
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 drivers; provided
10 that the entity:

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

15 "Transportation network company activity" means the period
16 of time when the transportation network company driver logs onto
17 the transportation network company's digital network or software



1 application service until the moment the transportation network
2 company driver logs off the digital network or software
3 application service or until the ride is complete and the
4 passenger exits the transportation network company driver's
5 vehicle, whichever is later.

6 "Transportation network company driver" means an individual
7 who operates a motor vehicle to transport a passenger between
8 points chosen by the passenger and prearranged through a
9 transportation network company; provided that the motor vehicle
10 is:

- 11 (1) Owned, leased, or otherwise authorized for use by the
- 12 individual;
- 13 (2) Not a taxicab or for-hire vehicle; and
- 14 (3) Used in transportation network company activity.

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

20 § -3 Duration of fare. A transportation network company
21 fare shall be deemed to:



- 1 (1) Commence when a transportation network company driver
- 2 accepts a request for transportation received through
- 3 the transportation network company's digital network
- 4 or software application service;
- 5 (2) Continue while the transportation network company
- 6 driver transports the passenger in the transportation
- 7 network company driver's vehicle; and
- 8 (3) Conclude when the passenger exits the transportation
- 9 network company driver's vehicle.

10 § -4 Transportation network company and transportation
11 network company driver; insurance requirements. (a) A
12 transportation network company shall disclose in writing to
13 transportation network company drivers, as part of the
14 transportation network company's agreement with those drivers:

- 15 (1) The insurance coverage and limits of liability that
- 16 the transportation network company provides while the
- 17 transportation network company driver uses a vehicle
- 18 during transportation network company activity; and
- 19 (2) That the transportation network company driver's
- 20 personal automobile insurance policy might not provide
- 21 any required or optional coverage because the



1 transportation network company driver uses a vehicle
2 during transportation network company activity.

3 (b) A transportation network company and any
4 transportation network company driver shall maintain a primary
5 motor vehicle insurance policy that shall be in effect during
6 transportation network company activity. The primary motor
7 vehicle insurance policy required under this subsection shall
8 include:

9 (1) Primary liability coverage of not less than \$100,000
10 per person, with an aggregate limit of \$200,000 per
11 accident, for all damages arising out of accidental
12 harm sustained as a result of any one accident and
13 arising out of ownership, maintenance, use, loading,
14 or unloading of a motor vehicle;

15 (2) Primary liability coverage of not less than \$50,000
16 for all damages arising out of damage to or
17 destruction of property including motor vehicles and
18 including the loss of use thereof, but not including
19 property owned by, being transported by, or in the
20 charge of the insured, as a result of any one accident



1 arising out of ownership, maintenance, use, loading,
2 or unloading, of the insured vehicle;

3 (3) Uninsured and underinsured motorist coverage for the
4 transportation network company driver and passengers
5 that shall be equal to the primary liability limits
6 specified in paragraphs (1) and (2);

7 (4) Personal injury protection coverage in an amount that
8 meets the requirements of section 431:10C-103.5 and
9 shall be equal to or greater than the coverage limits
10 for the personal automobile insurance maintained by
11 the vehicle's owner and reported to the transportation
12 network company; and

13 (5) Collision and comprehensive coverage limits for the
14 transportation network company driver's vehicle that
15 shall be equal to or greater than the coverage limits
16 for the personal automobile insurance maintained by
17 the vehicle's owner and reported to the transportation
18 network company.

19 (c) The requirements for the coverage specified in
20 subsection (b) may be satisfied by any of the following:



- 1 (1) Motor vehicle insurance maintained by a transportation
2 network company driver, but only if the transportation
3 network company verifies that the policy is maintained
4 by the transportation network company driver and is
5 specifically written to cover the transportation
6 network company driver's use of a vehicle in
7 connection with a transportation network company's
8 digital network or software application service;
- 9 (2) Motor vehicle insurance maintained by a transportation
10 network company; or
- 11 (3) Any combination of paragraphs (1) and (2).
- 12 (d) The insurer providing insurance under this section
13 shall have the duty to defend and 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 motor vehicle insurance
20 maintained by a transportation network company driver to fulfill
21 the insurance obligations of this section has lapsed or ceased



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

4 (g) Nothing in this section shall be construed to require
5 a personal automobile insurance policy to provide primary or
6 excess coverage during transportation network company activity.
7 During transportation network company activity, and
8 notwithstanding any other law to the contrary, the following
9 shall apply:

10 (1) The transportation network company driver's or the
11 vehicle owner's personal automobile insurance policy
12 shall not be required to provide, nor shall it
13 provide, any coverage to any person or entity unless
14 the policy expressly provides for that coverage during
15 transportation network company activity, with or
16 without a separate charge, or the policy contains an
17 amendment or endorsement to provide coverage for
18 transportation network company activity, for which a
19 separately stated premium is charged; and

20 (2) The transportation network company driver's or the
21 vehicle owner's personal automobile insurance policy



1 shall not have the duty to defend or indemnify for the
2 driver's activities in connection with the
3 transportation network company, unless the policy
4 expressly provides otherwise for transportation
5 network company activity, with or without a separate
6 charge, or the policy contains an amendment or
7 endorsement to provide coverage for transportation
8 network company activity, for which a separately
9 stated premium is charged.

10 (h) Notwithstanding any other law to the contrary, a
11 personal automobile insurer may, at its discretion, offer an
12 automobile liability insurance policy, or an amendment or
13 endorsement to an existing policy that covers a private
14 passenger vehicle, station wagon type vehicle, sport utility
15 vehicle, or similar type of vehicle with a passenger capacity of
16 eight persons or less, including the driver, while used in
17 connection with a transportation network company activity if the
18 policy expressly provides for the coverage of transportation
19 network company activity, with or without a separate charge, or
20 the policy contains an amendment or an endorsement to provide



1 coverage for transportation network company activity, for which
2 a separately stated premium may be charged.

3 (i) In a claims coverage investigation, a transportation
4 network company or its insurer shall cooperate with insurers
5 that are involved in the claims coverage investigation to
6 facilitate the exchange of information, including the provision
7 of dates and times at which an accident occurred that involved a
8 transportation network company driver and the precise times that
9 the transportation network company driver logged on and off the
10 transportation network company's digital network or software
11 application service.

12 (j) A transportation network company driver shall carry
13 proof of insurance coverage as required by this section within
14 the vehicle at all times when the vehicle is being used in
15 transportation network company activity. In the event of an
16 accident, a transportation network company driver shall provide
17 this insurance coverage information to any other party involved
18 in the accident and to a police officer, upon request.

19 (k) Notwithstanding any other law affecting whether one or
20 more policies of insurance that may apply with respect to an
21 occurrence is primary or excess, this section shall determine



1 the obligations under insurance policies issued to
2 transportation network companies and, if applicable,
3 transportation network company drivers using a vehicle in
4 connection with a transportation network company activity.

5 § -5 Records. (a) A transportation network company
6 shall maintain:

7 (1) Global positioning system records and electronic
8 records of transportation network company activity for
9 each individual trip provided by a transportation
10 network company driver for at least five years from
11 the date each trip was provided; and

12 (2) Transportation network company driver records at least
13 until the five year anniversary of the date on which a
14 transportation network company driver's activation on
15 the transportation network company digital network or
16 software application service has ended.

17 (b) Records maintained under this section shall be made
18 readily available for purposes of a claims coverage
19 investigation pursuant to section -4(i) or resolving any
20 other dispute related to transportation network company activity



1 no later than ten days after receipt of a written request for
2 such record."

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

5 "(c) Every county is empowered to regulate:

6 (1) Entry into the business of providing public passenger
7 vehicle service within the jurisdiction of that
8 county.

9 (2) The rates charged for the provision of public
10 passenger vehicle service.

11 (3) The establishment of stands to be employed by one or a
12 limited number of providers of public passenger
13 vehicle service.

14 (4) Transportation network companies, transportation
15 network company activity, and transportation network
16 company drivers.

17 For the purposes of this subsection, "transportation
18 network company", "transportation network company activity", and
19 and "transportation network company driver" shall have the same
20 meaning as defined in section -1."



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

3 "§271-5 Exemptions, generally. Notwithstanding any other
4 provisions of this chapter, its contents shall not apply to:

5 (1) Persons transporting their own property where the
6 transportation is in furtherance of a primary business
7 purpose or enterprise of that person, except where the
8 transportation is undertaken by a motor carrier to
9 evade the regulatory purposes of this chapter;

10 (2) Persons operating motor vehicles when engaged in the
11 transportation of school children and teachers to and
12 from school, and to and from school functions;

13 provided that these persons may engage in providing
14 transportation at special rates for groups of persons
15 belonging to an eleemosynary or benevolent

16 organization or association domiciled in this State
17 where the organization or association sponsors or is
18 conducting a nonregular excursion; provided that

19 whenever the persons engage in the transportation of
20 persons other than those exempted in this paragraph,
21 that portion of their operation shall not be exempt



1 from this chapter. Nothing in this paragraph shall be
 2 construed to authorize any person to engage in the
 3 transportation of persons, other than the
 4 transportation of persons exempted by the terms of
 5 this paragraph, without a permit or certificate issued
 6 by the commission authorizing such transportation;

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

9 "Taxicab" includes:

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

17 (B) Any motor vehicle for hire having seating
 18 accommodations for eight or fewer passengers used
 19 in the movement of passengers on the public
 20 highways that may, as part of a continuous trip,
 21 pick up or discharge passengers from various



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



- 1 (4) Persons operating motor vehicles in the transportation
2 of persons pursuant to a franchise from the
3 legislature and whose operations are presently
4 regulated under chapter 269;
- 5 (5) Nonprofit agricultural cooperative associations to the
6 extent that they engage in the transportation of their
7 own property or the property of their members;
- 8 (6) Persons operating motor vehicles specially constructed
9 for the towing of disabled or wrecked vehicles but not
10 otherwise used in the transportation of property for
11 compensation or hire;
- 12 (7) Persons operating motor vehicles in the transportation
13 of mail, newspapers, periodicals, magazines, messages,
14 documents, letters, or blueprints;
- 15 (8) Persons operating funeral cars or ambulances;
- 16 (9) Persons operating motor vehicles in the transportation
17 of garbage or refuse;
- 18 (10) Persons operating the type of passenger carrying motor
19 vehicles known as "sampan buses" within the radius of
20 twenty miles from the city of Hilo, Hawaii;



- 1 (11) Persons transporting unprocessed pineapple to a
2 cannery, seed corn to a processing facility, or
3 returning any containers used in such transportation
4 to the fields;
- 5 (12) Sugar plantations transporting sugarcane, raw sugar,
6 molasses, sugar by-products, and farming supplies for
7 neighboring farmers pursuant to contracts administered
8 by the United States Department of Agriculture;
- 9 (13) Persons engaged in the ranching or meat or feed
10 business who transport cattle to slaughterhouses for
11 hire where such transportation is their sole
12 transportation for hire and where their earnings from
13 the transportation constitute less than fifty per cent
14 of their gross income from their business and the
15 transportation for hire;
- 16 (14) Persons transporting unprocessed raw milk to
17 processing plants and returning any containers used in
18 such transportation to dairy farms for reloading;
- 19 (15) Persons transporting animal feeds to animal husbandry
20 farmers and farming supplies directly to animal
21 husbandry farmers and returning any containers used in



1 such transportation to these sources of such feeds and
2 supplies for reloading;

3 (16) Persons engaged in transporting not more than fifteen
4 passengers between their places of abode, or termini
5 near such places, and their places of employment in a
6 single daily round trip where the driver is also on
7 the driver's way to or from the driver's place of
8 employment;

9 (17) Persons transporting passengers without charge in
10 motor vehicles owned or operated by such person, where
11 such transportation is provided in conjunction with
12 and in furtherance of a related primary business
13 purpose or enterprise of that person, and such
14 transportation is provided only directly to and from
15 the place of business of such person, except that this
16 exemption shall not apply to persons making any
17 contract, agreement, or arrangement to provide,
18 procure, furnish, or arrange for transportation as a
19 travel agent or broker or a person engaged in tour or
20 sightseeing activities, nor shall this exemption apply



1 where the transportation is undertaken by a person to
 2 evade the regulatory purposes of this chapter; ~~and~~
 3 (18) Persons conducting the type of county-regulated
 4 passenger carrying operation known as "jitney
 5 services". For the purposes of this paragraph,
 6 "jitney services" means public transportation services
 7 utilizing motor vehicles that have seating
 8 accommodations for six to twenty-five passengers,
 9 operate along specific routes during defined service
 10 hours, and levy a flat fare schedule[-]; and
 11 (19) Transportation network companies; provided that, for
 12 the purposes of this paragraph, "transportation
 13 network company" means the same as defined in section
 14 -1."

15 SECTION 4. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 2050.
 18



Report Title:

Transportation Network Companies; Transportation Network Company Drivers; Motor Vehicle Insurance

Description:

Establishes motor vehicle insurance requirements for transportation network companies and persons who operate or serve as drivers for transportation network companies. Provides express authority for counties to regulate transportation network companies. Exempts transportation network companies from oversight under the motor carrier law. (HB1828 HD1)

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