



phone 808 523 7750
fax 808 522 7866

March 28, 2012

Roberts Hawaii, Inc.
680 Iwilei Road
Suite 700
Honolulu, Hawaii 96817

Honorable Senator David Ige, Chair
Committee on Ways and Means
Hawaii State Senate

Re: **HB 2004 (Proposed SD1) – Relating to Transportation**
Hearing: March 29, 2012 in Room 211 at 9:00 a.m.

robertshawaii.com

Dear Chair Ige and Honorable Committee Members:

My name is Aaron Kimura and I am the Vice President for Business Development of Robert's Hawaii, Inc., the largest passenger transportation carrier in the State of Hawaii.

I write in strong support of the proposed amendment SD1 for HB 2004 and the subsequent amendments proposed by Hawaii Transportation Association and the Prosecutor's Office.

I commend this Committee for recognizing this serious problem which increasingly paints Hawaii as a tourist destination that cannot control deception and mistreatment of its visitors. Current laws are inadequate and taking immediate action is essential to reduce inappropriate conduct by unauthorized passenger carriers.

This bill seeks to stop the ongoing deceptive and illegal activities by persons typically operating vehicles whose drivers and/or vehicles are not registered by the PUC and who deceptively transport tourists by stealing the business of other licensed PUC vehicles and drivers.

These illegal operators are familiar with routing schedules of licensed PUC businesses. They typically travel ahead of time to pickup visitors waiting for scheduled services arranged by valid PUC operators. These illegal operators reportedly convince customers to accept their services based on false statements, i.e., "the bus you're waiting for will be late or has been cancelled." The customers are deceived by having to pay again with promise that reimbursement will be made, paying more for services than originally quoted or charged, and left at destinations without return transfers.

Please support and expeditiously pass this bill.

Very truly yours,

AARON KIMURA

Vice President – Business Development

A BILL FOR AN ACT

RELATING TO TRANSPORTATION. *REVISED --- NEW LANGUAGE IN
CAPS AND BOLD LETTERING. DELETED LANGUAGE ~~CROSSED-OUT~~*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that persons have engaged in defrauding tourists by purporting to pick them up in vehicles at popular Waikiki tourist venues and taking them to various tourist sightseeing locations or activities, or transporting them to other business locations. Typically a tourist is picked up shortly ahead of scheduled pickups by a bona fide taxi or tour operator. The tourist at times pays up to twice the amount of travel fare and is sometimes promised refunds that are never received. To make matters worse, some tourists are never picked up for the return trip and are left stranded without transportation back to their lodging accommodation.

The legislature further finds that this type of unscrupulous activity by unconscionable people who would prey on tourists casts a bad image on Hawaii and may lead to a downturn in the economy.

THE LEGISLATURE ALSO FINDS SUCH UNSCRUPULOUS AND DECPETIVE ACTIVITIES ARE CONDUCTED BY DRIVERS WHO ARE NOT PROPERLY CERTIFIED AND/OR LICENSED WHILE TYPICALLY OPERATING VEHICLES THAT FAIL TO MEET PUC AND OTHER REQUIREMENTS. STOPPING THE OPERATIONS BY SUCH DRIVERS AND VEHICLES WILL BE AN IMPORTANT FIRST STEP IN PREVENTING SUCH DECEPTIVE ACTIVITIES.

The purpose of this Act is to create a criminal offense of deception of a visitor in transportation services for hire.

SECTION 2. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

"§708- Deception of a visitor in transportation services for hire. (1) A person commits the offense of deception of a visitor in transportation services for hire if the person FOR A CHARGE OR SOME COMPENSATION TRANSPORTS A VISITOR IN A VEHICLE THAT DOES NOT MEET THE DEFINITION OF BONA FIDE TRANSPORTATION SERVICE. does any of the following to a visitor:

- ~~(a) Offers to transport a visitor to a destination, with intent to deceive, for which the visitor has previously scheduled transport with a bona fide transportation service;~~
- ~~(b) Charges a fee or rate that is in excess of the amount that is quoted by the bona fide~~

~~transportation service for which the visitor is waiting for a pick up;~~

~~(c) Upon pick up or drop off of the visitor, collects a fee or rate from a visitor who has already pre-paid for that transportation through a bona fide transportation service; or~~

~~(d) Does not pick up the visitor from a destination to which the person transports the visitor after representing to the visitor to do so.~~

(2) As used in this section:

"Bona fide transportation service" means:

(a) A vehicle ***THAT IS NOT A LICENSED TAXI CAB BUT A VEHICLE THAT IS*** registered with the public utilities commission ***AND IN COMPLIANCE WITH PROVISIONS OF CHAPTER 271, HAVING A PUC NUMBER AND VEHICLE NUMBER DISPLAYED ON THE REAR-SIDE OF THE VEHICLE AS WELL AS*** that has a numbered "PUC" decal on the vehicle and driven by a person who possesses an insurance identification card on the vehicle setting forth a description of the vehicle, current effective dates, policy number, name of insured, and vehicle identification number and has a current valid medical examiner's certificate ***IF THE VEHICLE HAS NINE OR MORE PASSENGERS***; provided that if the vehicle's capacity is more than fifteen passengers, the driver shall be required to possess a commercial driver's license ***WITH A P ENDORSEMENT***; ~~or~~

~~(b) A vehicle other than a licensed taxi cab.~~

"Visitor" means every person, whether or not a resident of this State.

(3) Deception of a visitor in transportation services for hire is a misdemeanor.

(4) In addition to any other penalties provided by law, the vehicle used in the commission of the offense of deception of a visitor in transportation services for hire shall be impounded and the vehicle owner shall be liable for impoundment costs of storage, towing, and other charges incident to seizure of the vehicle or any other cost involved; PROVIDED THAT IF THE OPERATOR OF THE VEHICLE IS FOUND GUILTY OF SUCH OFFENSE BY CONVICTION AT TRIAL SUCH OPERATOR IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW SHALL BE LIABLE FOR THE EMPLOYEE TIME AND COSTS INCURRED BY THE POLICE OF THE COUNTY ASSISTING WITH AND RELATING TO SUCH CONVICTION AT TRIAL.

(5) IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW AND IN ADDITION TO ANY PENALTIES OR LIABILITIES SET FORTH ABOVE, IF THE VEHICLE INVOLVED WITH SUCH OFFENSE COMMITTED THE SAME OFFENSE WITHIN THE PRECEDING THIRTY-SIX-MONTH PERIOD, THE VEHICLE SHALL BE SUBJECT TO FORFEITURE PURSUANT TO CHAPTER 712A.

(6) THE POLICE OF THE COUNTY IN WHICH THE OFFENSE OCCURS SHALL BE RESPONSIBLE FOR ENFORCING THIS SECTION OF THE LAW.

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

Report Title:

Offense of Deception of a Visitor in Transportation Services for Hire

Description: --- TO BE REVISED.....

Creates the misdemeanor offense of deception of a visitor in transportation services for hire if a person offers to transport a visitor to a destination, with intent to deceive, for which the visitor has previously scheduled transport with a bona fide transportation service, charges a fee or rate that is in excess of the amount that is quoted by the bona fide transportation service for which the visitor is waiting for a pick up, upon pick up or drop off of the visitor, collects a fee or rate from a visitor who has already pre-paid for that transportation through a bona fide transportation service, or does not pick up the visitor from a destination to which the person transports the visitor after representing to the visitor to do so. Provides for penalties including impoundment of vehicle. (Proposed SD1)

Visitor Transit Coalition

650 Iwilei Road, Suite 415 • Honolulu, HI 96817
Telephone: (808) 524-5040 ext. 220 • Fax: (808) 524-4194
E-mail: visitortransitcoalition@gmail.com

Chair: Lawson Teshima (c) 808-224-4500 • Vice Chair: Conklin Nakamura (c) 808-366-8258

Honorable Senator David Ige, Chair
Committee on Ways and Means
Hawaii State Senate

Hearing: March 29, 2012 in Room 211 at 9:00 a.m.

Re: HB 2004, SD1 – Relating to Transportation

Dear Chair Ige and Honorable Committee Members:

My name is Conklin Nakamura and I am the Vice-Chair with the Visitor Transit Coalition which supports this bill. The Coalition is an ad hoc organization of major transportation organizations in Hawaii.

The Coalition supports this bill along with the important amendments proposed by HTA and the Prosecutor's Office.

As a supporter of the Coalition I have spent a lot of time studying matters to see what can be done about the serious problems of illegal transit activities by various drivers and vehicle owners who are not complying with PUC laws and other transport requirements. These illegal operators go ahead of scheduled pickups by others and pick up the customers and collect fares and monies meant for another company. Numerous complaints are made by visitors including failure to be later picked up and the collection of higher quoted fares or additional payments.

I believe a time bomb is ticking as to when there will be a major accident involving these illegal operators and serious injuries to many tourists riding in such a vehicle. I conservatively estimate more than 2,500 tourists a week are riding in such illegal vehicles which most likely don't have the necessary insurance due to the illegal nature of their activities.

What is also very frustrating is that while many people and organization are aware of this serious problem no one seems to have the authority or powers to do something about it. Now that this problem is being brought to the attention of the Legislature, I respectfully urge you to please do something about this before a tragic accident involving tourists takes place with no applicable laws or insurance to help and assist any injured tourists. To help prevent such serious dangers, injuries and hardship to tourists, you need to ensure they are not riding with such illegal drivers and vehicles but rather with drivers and vehicles who are PUC approved, meet the legal requirements and properly insured.

SIMPLY PUT, THE ILLEGAL ACTIVITIES BY THESE OPERATORS AND OWNERS OF VEHICLES MUST BE STOPPED . There is no valid excuse for such activities.

While I write in strong support of the purpose of this bill I also write in strong support of the proposed amendments by the Hawaii Transit Association and the Prosecutor's Office. These amendments seek to simplify and make the proposed law easily enforceable. This is important.

In closing I commend this Committee for recognizing this serious problem and willing to take action and not delay matters until a tragedy occurs. This continuing problem increasingly paints Hawaii as a tourist destination that cannot control deception, abandonment and mistreatment of visitors by illegal operators and exposing tourists to serious dangers and injuries with little or no recourse.

I thank you for considering this bill. Please pass this bill with the suggested amendments. I will gladly answer any questions you may have.



March 29, 2012

**TESTIMONY BEFORE THE SENATE COMMITTEE ON WAYS & MEANS
ON HB 2004 HD2 PROPOSED SD1 RELATING TO TRANSPORTATION**

Thank you Chair Ige and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

Hawaii Transportation Association supports this bill.

We need to mobilize whatever resources are possible to prevent our visitors from being victimized by illegal and unscrupulous vehicle operators. This bill may not prevent all such occurrences, but the fact that we are aware of the issue and seriously address it will generate trust with our number one economic industry.

Although we have motor carrier regulations in place it has been very difficult for the Public Utilities Commission to enforce the realities on the street. Having other agencies participate in this effort is a stellar move.

Thank you.

TESTIMONY OF HERMINA MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEE ON WAYS & MEANS

MARCH 29, 2012

MEASURE: H.B. No. 2004, H.D. 2, S.D. 1

TITLE: Relating to the Transportation

Chair Ige and Members of the Committee:

DESCRIPTION:

This measure creates a criminal offense of “deception of a visitor in transportation services for hire” (“Deception”), which is classified as a misdemeanor and is punishable, in addition to criminal penalties, with impoundment and forfeiture of the vehicle used in the offense. Deception is defined in the measure as the situation where a “person for a charge or other sort of compensation transports a visitor in a vehicle that does not meet the definition of a bona fide transportation service.” The term “bona fide transportation service” (“BFTS”) is also defined and includes the requirement that a BFTS has a PUC number and vehicle number displayed on the rear of the vehicle.

POSITION:

The Commission would like to offer the following comments for the Committee’s consideration.

COMMENTS:

As currently written the bill would require the Commission to amend its administrative rules regarding motor vehicle marking to make the rule consistent with what is being proposed in this measure.

H.B. No. 2004, H.D. 2, S.D. 1
Page 2

The Commission requests that the Committee appropriately amend the proposed requirement (b) on page 2, lines 20 to 21, to read “the motor vehicle is marked in compliance with section 271-29, Hawaii Revised Statutes” so as to avoid having the Commission go through lengthy and unnecessary rule change.

Thank you for the opportunity to offer comments on this measure.



PHT, Inc. dba

Polynesian Hospitality

Honorable Senator David Ige, Chair
Committee on Ways and Means
Hawaii State Senate

Hearing: March 29, 2012 in Room 211 at 9:00 a.m.

Re: HB 2004, SD1 – Relating to Transportation

Dear Chair Ige and Honorable Committee Members:

My name is Lawson Teshima and I am the secretary-treasurer with PHT, Inc. dba Polynesian Hospitality, a tour bus operator.

My company supports this bill and the efforts by the Visitor Transit Coalition along with the important amendments proposed by Hawaii Transit Association and the Prosecutor's Office.

The industry has been plagued by illegal transportation operators for too long. Unfortunately, the number of illegal transportation operators has been growing as the number of complaints from the customers of tour desks in Waikiki and other operators.

We have often experienced the customers missing that were supposed to board our buses at a pickup point. An example of the problem is (a) the illegal transportation companies pretend to be our representative/loader and pickup the tourist; (b) the driver ask the tourist to pay cash for a roundtrip to the stadium or Waikele and tells the tourist with vouchers that he cannot accept them and they can get a refund from the travel desk later; (c) the illegal transportation operator often drops off the visitor and never returns to pick them up; (d) the tour desk will not refund the visitor; and (e) visitor complains to the tour operator and wants to cancel previously purchased tours.

The illegal activities by such drivers and vehicles owners must stop. Laws that are immediately enforceable must be passed this legislative session.

Please support and pass this bill.