
A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 SECTION 1. The purpose of this Act is to authorize the
2 counties to regulate transportation network companies by
3 establishing rules for their operation.

4 SECTION 2. Section 46-16.5, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The legislature finds and declares the following:

- 7 (1) The orderly regulation of vehicular traffic on the
8 streets and highways of Hawaii is essential to the
9 welfare of the State and its people;
- 10 (2) Privately-operated public passenger vehicle service
11 provides vital transportation links within the State.
12 Public passenger vehicle service operated in the
13 counties enables the State to provide the benefits of
14 privately-operated, demand-responsive transportation
15 services to its people and to persons who travel to
16 the State for business or tourist purposes;



- 1 (3) The economic viability and stability of privately-
2 operated public passenger vehicle service is
3 consequently a matter of statewide importance;
- 4 (4) The policy of the State is to promote safe and
5 reliable privately-operated public passenger vehicle
6 service to provide the benefits of that service. In
7 furtherance of this policy, the legislature recognizes
8 and affirms that the regulation of privately-operated
9 public passenger vehicle service is an essential
10 governmental function;
- 11 (5) The policy of the State is to require that counties
12 regulate privately-operated public passenger vehicle
13 service and not subject a county or its officers to
14 liability under the federal antitrust laws;
- 15 (6) The policy of the State is to further promote
16 privately-operated public passenger vehicle service,
17 including [~~but not limited to,~~] the picking up and
18 discharge of passengers from various unrelated
19 locations by taxicabs; [and]
- 20 (7) The policy of the State is to further promote
21 privately-operated public passenger vehicle service by



1 requiring jitney services not regulated by the
2 counties to be under the jurisdiction of the public
3 utilities commission. For the purposes of this
4 paragraph, "jitney services" means public
5 transportation services utilizing motor vehicles that
6 have seating accommodations for six to twenty-five
7 passengers, operate along specific routes during
8 defined service hours, and levy a flat fare
9 schedule[-]; and

10 (8) The policy of the State is to further promote
11 privately-operated public passenger vehicle service,
12 including the picking up and discharge of passengers
13 from various unrelated locations by transportation
14 network company services. For the purposes of this
15 paragraph:

16 "Transportation network company" means an entity
17 operating in the State that uses a digital network or
18 software application service to connect passengers to
19 transportation network company services provided by
20 transportation network company drivers. A
21 transportation network company is not deemed to own,



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1 control, operate, or manage the vehicles used by its
2 drivers, and is not a taxicab association or a for-
3 hire vehicle owner.

4 "Transportation network company driver" means a
5 person who operates a motor vehicle that is owned,
6 leased, or otherwise authorized for use by the person;
7 not a taxicab or for-hire public passenger vehicle;
8 and used to provide transportation network company
9 services.

10 "Transportation network company services" means
11 transportation of a passenger between points chosen by
12 the passenger and prearranged with a transportation
13 network company driver through the use of a
14 transportation network company digital network or
15 software application. Transportation network company
16 services shall begin when a transportation network
17 company driver accepts a request for transportation
18 received through the transportation network company's
19 digital network or software application service,
20 continue while the transportation network company
21 driver transports the passenger in the driver's



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1 vehicle, and end when the passenger exits the driver's
 2 vehicle. Transportation network company service is
 3 not a taxicab, for-hire vehicle, or street hail
 4 service."

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

7 "§271-5 Exemptions, generally. Notwithstanding any other
 8 provisions of this chapter, its contents shall not apply to:

- 9 (1) Persons transporting their own property where the
 10 transportation is in furtherance of a primary business
 11 purpose or enterprise of that person, except where the
 12 transportation is undertaken by a motor carrier to
 13 evade the regulatory purposes of this chapter;
- 14 (2) Persons operating motor vehicles when engaged in the
 15 transportation of school children and teachers to and
 16 from school, and to and from school functions;
 17 provided that these persons may engage in providing
 18 transportation at special rates for groups of persons
 19 belonging to an eleemosynary or benevolent
 20 organization or association domiciled in this State
 21 where the organization or association sponsors or is



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1 conducting a nonregular excursion; provided that
2 whenever the persons engage in the transportation of
3 persons other than those exempted in this paragraph,
4 that portion of their operation shall not be exempt
5 from this chapter. Nothing in this paragraph shall be
6 construed to authorize any person to engage in the
7 transportation of persons, other than the
8 transportation of persons exempted by the terms of
9 this paragraph, without a permit or certificate issued
10 by the commission authorizing [~~such~~] the
11 transportation;

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

14 "Taxicab" includes:

15 (A) Any motor vehicle used in the movement of
16 passengers on the public highways under the
17 following circumstances, namely the passenger
18 hires the vehicle on call or at a fixed stand,
19 with or without baggage for transportation, and
20 controls the vehicle to the passenger's
21 destination;



- 1 (B) Any motor vehicle for hire having seating
2 accommodations for eight or fewer passengers used
3 in the movement of passengers on the public
4 highways that may, as part of a continuous trip,
5 pick up or discharge passengers from various
6 unrelated locations; provided that [~~they~~] these
7 services shall be regulated by the counties in
8 accordance with section 46-16.5(c); and provided
9 further that this subparagraph shall not apply to
10 any exclusive rights granted by the department of
11 transportation for taxicab services at facilities
12 under the department's control; and
- 13 (C) Any motor vehicle having seating accommodations
14 for eight or fewer passengers used in the
15 movement of passengers on the public highways
16 between a terminal, i.e., a fixed stand, in the
17 Honolulu district, as defined in section 4-1 and
18 a terminal in a geographical district outside the
19 limits of the Honolulu district, and vice versa,
20 without picking up passengers other than at the
21 terminals or fixed stands; provided that the



1 passengers may be picked up by telephone call
2 from their homes in the rural area or may be
3 unloaded at any point between the fixed stands or
4 may be delivered to their homes in the rural
5 area;

6 (4) Persons operating motor vehicles in the transportation
7 of persons pursuant to a franchise from the
8 legislature and whose operations are presently
9 regulated under chapter 269;

10 (5) Nonprofit agricultural cooperative associations to the
11 extent that they engage in the transportation of their
12 own property or the property of their members;

13 (6) Persons operating motor vehicles specially constructed
14 for the towing of disabled or wrecked vehicles but not
15 otherwise used in the transportation of property for
16 compensation or hire;

17 (7) Persons operating motor vehicles in the transportation
18 of mail, newspapers, periodicals, magazines, messages,
19 documents, letters, or blueprints;

20 (8) Persons operating funeral cars or ambulances;



- 1 (9) Persons operating motor vehicles in the transportation
2 of garbage or refuse;
- 3 (10) Persons operating the type of passenger carrying motor
4 vehicles known as "sampan buses" within the radius of
5 twenty miles from the city of Hilo, Hawaii;
- 6 (11) Persons transporting unprocessed pineapple to a
7 cannery, seed corn to a processing facility, or
8 returning any containers used in [~~such~~] the
9 transportation to the fields;
- 10 (12) Sugar plantations transporting sugarcane, raw sugar,
11 molasses, sugar by-products, and farming supplies for
12 neighboring farmers pursuant to contracts administered
13 by the United States Department of Agriculture;
- 14 (13) Persons engaged in the ranching or meat or feed
15 business who transport cattle to slaughterhouses for
16 hire where [~~such~~] the transportation is their sole
17 transportation for hire and where their earnings from
18 the transportation constitute less than fifty per cent
19 of their gross income from their business and the
20 transportation for hire;



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- 1 (14) Persons transporting unprocessed raw milk to
2 processing plants and returning any containers used in
3 [~~such~~] the transportation to dairy farms for
4 reloading;
- 5 (15) Persons transporting animal feeds to animal husbandry
6 farmers and farming supplies directly to animal
7 husbandry farmers and returning any containers used in
8 [~~such~~] the transportation to these sources of [~~such~~]
9 the feeds and supplies for reloading;
- 10 (16) Persons engaged in transporting not more than fifteen
11 passengers between their places of abode, or termini
12 near [~~such~~] the places, and their places of employment
13 in a single daily round trip where the driver is also
14 on the driver's way to or from the driver's place of
15 employment;
- 16 (17) Persons transporting passengers without charge in
17 motor vehicles owned or operated by [~~such~~] the person,
18 where [~~such~~] the transportation is provided in
19 conjunction with and in furtherance of a related
20 primary business purpose or enterprise of that person,
21 and [~~such~~] the transportation is provided only



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1 directly to and from the place of business of [~~such~~]
 2 the person, except that this exemption shall not apply
 3 to persons making any contract, agreement, or
 4 arrangement to provide, procure, furnish, or arrange
 5 for transportation as a travel agent or broker or a
 6 person engaged in tour or sightseeing activities, nor
 7 shall this exemption apply where the transportation is
 8 undertaken by a person to evade the regulatory
 9 purposes of this chapter; [~~and~~]

10 (18) Persons conducting the type of county-regulated
 11 passenger carrying operation known as "jitney
 12 services". For the purposes of this paragraph,
 13 "jitney services" means public transportation services
 14 utilizing motor vehicles that have seating
 15 accommodations for six to twenty-five passengers,
 16 operate along specific routes during defined service
 17 hours, and levy a flat fare schedule[-]; and

18 (19) Persons engaged in transportation network company
 19 services as defined under section 46-16.5(a)(8);
 20 provided that these services shall be regulated by the
 21 counties in accordance with section 46-16.5(c)."



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1 SECTION 4. Counties authorizing transportation network
2 company operations shall establish rules regulating the
3 operations. These rules shall include required national
4 criminal history background checks for transportation network
5 company drivers and required automobile liability insurance. No
6 transportation network company shall operate in any county until
7 after the county has established rules pursuant to this section.

8 SECTION 5. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon its approval.

11

INTRODUCED BY:



JAN 21 2016



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Report Title:

Transportation Network Companies; Counties; Regulation

Description:

Authorizes transportation network companies to operate upon regulation by a county.

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