator has any questions or I may be another resource of information regarding Aerial Tours, please don't hesitate to email, call or text.

Sincerely,

Richard Schuman
President