

**HB2004, HD2**



PHT, Inc. dba

Polynesian Hospitality

Honorable Senator J. Kalani English, Chair  
Committee on Transportation and International Affairs  
Hawaii State Senate

Hearing: March 19, 2012 in Room 224 at 1:23 pm

Re: HB 2004 (Proposed SD1) – Relating to Transportation

Dear Chair English and Honorable Committee Members:

I am Lawson Teshima, Secretary-Treasurer of PHT, Inc. and our company supports this House Bill 2004 HD 2 SD 1 with the attached revised amendments. We believe the bill needs to be simplified for enforcement purposes and the attachment will ensure and make enforcement easier.

The industry has been plagued by illegal transportation operators for too long. Unfortunately, the PUC is under staffed and cannot readily catch the illegal transportation operators. We have requested and received assistance from pickup areas such as Sheraton Bus Depot to prevent these illegal transportation operators from operating on their premises. However, 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 any previously purchased future tours.

The illegal transportation operators are often operating non-puc vehicles without insurance and with drivers that are not certified to driver commercial passenger vehicles. These illegal

transportation operators pay no taxes and fees. The laws need to be toughened to get these illegal transportation operators off the streets.

Please support this bill with changes set forth in the attachment. Changes need to be made now and not delayed.

**ATTACHMENT ---- SEE BELOW:**

HOUSE OF REPRESENTATIVES  
RETWENTY-SIXTH LEGISLATURE, 2012  
STATE OF HAWAII

**H.B. NO.** 2004  
H.D. 2  
S.D. 1  
Proposed

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## 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.

# Visitor Transit Coalition

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E-mail: [visitortransitcoalition@gmail.com](mailto:visitortransitcoalition@gmail.com)

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

Honorable Senator J. Kalani English, Chair  
Committee on Transportation and International Affairs  
Hawaii State Senate

Hearing: March 19, 2012 in Room 224 at 1:23 pm

Re: HB 2004 (Proposed SD1) – Relating to Transportation

Dear Chair English 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.

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.

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 1,500 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.

While I write in strong support of the purpose of Proposed SD1 I respectfully urge that the attached amendments be made that will make it simpler and clearer to enforce this new law.

These amendments seek to delete certain provisions which will likely make enforcement time consuming and difficult to enforce. These amendments also seek to add provisions that seek to ensure



such enforcement with positive results. These amendments seek to focus on the heart of the problem which is the stopping of these activities by illegal drivers and vehicle owners allowing such activities to take place.

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.

**ATTACHMENT BELOW:**

HOUSE OF REPRESENTATIVES  
RETWENTY-SIXTH LEGISLATURE, 2012  
STATE OF HAWAII

**H.B. NO.** 2004  
H.D. 2  
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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 DECEPTIVE 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

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 PRECEEDING 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.



March 19, 2012

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

Thank you Chair English 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 the proposed SD1 of this bill with the amendments advanced by the PHT, Inc.

However, the definition of "Bona fide transportation service" needs to be amended to make it accurate.

"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 marked in compliance with Hawaii Administrative Rules Title 6 Chapter 62 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 is designed to transport nine or more passenger including the driver; provided that if the vehicle is designed to transport more than sixteen passengers including the driver, the driver shall possess a commercial driver's license in accordance with section 286-239.

Thank you.

## SUMMARY OF AMENDMENTS

### LINE

1 "Bona fide transportation service" means:  
2 (a) A vehicle **THAT IS NOT A LICENSED TAXI CAB BUT A**  
3 **VEHICLE THAT IS** registered with the public  
4 utilities commission **AND IN COMPLIANCE WITH**  
5 **PROVISIONS OF CHAPTER 271, HAVING A PUC NUMBER**  
6 **AND VEHICLE NUMBER DISPLAYED ON THE REAR-SIDE OF**  
7 **THE VEHICLE AS WELL AS** that has a numbered "PUC"  
8 decal on the vehicle and driven by a person who  
9 possesses an insurance identification card on the  
10 vehicle setting forth a description of the  
11 vehicle, current effective dates, policy number,  
12 name of insured, and vehicle identification  
13 number and has a current valid medical examiner's  
14 certificate **IF THE VEHICLE HAS NINE OR MORE**  
15 **PASSENGERS**; provided that if the vehicle's  
16 capacity is more than fifteen passengers, the  
17 driver shall be required to possess a commercial  
18 driver's license **WITH A P ENDORSEMENT**

### Lines 4 - 8

Delete: **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

Amend to: and marked in compliance with Hawaii Administrative Rules Title 6 Chapter 62

### Lines 14-16

Delete: **HAS NINE OR MORE PASSENGERS**; provided that if the vehicle's capacity is more than fifteen passengers

Amend to: is designed to transport nine or more passenger including the driver; provided that if the vehicle is designed to transport more than sixteen passengers including the driver

### Line 17-18

Delete: be required to possess a commercial driver's license **WITH A P ENDORSEMENT**

Amend to: possess a commercial driver's license in accordance with section 286-239.



phone 808 523 7750  
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March 19, 2012

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

Honorable Senator J. Kalani English, Chair  
Committee on Transportation and International Affairs  
Hawaii State Senate

Re: **HB 2004 (Proposed SD1) – Relating to Transportation**  
Hearing: March 19, 2012 in Room 224 at 1:23 pm

robertshawaii.com

Dear Chair English 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 position of the Visitor Transit Coalition which also supports this important bill.

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 except 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 the service than the original quoted price, and left at the destination without a return transfer.

I urge you to immediately correct this serious problem by passing this bill.

Very truly yours,

**AARON KIMURA**  
Vice President – Business Development

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~~(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 PRECEEDING THIRTY-SIX-MONTH PERIOD, THE VEHICLE SHALL BE SUBJECT TO FORFEITURE PURSUANT TO CHAPTER 712A.

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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.

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**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)