A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Safe and Quiet Skies Act of 2019”.

116TH CONGRESS
1ST SESSION

H. R. 💡

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

IN THE HOUSE OF REPRESENTATIVES

Mr. CASE introduced the following bill; which was referred to the Committee on __________________________
SEC. 2. REQUIREMENTS FOR COMMERCIAL AIR TOUR FLIGHTS.

(a) Prohibition of Overflights.—Notwithstanding any other provision of law, a commercial air tour may not operate within a half mile of the following:

1. A military installation.
2. A national cemetery.
3. A unit of the National Wilderness Preservation System.
4. A unit of the National Park System.
5. A unit of the National Wildlife Refuge System.

(b) Use of Automatic Dependent Surveillance-Broadcast (ADS-B) Out Equipment.—The Administrator shall revise section 91.227 of title 14, Code of Federal Regulations, to require the use of ADS-B Out (as such term is defined in such section) during the entire operation of a commercial air tour.

(c) Sterile Cockpit Rule.—The Administrator shall issue such regulations as are necessary to—

1. impose the requirements of section 121.542 of title 14, Code of Federal Regulations, on a commercial air tour and a pilot of a commercial air tour (including a commercial air tour that does not hold a certificate under part 121 of title 14, Code of Federal Regulations);
(2) define tour-giving and providing an oral narration of the air tour as duties that are not required for the safe operation of the aircraft for a commercial air tour (including a commercial air tour that does not hold a certificate under part 121 of title 14, Code of Federal Regulations); and

(3) define a critical phase of flight for a commercial air tour (including a commercial air tour that does not hold a certificate under part 121 of title 14, Code of Federal Regulations) to include all ground operations involving taxi, takeoff and landing, and all other flight operations regardless of altitude of operation.

(d) MINIMUM ALTITUDES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a commercial air tour may not operate at an altitude of less than 1,500 feet.

(2) EXCEPTIONS.—

(A) SAFE HARBOR.—An operator of a commercial air tour may fly below the altitude described in paragraph (1) for reasons of safety if unpredictable circumstances occur.

(B) FAA REQUIREMENTS.—The Administrator may permit an operator of a commercial air tour to operate below the altitude described
in paragraph (1) for flight operations for take-off and landing.

(3) **Rule of Construction.**—If a reasonable individual would believe a commercial air tour could not safely fly at a minimum altitude of 1,500 feet for the duration of the flight given the conditions at takeoff, the safe harbor described in paragraph (2)(A) shall not apply.

(e) **Occupied Areas.**—

(1) **In General.**—Notwithstanding any other provision of law, a commercial air tour may not operate within half a mile of an occupied area unless the aircraft has noise suppression technology that brings noise to the lesser of—

(A) a maximum level of 55 dB\(\text{A}\) as measured from such occupied area; and

(B) a maximum level required in such occupied area by a requirement imposed pursuant to section 3(a) of this Act or section 40128(f) of title 49, United States Code.

(2) **Regulations.**—The Administrator shall revise subparts F and H of part 36 of title 14, Code of Federal Regulations, and related appendices, to reduce noise limits in accordance with paragraph (1).
SEC. 3. DELEGATED AUTHORITY TO STATE AND LOCAL
REGULATORS.

(a) IN GENERAL.—Notwithstanding any other provi-
sion of law, a State or locality may impose additional re-
quirements on commercial air tours (but may not waive
any requirements described in this Act or in the amend-
ments made by this Act), including—

(1) banning such tours;

(2) imposing day and time flight restrictions;

(3) regulating the total number of flights per
day;

(4) regulating route requirements over occupied
areas;

(5) prohibiting flights over State or local parks,
ocean recreation, cemeteries, and other areas of
State interest; and

(6) requiring commercial air tours to operate at
lower decibels for purposes of noise requirements.

(b) FAA EXCEPTIONS.—The Administrator may in-
validate a requirement imposed pursuant to subsection (a)
if required for flight operations for takeoff and landing.

SEC. 4. PUBLIC ENGAGEMENT THROUGHOUT FEDERAL
AND STATE REGULATORY PROCESS.

During the promulgation of any regulation required
by this Act or the drafting and update of the Air Tours
Common Procedural Manuals, the requirements of the Ad-
ministrative Procedure Act shall apply.

SEC. 5. PENALTIES.

The Administrator shall impose penalties for viola-
tions of this Act or the amendments made by this Act, including revoking any certifications or permits issued to
operate a commercial air tour.

SEC. 6. CONFORMING EDITS.

Section 40128 of title 49, United States Code, is
amended—

(1) by striking “a national park or” in each
place in which it appears;

(2) by striking “park or” in each place in which
it appears;

(3) by striking subsection (a)(2) and inserting
the following:

“(2) APPLICATION FOR OPERATING AUTHOR-
ITY.—Before commencing commercial air tour oper-
atations over tribal lands, a commercial air tour oper-
ator shall apply to the Administrator for authority
to conduct the operations over the tribal lands.”;

(4) by striking subsection (a)(3);

(5) by striking subsection (a)(5);

(6) in subsection (b)(1)(A), by striking “over
the park” and inserting “over the lands”;
(7) by striking subsection (b)(1)(C);
(8) by striking subsection (b)(3);
(9) by striking subsection (b)(7);
(10) by striking subsection (e)(2)(B);
(11) in subsection (c)(3)(B), by striking “at the” in each place in which it appears;
(12) in subsection (d)(1), by striking “over a national park under interim operating authority granted under subsection (e) or”;
(13) by striking subsection (e);
(14) by striking subsection (f) and inserting the following:
“(f) TRIBAL AUTHORITY.—
“(1) IN GENERAL.—Notwithstanding any other provision of law, a tribal entity may impose additional requirements on commercial air tours (but may not waive any requirements described in the Safe and Quiet Skies Act of 2019 or in the amendments made by the Safe and Quiet Skies Act of 2019), including—
“(A) banning such tours;
“(B) imposing day and time flight restrictions;
“(C) regulating the total number of flights per day;
“(D) regulating route requirements over occupied areas;

“(E) prohibiting flights over tribal parks, ocean recreation, cemeteries, and other areas of tribal interest; and

“(F) requiring commercial air tours to operate at lower decibels for purposes of noise requirements.

“(2) FAA EXCEPTIONS.—The Administrator of the Federal Aviation Administration may invalidate a regulation imposed pursuant to paragraph (1) if required for flight operations for takeoff and landing.

“(3) TRIBAL ENTITY.—In this subsection, the term ‘tribal entity’ means—

“(A) tribal organizations as defined in sections 4(l) of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 5304);

“(B) tribally designated housing entities as defined in section 4(22) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(22)); or

“(C) Indian-owned businesses and tribal enterprises as defined in sections 3(5) and 3(8)
of the Native American Business Development,
Trade Promotion, and Tourism Act of 2000 (25
U.S.C. 4302(5) and (8)).’’

(15) in subsection (g)(1), by striking “over a
national park” and inserting “over tribal lands”;

(16) in subsection (g)(2), by striking “over a
national park” and inserting “over tribal lands”; and

(17) by striking subsection (g)(4).

SEC. 7. NTSB RECOMMENDATIONS.

(a) In General.—The Administrator shall imple-
ment all recommendations concerning operators under
part 135 of title 14, Code of Federal Regulations, that—

(1) were issued by the National Transportation
Safety Board; and

(2) are considered by the Board to be open un-
acceptable response.

(b) Part 135 Regulation.—The Administrator—

(1) shall require all commercial air tours to op-
erate pursuant to part 135 of title 14, Code of Fed-
eral Regulations; and

(2) may not permit a commercial air tour to op-
erate pursuant to part 91 of title 14, Code of Fed-
eral Regulations.
SEC. 8. DEFINITIONS.

In this Act, the following definitions apply:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Federal Aviation Administration.

(2) **ALTITUDE.**—The term “altitude” means the distance above ground level between an aircraft and the highest obstacle that is within 2 miles of the location over which such aircraft is flying at any time.

(3) **COMMERCIAL AIR TOUR.**—The term “commercial air tour” means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing or intentional parachuting. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour include—

(A) whether there was a holding out to the public of willingness to conduct a sightseeing or intentional parachuting flight for compensation or hire;

(B) whether a narrative was provided that referred to areas or points of interest on the surface;
(C) the area of operation;

(D) the frequency of flights;

(E) the route of flight;

(F) the inclusion of sightseeing or intentional parachuting flights as part of any travel arrangement package; or

(G) whether the flight in question would or would not have been canceled based on poor visibility of the surface.

(4) **DBA.**—The term “dbA” means the A-weighted sound level or unit of measurement describing the total sound level of all noises as measured with a sound level meter using the A weighting network.

(5) **Occupied Area.**—The term “occupied area” means land area that is used by people, including residential areas, commercial areas, and recreational areas.