

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 in an amount that meets the requirements of section
6 431:10C-301;
- 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 and requirements pursuant to section 431:10C-301 for
11 the personal automobile insurance maintained by the
12 vehicle's owner and reported to the transportation
13 network company; and
- 14 (5) Collision and comprehensive coverage limits for the
15 transportation network company driver's vehicle that
16 shall be equal to or greater than the coverage limits
17 and requirements pursuant to section 431:10C-301 for
18 the personal automobile insurance maintained by the
19 vehicle's owner and reported to the transportation
20 network company.



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

3 (1) Motor vehicle insurance maintained by a transportation
4 network company driver, but only if the transportation
5 network company verifies that the policy is maintained
6 by the transportation network company driver and is
7 specifically written to cover the transportation
8 network company driver's use of a vehicle in
9 connection with a transportation network company's
10 digital network or software application service;

11 (2) Motor vehicle insurance maintained by a transportation
12 network company; or

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

14 (d) An insurer shall submit any policy covering
15 transportation network company activity to the insurance
16 division for review and approval prior to the initial offer to
17 transportation network companies or any transportation network
18 company driver; provided that approval shall be subject to a
19 mandatory delay period before the policy becomes effective. An
20 insurer providing insurance under this section shall have the
21 duty to defend and indemnify the insured.



1 (e) Coverage under a transportation network company
2 insurance policy shall not be dependent on a personal automobile
3 insurance policy first denying a claim nor shall a personal
4 automobile insurance policy, including a personal liability
5 umbrella policy, be required to first deny a claim.

6 (f) In every instance where motor vehicle insurance
7 maintained by a transportation network company driver to fulfill
8 the insurance obligations of this section has lapsed or ceased
9 to exist, the transportation network company shall provide the
10 coverage required by this section beginning with the first
11 dollar of a claim.

12 (g) Nothing in this section shall be construed to require
13 a personal automobile insurance policy to provide primary or
14 excess coverage during transportation network company activity.
15 During transportation network company activity, and
16 notwithstanding any other law to the contrary, the following
17 shall apply:

18 (1) The transportation network company driver's or the
19 vehicle owner's personal automobile insurance policy
20 shall not be required to provide, nor shall it
21 provide, any coverage to any person or entity unless



1 the policy expressly provides for that coverage during
2 transportation network company activity, with or
3 without a separate charge, or the policy contains an
4 amendment or endorsement to provide coverage for
5 transportation network company activity, for which a
6 separately stated premium is charged; and

7 (2) The transportation network company driver's or the
8 vehicle owner's personal automobile insurance policy
9 shall not have the duty to defend or indemnify for the
10 driver's activities in connection with the
11 transportation network company, unless the policy
12 expressly provides otherwise for transportation
13 network company activity, with or without a separate
14 charge, or the policy contains an amendment or
15 endorsement to provide coverage for transportation
16 network company activity, for which a separately
17 stated premium is charged.

18 (h) Notwithstanding any other law to the contrary, a
19 personal automobile insurer may, at its discretion, offer an
20 automobile liability insurance policy, or an amendment or
21 endorsement to an existing policy that covers a private



1 passenger vehicle, station wagon type vehicle, sport utility
2 vehicle, or similar type of vehicle with a passenger capacity of
3 eight persons or less, including the driver, while used in
4 connection with transportation network company activity if the
5 policy expressly provides for the coverage of transportation
6 network company activity, with or without a separate charge, or
7 the policy contains an amendment or an endorsement to provide
8 coverage for transportation network company activity, for which
9 a separately stated premium may be charged.

10 (i) In a claims coverage investigation, a transportation
11 network company or its insurer shall cooperate with insurers
12 that are involved in the claims coverage investigation to
13 facilitate the exchange of information, including the provision
14 of dates and times at which an accident occurred that involved a
15 transportation network company driver and the precise times that
16 the transportation network company driver logged on and off the
17 transportation network company's digital network or software
18 application service.

19 (j) A transportation network company driver shall carry
20 proof of insurance coverage as required by this section within
21 the vehicle at all times when the vehicle is being used in



1 transportation network company activity. In the event of an
2 accident, a transportation network company driver shall provide
3 this insurance coverage information to any other party involved
4 in the accident and to a police officer, upon request.

5 (k) Notwithstanding any other law affecting whether one or
6 more policies of insurance that may apply with respect to an
7 occurrence is primary or excess, this section shall determine
8 the obligations under insurance policies issued to
9 transportation network companies and, if applicable,
10 transportation network company drivers using a vehicle in
11 connection with transportation network company activity.

12 § -5 Records. (a) A transportation network company
13 shall maintain:

14 (1) Global positioning system records and electronic
15 records of transportation network company activity for
16 each individual trip provided by a transportation
17 network company driver for at least five years from
18 the date each trip was provided; and

19 (2) Transportation network company driver records at least
20 until the five year anniversary of the date on which a
21 transportation network company driver's activation on



1 the transportation network company digital network or
2 software application service has ended.

3 (b) Records maintained under this section shall be made
4 readily available for purposes of a claims coverage
5 investigation pursuant to section -4(i) or resolving any
6 other dispute related to transportation network company activity
7 no later than ten days after receipt of a written request for
8 such record."

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

11 "§271-5 Exemptions, generally. Notwithstanding any other
12 provisions of this chapter, its contents shall not apply to:

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

18 (2) Persons operating motor vehicles when engaged in the
19 transportation of school children and teachers to and
20 from school, and to and from school functions;
21 provided that these persons may engage in providing



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

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

17 "Taxicab" includes:

18 (A) Any motor vehicle used in the movement of
 19 passengers on the public highways under the
 20 following circumstances, namely the passenger
 21 hires the vehicle on call or at a fixed stand,



1 with or without baggage for transportation, and
2 controls the vehicle to the passenger's
3 destination;

4 (B) Any motor vehicle for hire having seating
5 accommodations for eight or fewer passengers used
6 in the movement of passengers on the public
7 highways that may, as part of a continuous trip,
8 pick up or discharge passengers from various
9 unrelated locations; provided that they shall be
10 regulated by the counties in accordance with
11 section 46-16.5(c); and provided further that
12 this subparagraph shall not apply to any
13 exclusive rights granted by the department of
14 transportation for taxicab services at facilities
15 under the department's control; and

16 (C) Any motor vehicle having seating accommodations
17 for eight or fewer passengers used in the
18 movement of passengers on the public highways
19 between a terminal, i.e., a fixed stand, in the
20 Honolulu district, as defined in section 4-1 and
21 a terminal in a geographical district outside the



1 limits of the Honolulu district, and vice versa,
2 without picking up passengers other than at the
3 terminals or fixed stands; provided that the
4 passengers may be picked up by telephone call
5 from their homes in the rural area or may be
6 unloaded at any point between the fixed stands or
7 may be delivered to their homes in the rural
8 area;

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

13 (5) Nonprofit agricultural cooperative associations to the
14 extent that they engage in the transportation of their
15 own property or the property of their members;

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



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



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



1 purpose or enterprise of that person, and such
2 transportation is provided only directly to and from
3 the place of business of such person, except that this
4 exemption shall not apply to persons making any
5 contract, agreement, or arrangement to provide,
6 procure, furnish, or arrange for transportation as a
7 travel agent or broker or a person engaged in tour or
8 sightseeing activities, nor shall this exemption apply
9 where the transportation is undertaken by a person to
10 evade the regulatory purposes of this chapter; [~~and~~]
11 (18) Persons conducting the type of county-regulated
12 passenger carrying operation known as "jitney
13 services". For the purposes of this paragraph,
14 "jitney services" means public transportation services
15 utilizing motor vehicles that have seating
16 accommodations for six to twenty-five passengers,
17 operate along specific routes during defined service
18 hours, and levy a flat fare schedule[~~-~~]; and
19 (19) Transportation network companies; provided that, for
20 the purposes of this paragraph, "transportation



1 network company" means the same as defined in section

2 -1."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on July 1, 2112.



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. Exempts transportation network companies from oversight under the motor carrier law. (HB1828 HD2)

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

