

117TH CONGRESS
1ST SESSION

H. R. 389

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 2021

Mr. CASE (for himself, Mr. SIRES, Mr. NEGUSE, Mr. SHERMAN, Mr. NADLER, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe and Quiet Skies
5 Act of 2021”.

6 **SEC. 2. REQUIREMENTS FOR COMMERCIAL AIR TOUR**
7 **FLIGHTS.**

8 (a) **PROHIBITION OF OVERFLIGHTS.**—Notwith-
9 standing any other provision of law, a commercial air tour
10 may not operate within a half mile of the following:

1 (1) A military installation.

2 (2) A national cemetery.

3 (3) A unit of the National Wilderness Preserva-
4 tion System.

5 (4) A unit of the National Park System.

6 (5) A unit of the National Wildlife Refuge Sys-
7 tem.

8 (b) USE OF AUTOMATIC DEPENDENT SURVEIL-
9 LANCE-BROADCAST (ADS-B) OUT EQUIPMENT.—The
10 Administrator of the Federal Aviation Administration
11 shall revise section 91.227 of title 14, Code of Federal
12 Regulations, to require the use of ADS-B Out (as such
13 term is defined in such section) during the entire oper-
14 ation of a commercial air tour.

15 (c) STERILE COCKPIT RULE.—The Administrator
16 shall issue such regulations as are necessary to—

17 (1) impose the requirements of section 121.542
18 of title 14, Code of Federal Regulations, on a com-
19 mercial air tour and a pilot of a commercial air tour
20 (including a commercial air tour that does not hold
21 a certificate under part 121 of title 14, Code of Fed-
22 eral Regulations);

23 (2) define tour-giving and providing an oral
24 narration of the air tour as duties that are not re-
25 quired for the safe operation of the aircraft for a

1 commercial air tour (including a commercial air tour
2 that does not hold a certificate under part 121 of
3 title 14, Code of Federal Regulations); and

4 (3) define a critical phase of flight for a com-
5 mercial air tour (including a commercial air tour
6 that does not hold a certificate under part 121 of
7 title 14, Code of Federal Regulations) to include all
8 ground operations involving taxi, takeoff, and land-
9 ing, and all other flight operations regardless of alti-
10 tude of operation.

11 (d) MINIMUM ALTITUDES.—

12 (1) IN GENERAL.—Notwithstanding any other
13 provision of law, a commercial air tour may not op-
14 erate at an altitude of less than 1,500 feet.

15 (2) EXCEPTIONS.—

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

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

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

7 (e) OCCUPIED AREAS.—

8 (1) IN GENERAL.—Notwithstanding any other
9 provision of law, a commercial air tour may not op-
10 erate within half a mile of an occupied area unless
11 the aircraft has noise suppression technology that
12 brings noise to the lesser of—

13 (A) a maximum level of 55 dbA as meas-
14 ured from such occupied area; and

15 (B) a maximum level required in such oc-
16 cupied area by a requirement imposed pursuant
17 to section 3(a) of this Act or section 40128(e)
18 of title 49, United States Code.

19 (2) REGULATIONS.—The Administrator shall
20 revise subparts F and H of part 36 of title 14, Code
21 of Federal Regulations, and related appendices, to
22 reduce noise limits in accordance with paragraph
23 (1).

1 **SEC. 3. DELEGATED AUTHORITY TO STATE AND LOCAL**
2 **REGULATORS.**

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

8 (1) banning such tours;

9 (2) imposing day and time flight restrictions;

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

12 (4) regulating route requirements over occupied
13 areas;

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

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

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

22 **SEC. 4. PUBLIC ENGAGEMENT THROUGHOUT FEDERAL**
23 **AND STATE REGULATORY PROCESS.**

24 During the promulgation of any regulation required
25 by this Act or the drafting and update of the Air Tours

1 Common Procedural Manuals, the requirements of the Ad-
2 ministrative Procedure Act shall apply.

3 **SEC. 5. PENALTIES.**

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

8 **SEC. 6. CONFORMING AMENDMENTS.**

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

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

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

15 (3) in subsection (a)(1)(C), by striking “or vol-
16 untary agreement under subsection (b)(7)”;

17 (4) by striking subsection (a)(2) and inserting
18 the following:

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

24 (5) by striking subsection (a)(3);

1 (6) by redesignating paragraph (4) of sub-
2 section (a) as paragraph (3);

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

4 (8) in subsection (b)(1)(A)—

5 (A) by striking “over the park” and insert-
6 ing “over the lands”; and

7 (B) by striking “paragraph (4)” and in-
8 serting “paragraph (3)”;

9 (9) by striking subsection (b)(1)(C);

10 (10) by striking subsection (b)(3);

11 (11) by redesignating paragraphs (4) through
12 (6) of subsection (b) as paragraphs (3) through (5),
13 respectively;

14 (12) by striking subsection (b)(7);

15 (13) by striking subsection (c)(2)(B);

16 (14) by redesignating subparagraphs (C)
17 through (I) of subsection (c)(2) as subparagraphs
18 (B) through (H), respectively;

19 (15) in subsection (c)(3)(B), by striking “at
20 the” in each place in which it appears;

21 (16) in subsection (d)(1)—

22 (A) by striking “over a national park
23 under interim operating authority granted
24 under subsection (c) or”; and

25 (B) by striking “or voluntary agreement”;

1 (17) by striking subsection (e);

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

4 “(e) TRIBAL AUTHORITY.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of law, a tribal entity may impose addi-
7 tional requirements on commercial air tours (but
8 may not waive any requirements described in the
9 Safe and Quiet Skies Act of 2021 or in the amend-
10 ments made by the Safe and Quiet Skies Act of
11 2021), including—

12 “(A) banning such tours;

13 “(B) imposing day and time flight restric-
14 tions;

15 “(C) regulating the total number of flights
16 per day;

17 “(D) regulating route requirements over
18 occupied areas;

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

22 “(F) requiring commercial air tours to op-
23 erate at lower decibels for purposes of noise re-
24 quirements.

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

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

8 “(A) a tribal organization (as such term is
9 defined in section 4 of the Indian Self-Deter-
10 mination and Education Assistance Act of 1975
11 (25 U.S.C. 5304));

12 “(B) a tribally designated housing entity
13 (as such term is defined in section 4 of the Na-
14 tive American Housing Assistance and Self-De-
15 termination Act of 1996 (25 U.S.C. 4103)); or

16 “(C) an Indian-owned business or a tribal
17 enterprise (as such terms are defined in section
18 3 of the Native American Business Develop-
19 ment, Trade Promotion, and Tourism Act of
20 2000 (25 U.S.C. 4302)).”;

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

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

25 (21) by striking subsection (g)(4);

1 (22) by redesignating paragraphs (5) through
2 (8) of subsection (g) as paragraphs (4) through (7),
3 respectively; and

4 (23) by redesignating subsection (g) as sub-
5 section (f).

6 **SEC. 7. NTSB RECOMMENDATIONS.**

7 (a) IN GENERAL.—The Administrator shall imple-
8 ment all recommendations concerning operators under
9 part 135 of title 14, Code of Federal Regulations, that—

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

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

14 (b) PART 135 REGULATION.—The Administrator—

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

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

21 **SEC. 8. DEFINITIONS.**

22 In this Act, the following definitions apply:

23 (1) ADMINISTRATOR.—The term “Adminis-
24 trator” means the Administrator of the Federal
25 Aviation Administration.

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

6 (3) COMMERCIAL AIR TOUR.—The term “com-
7 mercial air tour” means any flight conducted for
8 compensation or hire in a powered aircraft where a
9 purpose of the flight is sightseeing or intentional
10 parachuting. If the operator of a flight asserts that
11 the flight is not a commercial air tour, factors that
12 can be considered by the Administrator in making a
13 determination of whether the flight is a commercial
14 air tour include—

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

19 (B) whether a narrative was provided that
20 referred to areas or points of interest on the
21 surface;

22 (C) the area of operation;

23 (D) the frequency of flights;

24 (E) the route of flight;

1 (F) the inclusion of sightseeing or inten-
2 tional parachuting flights as part of any travel
3 arrangement package; or

4 (G) whether the flight in question would or
5 would not have been canceled based on poor vis-
6 ibility of the surface.

7 (4) dbA.—The term “dbA” means the A-
8 weighted sound level or unit of measurement de-
9 scribing the total sound level of all noises as meas-
10 ured with a sound level meter using the A weighting
11 network.

12 (5) OCCUPIED AREA.—The term “occupied
13 area” means land area that is used by people, in-
14 cluding residential areas, commercial areas, and rec-
15 reational areas.

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