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# A BILL FOR AN ACT

RELATING TO TRANSPORTATION NETWORK COMPANIES.

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

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4   "CHAPTER

5   **TRANSPORTATION NETWORK COMPANIES**

6           § -1 **Definitions.** As used in this chapter:

7           "Transportation network company" means an entity that uses  
8 a digital network or software application service to connect  
9 passengers to transportation network company services provided  
10 by transportation network company drivers; provided that the  
11 entity:

- 12           (1) Does not own, control, operate, or manage the vehicles  
13                used by transportation network company drivers; and  
14           (2) Is not a taxicab association or a for-hire vehicle  
15                owner.

16           "Transportation network company driver" means an individual  
17 who operates a motor vehicle that is:



- 1 (1) Owned, leased, or otherwise authorized for use by the
- 2 individual;
- 3 (2) Not a taxicab or for-hire vehicle; and
- 4 (3) Used to provide transportation network company
- 5 services.

6 "Transportation network company service" means the  
7 transportation of a passenger between points chosen by the  
8 passenger and prearranged with a transportation network company  
9 driver through the use of a transportation network company  
10 digital network or software application, and does not include a  
11 taxicab, for-hire vehicle, or street hail service.

12 § -2 **Relation to other laws.** Neither a transportation  
13 network company nor a transportation network company driver  
14 shall be deemed to be a common carrier by motor vehicle, a  
15 contract carrier by motor vehicle, a motor carrier as defined in  
16 section 271-4, a taxicab, or a for-hire vehicle service.

17 § -3 **Permit required.** (a) No person shall operate a  
18 transportation network company in the State without first  
19 obtaining a permit from the public utilities commission.

20 (b) The public utilities commission shall issue a permit  
21 to each applicant that meets the requirements for a



1 transportation network company as set forth in this chapter and  
2 pays an annual permit fee of \$5,000 to the commission.

3 § -4 **Agent.** A transportation network company shall  
4 maintain an agent in the State for service of process.

5 § -5 **Duration of service; fare charged for services.**

6 (a) Transportation network company service shall be deemed to:

7 (1) Commence when a transportation network company driver  
8 accepts a request for transportation received through  
9 the transportation network company's digital network  
10 or software application service;

11 (2) Continue while the transportation network company  
12 driver transports the passenger in the transportation  
13 network company's vehicle; and

14 (3) Conclude when the passenger exits the transportation  
15 network company driver's vehicle.

16 (b) A transportation network company may charge a fare for  
17 transportation network company service provided to passengers;  
18 provided that, if a fare is charged, the transportation network  
19 company shall disclose to passengers the fare calculation method  
20 on its website or within the software application service. The  
21 transportation network company shall also provide passengers



1 with the applicable rates being charged and the option to  
2 receive an estimated fare before the passenger enters the  
3 transportation network company driver's vehicle.

4       §   -6   **Identification of vehicles and drivers.** The  
5 transportation network company's software application or website  
6 shall display a picture of:

- 7           (1) The transportation network company driver; and  
8           (2) The license plate number of the motor vehicle being  
9               used for providing the transportation network company  
10               service,

11 before the passenger enters the transportation network company  
12 driver's vehicle.

13       §   -7   **Electronic receipt.** Within a reasonable period of  
14 time following the completion of a trip, a transportation  
15 network company shall transmit an electronic receipt to the  
16 passenger that specifies:

- 17           (1) The origin and destination of the trip;  
18           (2) The total time and distance of the trip;  
19           (3) An itemization of the total fare paid, if any; and  
20           (4) The information required by section   -6.



1           §   -8    **Transportation network company and transportation**  
2 **network company driver insurance requirements.** (a) Not later  
3 than January 1, 2016, and thereafter, transportation network  
4 companies and transportation network company drivers shall  
5 comply with the motor vehicle insurance requirements of this  
6 section.

7           (b) The following motor vehicle insurance requirements  
8 shall apply during the time that a transportation network  
9 company driver is logged into the transportation network  
10 company's digital network and available to receive requests for  
11 transportation but is not then providing transportation network  
12 company services:

13           (1) Motor vehicle insurance liability coverage that meets  
14               at least the minimum coverage requirements of section  
15               431:10C-301(b); and

16           (2) Motor vehicle insurance personal injury protection  
17               benefits that meet at least the minimum coverage  
18               requirements of section 431:10C-103.5.

19           A transportation network company shall maintain motor  
20 vehicle insurance coverage in the amounts required in paragraphs  
21 (1) and (2) and provide coverage in the event a participating



1 transportation network company driver's own motor vehicle  
2 insurance policy excludes coverage according to its policy terms  
3 or does not provide coverage of at least the limits required in  
4 paragraph (1).

5 (c) The following motor vehicle insurance requirements  
6 shall apply while a transportation network company driver is  
7 providing transportation network company services:

8 (1) Provides primary motor vehicle insurance coverage that  
9 recognizes the transportation network company driver's  
10 provision of transportation network company services;

11 (2) Provides motor vehicle insurance coverage of at least  
12 \$1,000,000 for death, personal injury, and property  
13 damage; and

14 (3) Provides motor vehicle insurance personal injury  
15 protection benefits that meet at least the minimum  
16 coverage requirements of section 431:10C-103.5.

17 (d) The coverage requirements of subsection (c) may be  
18 satisfied by any of the following:

19 (1) Motor vehicle insurance coverage maintained by the  
20 transportation network company driver; or



1           (2) Motor vehicle insurance coverage maintained by the  
2                    transportation network company; or

3           (3) Any combination of paragraphs (1) and (2).

4           (e) If the motor vehicle insurance policy maintained by a  
5 transportation network company driver to fulfill the insurance  
6 requirements of this section lapses, fails to provide the  
7 required coverage, has a claim denied, or otherwise ceases to  
8 exist, the motor vehicle insurance policy maintained by a  
9 transportation network company shall provide the coverage  
10 required under this section beginning with the first dollar of a  
11 claim.

12           (f) The motor vehicle insurance policy required under this  
13 section may be placed with a surplus lines insurer who is  
14 eligible to provide coverage under section 431:8-302.

15           (g) A motor vehicle insurance policy procured pursuant to  
16 this section shall be deemed to satisfy the requirements of  
17 section 431:10C-104.

18           §   -9   **Transportation network company and insurer**  
19 **disclosure requirements.** (a) The transportation network  
20 company shall disclose in writing to transportation network  
21 company drivers the following before the transportation network



1 company may permit transportation network company drivers to  
2 accept a request for transportation network company services on  
3 the transportation network company's digital network:

4 (1) The insurance coverage and limits of liability that  
5 the transportation network company provides while the  
6 transportation network company driver uses a personal  
7 vehicle in connection with a transportation network  
8 company's digital network; and

9 (2) That the transportation network company driver's own  
10 insurance policy may not provide coverage while the  
11 transportation network company driver uses a vehicle  
12 in connection with a transportation network company's  
13 digital network, depending on its terms.

14 (b) Insurers that write motor vehicle insurance in the  
15 State may:

16 (1) Exclude any and all coverage and the duty to defend  
17 afforded under the owner's insurance policy for any  
18 loss or injury that occurs while an insured vehicle  
19 provides or is available to provide transportation  
20 network company services; provided that the exclusion  
21 is expressly set forth in the policy and approved by





1 the insurance commissioner for sale in the State.

2 This right to exclude coverage and the duty to

3 indemnify and defend may apply to any coverage

4 included in a motor vehicle insurance policy

5 including, but not limited to:

6 (A) Liability coverage for bodily injury and property  
7 damage;

8 (B) Uninsured and underinsured motorist coverage;

9 (C) Medical payments coverage;

10 (D) Comprehensive physical damage coverage;

11 (E) Collision physical damage coverage; and

12 (F) Personal injury protection coverage.

13 The insurer shall notify an insured after receiving a  
14 notice of loss within the time required by section 431:13-  
15 103(a)(11) that the insurer has no duty to defend or indemnify  
16 any person or organization for liability for a loss that is  
17 properly excluded pursuant to the terms of the applicable  
18 primary or excess insurance policy.

19 (c) Insurers that write motor vehicle insurance in the  
20 State shall disclose, in a prominent location on its application  
21 form for insurance coverage, whether or not the insurance policy



1 provides coverage while an insured vehicle provides or is  
2 available to provide transportation network company services.  
3 If a motor vehicle insurance policy contains an exclusion for  
4 transportation network company services, the insurer or its  
5 agent shall disclose the exact language of the exclusion in  
6 writing to the applicant during the application process.

7 (d) In a claims coverage investigation, transportation  
8 network companies and any insurer providing coverage under  
9 section -8 shall cooperate to facilitate the exchange of  
10 information, including the precise times that a transportation  
11 network company driver logged on and off of the transportation  
12 network company's digital network in the twenty-four hour period  
13 immediately preceding the accident, and shall disclose to one  
14 another a clear description of the coverage, exclusions, and  
15 limits provided under any insurance policy each party issued or  
16 maintained.

17 § -10 **Zero tolerance for drug or alcohol use.** (a) The  
18 transportation network company shall implement a zero tolerance  
19 policy on the use of drugs or alcohol while a transportation  
20 network company driver is providing transportation network  
21 company services or is logged into the transportation network



1 company's digital network, even if not providing transportation  
2 network company services, and shall provide notice of this  
3 policy on its website, as well as procedures for reporting a  
4 complaint about a driver with whom a passenger was matched and  
5 who the passenger reasonably believes was under the influence of  
6 drugs or alcohol during the course of the trip.

7 (b) Upon receipt of a passenger complaint alleging a  
8 violation of the zero tolerance policy, the transportation  
9 network company shall immediately suspend the transportation  
10 network company driver's access to the transportation network  
11 company's digital platform and shall conduct an investigation  
12 into the reported incident. The suspension shall last for the  
13 duration of the investigation; provided that the investigation  
14 shall be conducted in a reasonably expeditious manner.

15 (c) The transportation network company shall maintain  
16 records relevant to a reported incident for a period of at least  
17 two years from the date that a passenger complaint is received  
18 by the transportation network company.

19 § -11 Driver requirements. (a) Prior to permitting an  
20 individual to act as a transportation network company driver on  
21 its digital platform, the transportation network company shall:



- 1           (1) Require the individual to submit an application to the  
2           transportation network company, which includes  
3           information regarding the individual's address, age,  
4           driver's license, driving history, motor vehicle  
5           registration, motor vehicle insurance, and other  
6           information required by the transportation network  
7           company;
- 8           (2) Conduct, or have a third party conduct, a local and  
9           national criminal background check for each applicant  
10          that shall include:
- 11           (A) Multi-state/Multi-Jurisdiction Criminal Locator  
12           or other similar commercial nationwide database  
13           with validation (primary source search); and  
14           (B) National Sex Offender Registry database; and
- 15          (3) Obtain and review a traffic violations bureau  
16          certified abstract for the individual.
- 17          (b) The transportation network company shall not permit an  
18          individual to act as a transportation network company driver on  
19          its digital platform who:
- 20           (1) Has been found to have committed more than three  
21           traffic infractions, as defined in section 291D-2, in



- 1           the prior three-year period, other than traffic  
2           infractions involving parking, standing, equipment,  
3           and pedestrian offenses;
- 4           (2) Has been convicted once in the prior three-year period  
5           for the offense of resisting an order to stop a motor  
6           vehicle, reckless driving, or driving with a suspended  
7           or revoked driver license;
- 8           (3) Has been convicted in the prior seven-year period of  
9           driving under the influence of drugs or alcohol;
- 10          (4) Has been convicted at any time of fraud, any sexual  
11          offense, use of a motor vehicle to commit a felony, a  
12          crime involving property damage, theft, acts of  
13          violence, or acts of terrorism;
- 14          (5) Is a match in the National Sex Offender Registry  
15          database;
- 16          (6) Does not possess a valid driver's license;
- 17          (7) Does not possess proof of registration or other  
18          authorization for the motor vehicle used to provide  
19          transportation network company services;



1           (8) Does not possess proof of motor vehicle insurance for  
2           the motor vehicles used to provide transportation  
3           network company services; or

4           (9) Is not at least nineteen years of age.

5           §   -12   **Vehicle safety.** The transportation network  
6           company shall require that any motor vehicle that a  
7           transportation network company driver uses to provide  
8           transportation network company services meets the inspection  
9           requirements of section 286-26.

10          §   -13   **No street hails.** A transportation network  
11          company driver shall only accept rides booked through a  
12          transportation network company's digital network or software  
13          application service and shall not solicit or accept street  
14          hails.

15          §   -14   **No cash trips.** The transportation network  
16          company shall adopt a policy prohibiting solicitation or  
17          acceptance of cash payments from passengers and notify  
18          transportation network company drivers of the policy.  
19          Transportation network company drivers shall not solicit or  
20          accept cash payments from passengers. Any payment for  
21          transportation network company services shall be made only



1 electronically, using the transportation network company's  
2 digital network or software application.

3       §   -15   **No discrimination; accessibility.** (a) The  
4 transportation network company shall adopt a policy of non-  
5 discrimination on the basis of destination, race, color,  
6 national origin, religious belief or affiliation, sex,  
7 disability, age, sexual orientation, or gender identity with  
8 respect to passengers and potential passengers and notify  
9 transportation network company drivers of the policy.

10       (b) A transportation network company shall not impose any  
11 additional charges for providing services to persons with  
12 physical disabilities because of those disabilities.

13       (c) A transportation network company shall provide  
14 passengers an opportunity to indicate whether they require a  
15 wheelchair-accessible vehicle. If a transportation network  
16 company cannot arrange wheelchair-accessible transportation  
17 network company service in any instance, it shall direct the  
18 passenger to an alternate provider of wheelchair-accessible  
19 service, if available.

20       (d) Transportation network company drivers shall comply  
21 with all applicable laws regarding non-discrimination against



1 passengers or potential passengers on the basis of destination,  
2 race, color, national origin, religious belief or affiliation,  
3 sex, disability, age, sexual orientation, or gender identity.

4 (e) Transportation network company drivers shall comply  
5 with all applicable laws relating to accommodation of service  
6 animals.

7 § -16 **Records.** A transportation network company shall  
8 maintain:

9 (1) Individual trip records for at least one year from the  
10 date each trip was provided; and

11 (2) Transportation network company driver records at least  
12 until the one year anniversary of the date on which a  
13 transportation network company driver's activation on  
14 the transportation network company digital network has  
15 ended.

16 § -17 **Personally identifiable information.** (a) A  
17 transportation network company shall not disclose a passenger's  
18 personally identifiable information to a third party unless:

19 (1) The passenger consents;

20 (2) Disclosure is required by law; or





1 (3) Disclosure is required to protect or defend the terms  
2 of use of the service or to investigate violations of  
3 those terms.

4 (b) A transportation network company may share a  
5 passenger's name or telephone number with the transportation  
6 network company driver providing transportation network company  
7 services to the passenger in order to facilitate correct  
8 identification of the passenger by the transportation network  
9 company driver or to facilitate communication between the  
10 passenger and the transportation network company driver.

11 § -18 **Controlling authority.** Notwithstanding any  
12 other provision of law, transportation network companies and  
13 transportation network company drivers shall be regulated  
14 exclusively by this chapter and any rules adopted thereunder by  
15 the public utilities commission pursuant to chapter 91. No  
16 county may impose a tax upon, or require a license for, a  
17 transportation network company or a transportation network  
18 company driver."

19 SECTION 2. This Act shall take effect upon its approval.  
20

INTRODUCED BY:

*Richard Linn* *Ken B...* *John M. ...*  
*Cody Evans* *...*  
*...*



# H.B. NO. 1287

**Report Title:**

Transportation Network Companies; Service; Drivers

**Description:**

Requires the PUC to regulate transportation network companies. Establishes requirements for persons who operate or serve as drivers for transportation network companies.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

