



July 18, 2022

Mr. Ross Higashi and Mr. Davis Yogi
Hawaii Department of Transportation
Airports Division
400 Rodgers Blvd., Suite 700
Honolulu, HI 96819

Aloha Deputy Director Higashi and Administrator Yogi,

Due to recent legislative activities regarding SB3272, we have been performing some research into the Hawaii Air Tour Permit that is required of all aircraft operators performing air tour operations at airports in Hawaii controlled by the State of Hawaii. The Air Tour Permit is required per Hawaii Revised Statute (HRS) 261-12(b) and Hawaii Administrative Rules (HAR) Title 19, Chapter 34. It is our position that the Air Tour Permit requirement violates Paragraph 22 of the Federal Aviation Administration (FAA) Grant Assurances in that an air tour operator must apply for and obtain an Air Tour Permit prior to performing air tour operations, while similar aircraft operators performing non-tour operations are not required to abide by similar regulations.

There is also an issue related to federal preemption of state and other governmental entities related to aviation regulations. As Governor Ige recently wrote in a public document related to SB3272, "Because of federal preemption, the Department of Transportation has no authority to impose or enforce regulations regarding air space and aircraft operations under the jurisdiction of the Federal Aviation Administration."

It is our position that HRS 261-12(b) and the Air Tour Permit rule enacted by the Hawaii Department of Transportation, Airports Division (HI DOT-A) unjustly discriminates against air tour operators and violates the federal preemption given to the FAA by federal regulation. With this in mind, we seek a written response from HI DOT-A to the following question:

What action would the HI DOT-A take if Jack Harter Helicopters or other air tour operators were to not comply with the existing and newly codified State of Hawaii requirements related to air tour permits in HRS 261-12(b) and the changes to HAR 19-34 the new language in this HRS will require?

An additional question that needs to be addressed is related to the types of air tour operations that are required to obtain an Air Tour Permit. HRS 261-12(b) requires that an air tour operator be certificated under FAR Part 135 or Part 121. How are the FAR Part 91 air tour operators conducting air tours from airports controlled by HI DOT-A without possessing a Part 135 or Part 121 air carrier certificate?

We need a very prompt and clear response to these questions because we need to determine if we need to develop a more substantive response to the newly enacted requirements coming our way now that SB3272 has been signed into law.

Mahalo,

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

Casey Riemer
Special Projects Manager
808-652-6982 cell

Delivered to Ross Higashi and Craig Davis via email.

cc by Email: Governor David Ige (via Carice Gardner, Kauai Governor's Representative)
Craig Davis, Kauai District Manager, HI DOT-A
Gordon Wong, FAA Airports HNL
Bev Harter, JHH Owner and President
Jason Darr, JHH General Manager