
A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 SECTION 1. The legislature finds that transportation
2 network companies are operating across the country, including in
3 Hawaii, and that the public is receptive to this innovation in
4 transportation. Transportation network companies have expanded
5 transportation options for the benefit of society. They have
6 also inspired persons providing more traditional modes of public
7 transportation to modernize and enhance their delivery of
8 transportation services to the public.

9 The legislature further finds that consumers must be
10 afforded the protection of law when doing business with
11 transportation network companies. Currently, transportation
12 network companies are not licensed or regulated in Hawaii.
13 Although transportation network companies may operate under a
14 different business model for connecting customers with drivers,
15 their primary service is that of a motor carrier: to transport
16 passengers or property for compensation. Accordingly,
17 transportation network companies must be subject to the same



1 regulations and governmental oversight applicable to other
2 traditional motor carriers.

3 The legislature further finds that ensuring the
4 availability and affordability of personal motor vehicle
5 insurance policies and assigning the insurance risk where it
6 belongs are of utmost importance. Because transportation
7 network drivers provide transportation for compensation, they
8 engage in commercial activity. Therefore, motor vehicles used
9 by transportation network drivers must be insured under
10 commercial motor vehicle insurance policies, at limits higher
11 than the statutory minimum liability limits.

12 The purpose of this Act is to regulate transportation
13 network companies and require transportation network drivers to
14 obtain commercial motor vehicle insurance.

15 SECTION 2. Chapter 271, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§271- Transportation network companies; insurance. (a)
19 A transportation network company shall disclose in writing to
20 participating drivers, as part of its agreement with those
21 drivers:



- 1 (1) The insurance coverage and limits of liability that
2 the transportation network company provides while the
3 driver uses a vehicle in connection with a
4 transportation network company's online-enabled
5 application or platform;
- 6 (2) That the driver's personal automobile insurance policy
7 may not provide any required or optional coverage
8 while the driver uses a vehicle in connection with a
9 transportation network company's online-enabled
10 application or platform; and
- 11 (3) That using the vehicle to provide transportation
12 network trips may violate the terms of the driver's
13 contract with a lienholder.
- 14 (b) A transportation network company and any participating
15 driver shall maintain transportation network company insurance
16 as provided in this section from the moment the participating
17 driver logs on to the transportation network company's online-
18 enabled application or platform until the moment the driver logs
19 off of the online-enabled application or platform or until the
20 ride is complete and the passenger exits the vehicle, whichever
21 is later, including:



- 1 (1) Primary liability coverage with liability limits equal
2 to those required pursuant to section 271-17 for motor
3 carrier liability for death, personal injury, and
4 property damage;
- 5 (2) Uninsured and underinsured motorist coverage for both
6 the driver and passengers equal to the primary
7 liability limits;
- 8 (3) Personal injury protection coverage in an amount that
9 meets the requirements of section 431:10C-103.5, and
10 is also equal to or greater than the coverage limits
11 for the personal automobile insurance maintained by
12 the vehicle's owner and reported to the transportation
13 network company; and
- 14 (4) Collision and comprehensive coverage limits for the
15 driver's vehicle that are equal to or greater than
16 such coverage limits for the personal automobile
17 insurance maintained by the vehicle's owner and
18 reported to the transportation network company.
- 19 (c) The requirements for the coverage specified in
20 subsection (b) may be satisfied by any of the following:



- 1 (1) Transportation network company insurance maintained by
2 a participating driver, but only if the transportation
3 network company verifies that the policy is maintained
4 by the driver and is specifically written to cover the
5 driver's use of a vehicle in connection with a
6 transportation network company's online-enabled
7 application or platform;
- 8 (2) Transportation network company insurance maintained by
9 a transportation network company; or
- 10 (3) Any combination of paragraphs (1) and (2).
- 11 (d) The insurer providing transportation network company
12 insurance under this section shall have the duty to defend and
13 indemnify the insured.
- 14 (e) Coverage under a transportation network company
15 insurance policy shall not be dependent on a personal automobile
16 insurance policy first denying a claim nor shall a personal
17 automobile insurance policy, including a personal liability
18 umbrella policy, be required to first deny a claim.
- 19 (f) In every instance where transportation network company
20 insurance maintained by a participating driver to fulfill the
21 insurance obligations of this section has lapsed or ceased to



1 exist, the transportation network company shall provide the
2 coverage required by this section beginning with the first dollar
3 of a claim.

4 (g) Nothing in this section shall be construed to require a
5 private passenger automobile insurance policy to provide primary
6 or excess coverage during the period of time from the moment a
7 participating driver in a transportation network company logs on
8 to the transportation network company's online-enabled
9 application or platform until the driver logs off of the online-
10 enabled application or platform or the passenger exits the
11 vehicle, whichever is later. During that period of time,
12 notwithstanding any other law to the contrary:

13 (1) The participating driver's or the vehicle owner's
14 personal automobile insurance policy shall not be
15 required to provide, nor shall it provide, any
16 coverage to any person or entity unless the policy, or
17 an amendment or endorsement to the policy; expressly
18 provides for that coverage; and

19 (2) The participating driver's or the vehicle owner's
20 personal automobile insurance policy shall not have
21 the duty to defend or indemnify for the driver's



1 activities in connection with the transportation
2 network company, unless the policy or an endorsement
3 or amendment to the policy expressly provides
4 otherwise.

5 (h) Notwithstanding any other law to the contrary, a
6 personal automobile insurer may, at its discretion, offer an
7 automobile liability insurance policy, or an amendment or
8 endorsement to an existing policy that covers a private passenger
9 vehicle, station wagon type vehicle, sport utility vehicle, or
10 similar type of vehicle with a passenger capacity of eight
11 persons or less including the driver, while used in connection
12 with a transportation network company's online-enabled
13 application or platform. The policy shall expressly provide for
14 the coverage during the time period specified in subsection (b),
15 with or without a separate charge for that coverage.

16 (i) In a claims coverage investigation, a transportation
17 network company or its insurer shall cooperate with insurers that
18 are involved in the claims coverage investigation to facilitate the
19 exchange of information, including the provision of dates and
20 times at which an accident occurred that involved a
21 participating driver and the precise times that the



1 participating driver logged on and off the transportation
2 network company's online-enabled application or platform.

3 (j) A participating driver of a transportation network
4 company shall carry proof of transportation network company
5 insurance coverage within the vehicle at all times the vehicle
6 is being used in connection with a transportation network
7 company's online-enabled-application or platform. In the event
8 of an accident, a participating driver shall provide this
9 insurance coverage information to any other party involved in
10 the accident, and to a police officer, upon request.

11 (k) Notwithstanding any other law affecting whether one or
12 more policies of insurance that may apply with respect to an
13 occurrence is primary or excess, this section shall determine
14 the obligations under insurance policies issued to
15 transportation network companies and, if applicable,
16 participating drivers using a vehicle in connection with a
17 transportation network company's online-enabled application or
18 platform."

19 SECTION 3. Section 271-4, Hawaii Revised Statutes, is
20 amended to read as follows:

21 **"§271-4 Definitions.** As used in this chapter:



- 1 (1) "Chapter" means the Motor Carrier Law.
- 2 (2) "Commission" means the public utilities commission.
- 3 (3) "Person" or "persons" means any individual, firm,
4 copartnership, corporation, company, association, or
5 joint stock association; and includes any trustee,
6 receiver, assignee, or personal representative
7 thereof.
- 8 (4) "Certificate" means a certificate of public
9 convenience and necessity issued under this chapter to
10 common carriers by motor vehicle.
- 11 (5) "Permit" means a permit issued under this chapter to
12 contract carriers by motor vehicle.
- 13 (6) "Transportation of persons" includes every service in
14 connection with or incidental to the safety, comfort,
15 or convenience of persons transported and the receipt,
16 carriage, and delivery of these persons and their
17 baggage.
- 18 (7) "Transportation of property" includes every service in
19 connection with or incidental to the transportation of
20 property, including in particular its receipt,
21 delivery, elevation, transfer, carriage, ventilation,



1 refrigeration, icing, dunnage, storage in transit,
2 handling, and its consolidation for the purposes of
3 forwarding within the State.

4 (8) "Motor vehicle" means any vehicle, machine, tractor,
5 trailer, or semitrailer propelled or drawn by
6 mechanical power and used upon the highways in the
7 transportation of passengers or property, or any
8 combination thereof determined by the commission, but
9 does not include any vehicle, locomotive, or car
10 operated exclusively on a rail or rails or a trolley
11 bus operated by electric power derived from a fixed
12 overhead wire, furnishing local passenger
13 transportation similar to street-railway service.

14 (9) "Highway" means the public roads, highways, streets,
15 and ways in this State.

16 (10) "Rates" includes rates, fares, tolls, rentals, and
17 charges of whatever kind and nature unless the context
18 indicates otherwise.

19 (11) "Common carrier by motor vehicle" means any person
20 which holds itself out to the general public to engage
21 in the transportation by motor vehicle of passengers



1 or property or any class or classes thereof for
2 compensation.

3 (12) "Contract carrier by motor vehicle" means any person
4 which engages in transportation by motor vehicle of
5 passengers or property for compensation (other than
6 transportation referred to in paragraph (11)) under
7 continuing contracts with one person or a limited
8 number of persons either (A) for the furnishing of
9 transportation services through the assignment of
10 motor vehicles for a continuing period of time to the
11 exclusive use of each person served, or (B) for the
12 furnishing of transportation services designed to meet
13 the distinct need of each individual customer.

14 (13) "Motor carrier" includes both a common carrier by
15 motor vehicle and a contract carrier by motor vehicle.

16 (14) "Private carrier of property by motor vehicle" means
17 any person not included in the terms "common carrier
18 by motor vehicle" or "contract carrier by motor
19 vehicle", who or which transports by motor vehicle
20 property of which the person is the owner, lessee, or
21 bailee, when such transportation is for the purpose of



1 sale, lease, rent, or bailment, or in the furtherance
2 of any commercial enterprise.

3 (15) "Enforcement officer" means any person employed and
4 authorized by the commission to investigate any matter
5 on behalf of the commission. The term also means a
6 motor vehicle safety officer employed and assigned,
7 pursuant to section 271-38, by the department of
8 transportation to enforce sections 271-8, 271-12, 271-
9 13, 271-19, and 271-29 through the assessment of civil
10 penalties as provided in section 271-27(h), (i), and
11 (j).

12 (16) "Transportation network company" means any
13 organization, including but not limited to, a
14 corporation, limited liability corporation,
15 partnership, sole proprietor, or any other entity
16 operating a motor carrier in this State that provides
17 prearranged transportation services for compensation
18 through an online-enabled application or platform used
19 to connect passengers with drivers using a personal
20 motor vehicle.



1 (17) "Participating driver" or "driver" means any person
2 who uses a vehicle in connection with a transportation
3 network company's online-enable application or
4 platform to provide transportation of persons.

5 (18) "Transportation network company insurance" means an
6 insurance policy that specifically covers a driver's
7 use of a vehicle in connection with a transportation
8 network company's online enabled application or
9 platform."

10 SECTION 4. Section 271-5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§271-5 Exemptions, generally.** Notwithstanding any other
13 provisions of this chapter, its contents shall not apply to:

14 (1) Persons transporting their own property where the
15 transportation is in furtherance of a primary business
16 purpose or enterprise of that person, except where the
17 transportation is undertaken by a motor carrier to
18 evade the regulatory purposes of this chapter;

19 (2) Persons operating motor vehicles when engaged in the
20 transportation of school children and teachers to and
21 from school, and to and from school functions;



1 provided that these persons may engage in providing
 2 transportation at special rates for groups of persons
 3 belonging to an eleemosynary or benevolent
 4 organization or association domiciled in this State
 5 where the organization or association sponsors or is
 6 conducting a nonregular excursion; provided that
 7 whenever the persons engage in the transportation of
 8 persons other than those exempted in this paragraph,
 9 that portion of their operation shall not be exempt
 10 from this chapter. Nothing in this paragraph shall be
 11 construed to authorize any person to engage in the
 12 transportation of persons, other than the
 13 transportation of persons exempted by the terms of
 14 this paragraph, without a permit or certificate issued
 15 by the commission authorizing such transportation;

16 (3) Persons operating taxicabs or other motor vehicles
 17 utilized in performing a bona fide taxicab service.

18 Persons performing a bona fide taxicab service
 19 includes persons providing transportation services to
 20 customers as participating drivers.

21 "Taxicab" includes:



- 1 (A) Any motor vehicle used in the movement of
2 passengers on the public highways under the
3 following circumstances, namely the passenger
4 hires the vehicle on call or at a fixed stand,
5 with or without baggage for transportation, and
6 controls the vehicle to the passenger's
7 destination;
- 8 (B) Any motor vehicle for hire having seating
9 accommodations for eight or fewer passengers used
10 in the movement of passengers on the public
11 highways that may, as part of a continuous trip,
12 pick up or discharge passengers from various
13 unrelated locations; provided that they shall be
14 regulated by the counties in accordance with
15 section 46-16.5(c); and provided further that
16 this subparagraph shall not apply to any
17 exclusive rights granted by the department of
18 transportation for taxicab services at facilities
19 under the department's control; and
- 20 (C) Any motor vehicle having seating accommodations
21 for eight or fewer passengers used in the



1 movement of passengers on the public highways
2 between a terminal, i.e., a fixed stand, in the
3 Honolulu district, as defined in section 4-1 and
4 a terminal in a geographical district outside the
5 limits of the Honolulu district, and vice versa,
6 without picking up passengers other than at the
7 terminals or fixed stands; provided that the
8 passengers may be picked up by telephone call
9 from their homes in the rural area or may be
10 unloaded at any point between the fixed stands or
11 may be delivered to their homes in the rural
12 area;

13 (4) Persons operating motor vehicles in the transportation
14 of persons pursuant to a franchise from the
15 legislature and whose operations are presently
16 regulated under chapter 269;

17 (5) Nonprofit agricultural cooperative associations to the
18 extent that they engage in the transportation of their
19 own property or the property of their members;

20 (6) Persons operating motor vehicles specially constructed
21 for the towing of disabled or wrecked vehicles but not



- 1 otherwise used in the transportation of property for
2 compensation or hire;
- 3 (7) Persons operating motor vehicles in the transportation
4 of mail, newspapers, periodicals, magazines, messages,
5 documents, letters, or blueprints;
- 6 (8) Persons operating funeral cars or ambulances;
- 7 (9) Persons operating motor vehicles in the transportation
8 of garbage or refuse;
- 9 (10) Persons operating the type of passenger carrying motor
10 vehicles known as "sampan buses" within the radius of
11 twenty miles from the city of Hilo, Hawaii;
- 12 (11) Persons transporting unprocessed pineapple to a
13 cannery, seed corn to a processing facility, or
14 returning any containers used in such transportation
15 to the fields;
- 16 (12) Sugar plantations transporting sugarcane, raw sugar,
17 molasses, sugar by-products, and farming supplies for
18 neighboring farmers pursuant to contracts administered
19 by the United States Department of Agriculture;
- 20 (13) Persons engaged in the ranching or meat or feed
21 business who transport cattle to slaughterhouses for



1 hire where such transportation is their sole
2 transportation for hire and where their earnings from
3 the transportation constitute less than fifty per cent
4 of their gross income from their business and the
5 transportation for hire;

6 (14) Persons transporting unprocessed raw milk to
7 processing plants and returning any containers used in
8 such transportation to dairy farms for reloading;

9 (15) Persons transporting animal feeds to animal husbandry
10 farmers and farming supplies directly to animal
11 husbandry farmers and returning any containers used in
12 such transportation to these sources of such feeds and
13 supplies for reloading;

14 (16) Persons engaged in transporting not more than fifteen
15 passengers between their places of abode, or termini
16 near such places, and their places of employment in a
17 single daily round trip where the driver is also on
18 the driver's way to or from the driver's place of
19 employment[+], but not including participating
20 drivers;



- 1 (17) Persons transporting passengers without charge in
2 motor vehicles owned or operated by such person, where
3 such transportation is provided in conjunction with
4 and in furtherance of a related primary business
5 purpose or enterprise of that person, and such
6 transportation is provided only directly to and from
7 the place of business of such person, except that this
8 exemption shall not apply to persons making any
9 contract, agreement, or arrangement to provide,
10 procure, furnish, or arrange for transportation as a
11 travel agent or broker or a person engaged in tour or
12 sightseeing activities, nor shall this exemption apply
13 where the transportation is undertaken by a person to
14 evade the regulatory purposes of this chapter; and
- 15 (18) Persons conducting the type of county-regulated
16 passenger carrying operation known as "jitney
17 services". For the purposes of this paragraph,
18 "jitney services" means public transportation services
19 utilizing motor vehicles that have seating
20 accommodations for six to twenty-five passengers,



1 operate along specific routes during defined service
2 hours, and levy a flat fare schedule."

3 SECTION 5. Section 271-8.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§271-8.5 Advertising.** (a) It shall be a misdemeanor for
6 any person, including a person who is exempt under section 271-
7 5, to advertise as a motor carrier of passengers or property,
8 unless the person holds a valid certificate or permit required
9 by this chapter as to the classification so advertised. The
10 term "advertise", as used in this section, includes: the
11 issuance of any card, sign, or device to any person, or the
12 causing, permitting, or allowing of any sign or marking on or in
13 any building or motor vehicle, or the advertising in any
14 newspaper, magazine, or advertising other than in-column
15 listings in any directory, or the commercial broadcasting by
16 airwave transmission, or any and all communications media[-];
17 including offering motor carrier service through the Internet
18 via an online-enabled platform application, or app.

19 (b) A licensee [~~may advertise in print or broadcast medium~~
20 ~~as described in subsection (a) only if the licensee includes in~~
21 ~~the advertisement]~~ shall include in any form of advertising the



1 licensee's applicable and current certificate or permit number
2 [~~and provides proof of the number's validity to the publisher or~~
3 ~~producer of the advertising medium~~]. The publisher or producer
4 of a print or broadcast advertising medium or transportation
5 network company shall not publish or broadcast an advertisement
6 or provide access for a licensee who does not provide proof of a
7 current certificate or permit or who does not include a
8 currently valid certificate or permit number in the
9 advertisement.

10 (c) Upon notice from the public utilities commission of
11 the entry of a final order of the commission pursuant to chapter
12 91 or a judgment by a court of competent jurisdiction, that a
13 person has advertised in violation of either subsection (a) or
14 section 271-8, the public utility furnishing the
15 telecommunications service or transportation network company
16 shall disconnect that person's access to the platform or
17 application, telephone number, or telecommunications service
18 number contained in the advertisement or listing. A public
19 utility or transportation network company complying with a
20 notice to disconnect is immune from liability for damages
21 resulting from its compliance.



1 (d) The publisher or producer of a print or broadcast
2 advertising medium, or transportation network company, shall not^c
3 be liable in any suit, action, or claim arising from its refusal
4 to list or accept advertisements pursuant to subsection (b)."

5 SECTION 6. Section 271-17, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§271-17 Security for protection of public.** No
8 certificate or permit shall be issued to a motor carrier,
9 including participating drivers, or remain in force unless such
10 carrier complies with such reasonable rules and regulations as
11 the public utilities commission shall prescribe governing the
12 filing and approval of surety bonds, policies of insurance,
13 qualifications as a self-insurer, or other securities or
14 agreements, in amounts required by section 431:10C-301(b) or in
15 such [~~reasonable~~] greater amounts as the commission may require,
16 [~~conditioned to pay within the amount of the surety agreements~~
17 ~~moneys finally recovered against the motor carrier~~] for bodily
18 injuries to or the death of any person resulting from the
19 negligent operation, maintenance, or use of motor vehicles under
20 the certificate, or permit or for loss or damage to property of
21 others. The commission may, in its discretion and under such



1 rules and regulations as it shall prescribe, require any such
2 carrier to file a surety bond, policies of insurance,
3 qualifications as a self-insurer, or other securities or
4 agreements in a sum to be determined by the commission to be
5 conditioned upon the carrier making compensation to shippers or
6 consignees for all property belonging to shippers or consignees,
7 and coming into the possession of such carrier in connection
8 with its transportation service. Any common carrier which may
9 be required by law to compensate a shipper or consignee for any
10 loss, damage, or default for which a connecting motor common
11 carrier is legally responsible shall be subrogated to the rights
12 of such shipper or consignee under any such bond, policies of
13 insurance, or other securities or agreements, to the extent of
14 the sum so paid."

15 SECTION 7. Section 271-27, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§271-27 Unlawful operation.** (a) Any person
18 intentionally, knowingly, or recklessly violating any provision
19 of this chapter, or any rule, requirement, or order thereunder,
20 or any term or condition of any certificate or permit for which
21 a penalty is not otherwise provided, shall be guilty of a



1 misdemeanor. In addition, any shipper or consignee located in
2 this State, or any officer, employee, agent, or representative
3 thereof, who intentionally, knowingly, or recklessly engages the
4 services of any person violating any provision of this chapter,
5 or any rule, requirement, or order, or any term or condition of
6 any certificate or permit for which a penalty is not otherwise
7 provided, shall be guilty of a misdemeanor. In addition, any
8 company that solicits, contracts with, or hires drivers that the
9 company knows, or has reason to know, are violating any
10 provision of this chapter, or any rule, requirement, or order,
11 or any term or condition of any certificate or permit for which
12 a penalty is not otherwise provided, shall be guilty of a
13 misdemeanor.

14 (b) Any person, whether carrier, shipper, or consignee, or
15 any officer, employee, agent, or representative thereof, who
16 intentionally, knowingly, or recklessly offers, grants, or
17 gives, or solicits, accepts, or receives any rebate, concession,
18 or discrimination in violation of any provisions of this
19 chapter, or who by means of any false statement or
20 representation or by the use of any false or fictitious bill,
21 bill of lading, receipt, voucher, roll, account, claim,



1 certificate, affidavit, deposition, lease, or bill of sale, or
2 by any other means or device, intentionally, knowingly, or
3 recklessly assists, suffers, or permits any person or persons,
4 natural or artificial, to obtain transportation of passengers or
5 property subject to this chapter for less than the applicable
6 rate, fare, or charge, or who intentionally, knowingly, or
7 recklessly by any such means or otherwise fraudulently seeks to
8 evade or defeat regulation as in this chapter provided for motor
9 carriers, shall be deemed guilty of a misdemeanor.

10 (c) Any special agent, accountant, or examiner who
11 knowingly and wilfully divulges any fact or information which
12 may come to the special agent's, accountant's, or examiner's
13 knowledge during the course of any examination or inspection
14 made under authority of sections 271-9(a)(4), 271-23, and 271-
15 25, except as the special agent, accountant, or examiner may be
16 directed by the commission or by a court or judge thereof, shall
17 be guilty of a misdemeanor.

18 (d) It shall be unlawful for any motor carrier or any
19 officer, receiver, trustee, lessee, agent, or employee of the
20 carrier, or for any other person authorized by such carrier or
21 person to receive information, knowingly to disclose to, or



1 permit to be acquired by any person other than the shipper or
2 consignee without the consent of the shipper or consignee, any
3 information concerning the nature, kind, quantity, destination,
4 consignee, or routing of any property tendered or delivered to
5 the motor carrier for transportation, which information may be
6 used to the detriment or prejudice of the shipper or consignee,
7 or which may improperly disclose the shipper's or consignee's
8 business transactions to a competitor; and it shall also be
9 unlawful for any person to solicit or knowingly receive any such
10 information which may be so used.

11 (e) Nothing in this chapter shall be construed to prevent
12 the giving of such information in response to any legal process
13 issued under the authority of any court, or to any officer or
14 agent of the government of the United States or of any state or
15 of any political subdivision of any state, in the exercise of
16 the officer's or agent's power or to any officer or other duly
17 authorized person seeking the information for the prosecution of
18 persons charged with or suspected of crimes or to another
19 carrier, or its duly authorized agents, for the purpose of
20 adjusting mutual traffic accounts in the ordinary course of
21 business of the carriers.



1 (f) Any motor carrier or any officer, agent, employee, or
2 representative thereof, who wilfully fails or refuses to make a
3 report to the commission as required by this chapter, or to make
4 specific and full, true, and correct answer to any question
5 within thirty days from the time it is lawfully required by the
6 commission, or to keep accounts, records, and memoranda in the
7 form and manner prescribed by the commission, or knowingly and
8 wilfully falsifies, destroys, mutilates, or alters any report,
9 account, record, or memorandum or knowingly and wilfully files
10 with the commission any false report, account, record, or
11 memorandum, or knowingly and wilfully neglects or fails to make
12 full, true, and correct entries in the accounts, records, or
13 memoranda of all facts and transactions appertaining to the
14 business of the carrier, or person required under this chapter
15 to keep the same, or knowingly and wilfully keeps accounts,
16 records, or memoranda contrary to the rules, regulations, or
17 orders of the commission with respect thereto, shall be deemed
18 guilty of a misdemeanor. As used in this subsection, the words
19 "keep" and "kept" mean made, prepared, or compiled, as well as
20 retained.



1 (g) Except when required by state law to take immediately
2 before a district judge a person arrested for violation of this
3 chapter, including any rule adopted pursuant to this chapter,
4 any enforcement officer, other than a motor vehicle safety
5 officer employed and assigned, pursuant to section 271-38, by
6 the department of transportation to assess civil penalties, upon
7 arresting a person for violation of this chapter, including any
8 rule adopted pursuant to this chapter shall issue to the alleged
9 violator a summons or citation printed in the form hereinafter
10 described, warning the alleged violator to appear and answer to
11 the charge against the alleged violator at a certain place
12 within seven days after the arrest.

13 (1) The summons or citation shall be printed in a form
14 comparable to that of other summonses and citations
15 used for arresting offenders and shall include all
16 necessary information. The form and content shall be
17 adopted or prescribed by the district courts.

18 (2) The original of a summons or citation shall be given
19 to the alleged violator and any other copies
20 distributed in the manner prescribed by the district
21 courts; provided that the district courts may



- 1 prescribe alternative methods of distribution for the
2 original and any other copies.
- 3 (3) Summonses and citations shall be consecutively
4 numbered and any other copies of each shall bear the
5 same number.
- 6 (4) Any person who fails to appear at the place and within
7 the time specified in the summons or citation shall be
8 guilty of a misdemeanor.
- 9 (5) If any person fails to comply with a summons or
10 citation or fails or refuses to deposit bail as
11 required, the enforcement officer shall cause a
12 complaint to be entered against the person and secure
13 the issuance of a warrant for the person's arrest.
- 14 (6) When a complaint is made to any prosecuting officer of
15 a violation of this chapter or any rule, the
16 enforcement officer who issued the summons or citation
17 shall subscribe to it under oath administered by
18 another official whose name has been submitted to the
19 prosecuting officer and who has been designated by the
20 commission to administer the same.



1 (h) Any motor carrier, including a participating driver,
2 or lessor, or any officer, agent, employee, transportation
3 network company, or representative thereof, who fails or refuses
4 to comply with any provision of this chapter, or any rule,
5 requirement, or order thereunder, and any person located in this
6 State, or any officer, agent, employee, or representative of any
7 such person, who engages the services of any motor carrier,
8 including a participating driver, or lessor, or any officer,
9 agent, employee, transportation network company, or
10 representative thereof, who fails or refuses to comply with any
11 provision of this chapter, or any rule, requirement, or order,
12 may be assessed a civil penalty payable to the State in a sum:

- 13 (1) Up to [~~\$1,000~~] \$5,000 for each offense; and
14 (2) In the case of a continuing violation, not less than
15 [~~\$50~~] \$1,000 and not more than [~~\$500~~] \$5,000 for each
16 additional day during which the failure or refusal
17 continues.

18 (i) Notwithstanding subsection (h), a motor carrier who
19 fails to file, within the prescribed time, a financial report
20 with the commission pursuant to its rules may be assessed a
21 civil penalty payable to the State up to the sum of one-



1 sixteenth of one per cent of the gross revenues from the motor
2 carrier's business during the preceding calendar year, if the
3 failure is for not more than one month, with an additional one-
4 sixteenth of one per cent for each additional month or fraction
5 thereof during which the failure continues, but in no event
6 shall the total civil penalty be less than the sum of \$50.

7 (j) In addition to any other remedy available, the
8 commission or its enforcement officer, including a motor vehicle
9 safety officer employed and assigned by the department of
10 transportation pursuant to section 271-38, may issue citations
11 to persons acting in the capacity of or engaging in the business
12 of a motor carrier within this State, without having a
13 certificate of public convenience and necessity or other
14 authority previously obtained under and in compliance with this
15 chapter and rules adopted, or to any shipper or consignee
16 located in this State, or any officer, employee, agent, or
17 representative thereof who engages the services of those
18 persons.

19 (1) The citation may contain an order of abatement and an
20 assessment of civil penalties as provided in
21 subsection (h). All penalties collected under this



1 subsection shall be deposited in the treasury of the
2 State. Service of a citation issued under this
3 subsection shall be made by personal service whenever
4 possible or by certified mail, restricted delivery,
5 sent to the last known business or residence address
6 of the person cited.

7 (2) Any person served with a citation under this
8 subsection may submit a written request to the
9 commission for a hearing within twenty days from the
10 receipt of the citation, with respect to the
11 violations alleged, the scope of the order of
12 abatement, and the amount of civil penalties assessed.
13 If the person cited under this subsection notifies the
14 commission of the request for a hearing in time, the
15 commission shall afford the person an opportunity for
16 a hearing under chapter 91. The hearing shall be
17 conducted by the commission, or the commission may
18 designate a hearings officer to hold the hearing.

19 (3) If the person cited under this subsection does not
20 submit a written request to the commission for a
21 hearing in time, the citation shall be deemed a final



1 order of the commission. The commission may apply to
2 the appropriate court for a judgment to enforce the
3 provisions of any final order issued by the commission
4 or designated hearings officer pursuant to this
5 subsection, including the provisions for abatement and
6 civil penalties imposed. In any proceeding to enforce
7 the final order, the commission need only produce a
8 certified copy of the final order and show that the
9 notice was given and that a hearing was held or the
10 time granted for requesting the hearing has run
11 without a request.

12 (4) If any party is aggrieved by the decision of the
13 commission or the designated hearings officer, the
14 party may appeal, subject to chapter 602, in the
15 manner provided for civil appeals from the circuit
16 courts; provided that the operation of an abatement
17 order shall not be stayed on appeal unless
18 specifically ordered by a court of competent
19 jurisdiction after applying the stay criteria
20 enumerated in section 91-14(c). The sanctions and
21 disposition authorized under this subsection shall be



1 separate and in addition to all other remedies either
2 civil or criminal provided by law. The commission may
3 adopt any rules under chapter 91 that may be necessary
4 to fully effectuate this subsection.

5 (k) Any motor carrier, including a participating driver,
6 or lessor who violates any provision of this chapter shall have
7 the carrier, driver, or lessor's motor vehicle impounded until
8 the violation is fully remedied to the satisfaction of the
9 commission. All enforcement officers shall be vested with the
10 power to impound motor vehicles belonging to parties in
11 violation of this chapter, and all associated costs shall be
12 charged to the parties in violation of this chapter."

13 SECTION 8. Section 271-28, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§271-28 Collection of rates and charges.** No common
16 carrier by motor vehicle shall deliver or relinquish possession
17 at destination of any freight transported by it until all tariff
18 rates and charges thereon have been paid, except under such
19 rules and regulations as the public utilities commission may
20 from time to time prescribe to govern the settlement of all the
21 rates and charges, including rules and regulations for weekly or



1 monthly settlement, and to prevent unjust discrimination or
2 undue preference or prejudice; provided that this section shall
3 not be construed to prohibit any carrier from extending credit
4 in connection with rates and charges on freight transported for
5 the United States, for any department, bureau, or agency
6 thereof, or for any state or political subdivision thereof. In
7 addition, no motor carrier, including a transportation network
8 company, shall charge higher prices for transportation services,
9 based on the supply of available motor carriers at a moment in
10 time and the demand for motor carriers at that moment in time."

11 SECTION 9. Section 271-29, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§271-29 Identification of carriers.** The public utilities
14 commission is authorized, under such rules and regulations as it
15 shall prescribe, to require the display of suitable
16 identification number or numbers, upon any motor vehicle used in
17 transportation subject to this chapter, and to provide for the
18 issuance of numbers. Any substitution, transfer, or use of any
19 identification number or numbers, except such as may be duly
20 authorized by the commission, is prohibited and shall be
21 unlawful. In addition, any motor vehicle being operated by a



1 participating driver shall display the name or other mark of the
2 transportation network company in a conspicuous place on the
3 motor vehicle at all times."

4 SECTION 10. This Act does not affect rights and duties
5 that matured, penalties that were incurred, and proceedings that
6 were begun before its effective date.

7 SECTION 11. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 12. This Act shall take effect on July 1, 2030.



Report Title:

Transportation Network Companies; Regulation; Insurance

Description:

Regulates transportation network companies. Establishes insurance requirements for transportation network companies and their drivers. (HB1463 HD1)

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

