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# A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1           SECTION 1. The legislature finds that transportation  
2 network companies are entities that use a digital network or  
3 software application service to connect passengers with  
4 transportation network company drivers. The legislature further  
5 finds that concerns have been raised about potential gaps in  
6 motor vehicle insurance coverage associated with transportation  
7 network companies. In response, by the end of 2015, twenty-nine  
8 states had enacted legislation to establish insurance  
9 requirements covering transportation network company drivers  
10 engaged in prearranged rides, thereby protecting transportation  
11 network company drivers, their passengers, and the public.

12           Accordingly, the purpose of this Act is to close the  
13 insurance gaps associated with transportation network companies  
14 by establishing motor vehicle insurance requirements for  
15 transportation network companies and transportation network  
16 company drivers.



1 SECTION 2. Chapter 431, article 10C, Hawaii Revised  
2 Statutes, is amended by adding a new part to be appropriately  
3 designated and to read as follows:

4 "PART . TRANSPORTATION NETWORK COMPANIES

5 §431:10C-A Definitions. As used in this part:

6 "Personal vehicle" means a vehicle that is:

- 7 (1) Used by a transportation network company driver to
- 8 provide a prearranged ride;
- 9 (2) Owned, leased, or otherwise authorized for use by the
- 10 transportation network company driver; and
- 11 (3) Not a taxicab, limousine, or other for-hire vehicle.

12 "Prearranged ride" means the provision of transportation by  
 13 a transportation network company driver to a passenger,  
 14 beginning when a transportation network company driver accepts a  
 15 passenger's request for a ride through a digital network or  
 16 software application service controlled by a transportation  
 17 network company, continuing while the transportation network  
 18 company driver transports the requesting passenger, and ending  
 19 when the requesting passenger, or the last passenger from the  
 20 requesting passenger's party, departs from the personal vehicle.  
 21 A prearranged ride shall not include transportation provided



1 through a ridesharing arrangement, as defined in section 279G-1;  
2 use of a taxicab, limousine, or other for-hire vehicle; or a  
3 regional transportation provider.

4 "Transportation network company" means an entity that uses  
5 a digital network or software application service to connect  
6 passengers to transportation network company drivers; provided  
7 that the entity:

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

13 "Transportation network company driver" means an individual  
14 who operates a personal vehicle used to transport a passenger  
15 between points chosen by the passenger and prearranged through a  
16 transportation network company and that is:

- 17 (1) Owned, leased, or otherwise authorized for use by the  
18 individual;
- 19 (2) Not a taxicab or for-hire vehicle; and
- 20 (3) Used to provide prearranged rides to passengers.



1 §431:10C-B Relation to other laws. Solely for the  
 2 purposes of this article, neither a transportation network  
 3 company nor a transportation network company driver shall be  
 4 deemed to be a common carrier by motor vehicle, a contract  
 5 carrier by motor vehicle, a motor carrier as defined in section  
 6 271-4, a taxicab, or a for-hire vehicle service.

7 §431:10C-C Transportation network company and  
 8 transportation network company driver; disclosure; limitations;  
 9 insurance requirements. (a) Upon entering into an agreement  
 10 with a transportation network company driver, a transportation  
 11 network company shall immediately disclose the following in  
 12 writing to the transportation network company driver:

- 13 (1) The insurance coverage and limits of liability that
- 14 the transportation network company provides when the
- 15 transportation network company driver uses a personal
- 16 vehicle while engaged in a prearranged ride; and
- 17 (2) That the transportation network company driver's
- 18 personal motor vehicle insurance policy might not
- 19 provide any required or optional coverage when the
- 20 transportation network company driver uses a personal
- 21 vehicle while engaged in a prearranged ride.



1 (b) On or before September 1, 2016, and thereafter, a  
2 transportation network company driver or transportation network  
3 company on the transportation network company driver's behalf  
4 shall maintain a primary motor vehicle insurance policy that  
5 recognizes that the transportation network company driver is a  
6 transportation network company driver or otherwise uses a  
7 personal vehicle to transport passengers for compensation and  
8 covers the transportation network company driver:

9 (1) While the transportation network company driver is  
10 logged onto the transportation network company's  
11 digital network or software application service; and

12 (2) While the transportation network company driver is  
13 engaged in a prearranged ride.

14 (c) The following motor vehicle insurance requirements  
15 shall apply while a participating transportation network company  
16 driver is logged onto the transportation network company's  
17 digital network or software application service and is available  
18 to receive transportation requests but is not engaged in a  
19 prearranged ride:

20 (1) Primary motor vehicle liability insurance in the  
21 amount of at least \$50,000 for death and bodily injury



1 per person, \$100,000 for death and bodily injury per  
2 accident, and \$25,000 for property damage per  
3 accident, costs of defense outside of all such limits;

4 (2) Personal injury protection coverage that meets the  
5 minimum coverage amount where required by section  
6 431:10C-103.5; and

7 (3) The coverage requirements of this subsection may be  
8 satisfied by any of the following:

9 (A) A motor vehicle insurance policy maintained by  
10 the transportation network company driver;

11 (B) A motor vehicle insurance policy maintained by  
12 the transportation network company; or

13 (C) Any combination of subparagraphs (A) and (B).

14 (d) The following motor vehicle insurance requirements  
15 shall apply while a transportation network company driver is  
16 engaged in a prearranged ride:

17 (1) Primary motor vehicle liability insurance that  
18 provides at least \$1,000,000 for death, bodily injury,  
19 and property damage per accident, costs of defense  
20 outside such limits;



- 1           (2) Personal injury protection coverage that meets the  
2           minimum coverage amount where required by section  
3           431:10C-103.5; and
- 4           (3) The coverage requirements of this subsection may be  
5           satisfied by any of the following:
- 6           (A) A motor vehicle insurance policy maintained by  
7           the transportation network company driver;
- 8           (B) A motor vehicle insurance policy maintained by  
9           the transportation network company; or
- 10          (C) Any combination of subparagraphs (A) and (B).
- 11          (e) If insurance maintained pursuant to subsection (c) or  
12          (d) has lapsed or does not provide the required coverage, the  
13          transportation network company insurer shall provide the  
14          coverage required by this section beginning with the first  
15          dollar of a claim and shall have the duty to defend the claim.
- 16          (f) Insurers providing the motor vehicle insurance  
17          policies pursuant to this section shall offer the following  
18          optional coverages, which any named insured may elect to reject  
19          or purchase:
- 20          (1) Uninsured and underinsured motorist coverages for the  
21          transportation network company driver and passengers,



1 as provided in section 431:10C-301, which shall be  
2 equal to the primary liability limits specified in  
3 subsections (c) and (d); provided that uninsured and  
4 underinsured motorist coverage offers shall also  
5 provide for written rejection of the coverages as  
6 provided in section 431:10C-301;

7 (2) Uninsured and underinsured motorist coverage stacking  
8 options as provided in section 431:10C-301; provided  
9 that the offer of the stacking options shall also  
10 provide for written rejection as provided in section  
11 431:10C-301; and

12 (3) An offer of required optional additional insurance  
13 coverages as provided in section 431:10C-302.

14 (g) In the event the only named insured under the motor  
15 vehicle insurance policy issued pursuant to this section is the  
16 transportation network company, the insurer or the  
17 transportation network company shall:

18 (1) Disclose the coverages in writing to the  
19 transportation network company driver;

20 (2) Disclose to the transportation network company driver  
21 in writing that all optional coverages available may





1 not have been purchased under sections 431:10C-301 and  
2 431:10C-302; and

3 (3) Obtain a written acknowledgment from the  
4 transportation network company driver of receipt of  
5 the written disclosures required in paragraphs (1) and  
6 (2).

7 The standard disclosure forms used in paragraphs (1) and (2),  
8 and every modification of such forms intended to be used, must  
9 be filed with the commissioner within fifteen days of providing  
10 such disclosure to the transportation network company driver.

11 The insurer shall also send to the transportation network  
12 company driver every modified disclosure form within fifteen  
13 days of the filing of such modified disclosure form and comply  
14 with paragraph (3). Such disclosures and acknowledgment may be  
15 sent and received by electronic means.

16 (h) Coverage under an insurance policy maintained by the  
17 transportation network company shall not be dependent on a  
18 personal motor vehicle insurer first denying a claim nor shall a  
19 personal motor vehicle insurance policy be required to first  
20 deny a claim.



1 (i) Insurance required by this section may be placed with  
2 an insurer licensed under section 431:3-203 or with a surplus  
3 lines insurer eligible under section 431:8-301 that has a credit  
4 rating of no less than A minus from A.M. Best or A from Demotech  
5 or similar rating from another rating agency recognized by the  
6 insurance division.

7 (j) Insurance satisfying the requirements of this section  
8 shall be deemed to satisfy the financial responsibility  
9 requirement for a motor vehicle under chapter 287, the motor  
10 vehicle safety responsibility act.

11 (k) A transportation network company driver shall carry  
12 proof of coverage that meets the requirements of subsections (c)  
13 and (d) at all times during the transportation network company  
14 driver's use of a personal vehicle in connection with a  
15 transportation network company's digital network or software  
16 application service. In the event of an accident, a  
17 transportation network company driver shall provide this  
18 insurance coverage information to the directly interested  
19 parties, motor vehicle insurers, and investigating police  
20 officers, upon request. Upon such request, a transportation  
21 network company driver shall also disclose to directly



1 interested parties, motor vehicle insurers, and investigating  
2 police officers whether the transportation network company  
3 driver was logged on to the transportation network company's  
4 digital network or software application service or engaged in a  
5 prearranged ride at the time of the accident.

6 (1) Unless specified in the personal motor vehicle  
7 insurance policy or endorsement, nothing in this section shall  
8 be construed to require a personal motor vehicle insurance  
9 policy maintained by a transportation network company driver to  
10 provide primary or excess coverage while engaged in a  
11 prearranged ride. While the transportation network company  
12 driver is engaged in a prearranged ride, and notwithstanding any  
13 other law to the contrary, the following shall apply:

14 (1) The transportation network company driver's or the  
15 vehicle owner's personal motor vehicle insurance  
16 policy shall not be required to provide any coverage  
17 to any person or entity unless the policy expressly  
18 provides for that coverage while the driver is engaged  
19 in a prearranged ride, with or without a separate  
20 charge, or the policy contains an amendment or  
21 endorsement to provide coverage while the driver is



1 engaged in a prearranged ride, for which a separately  
2 stated premium may be charged; and

3 (2) The transportation network company driver's or the  
4 vehicle owner's personal motor vehicle insurance  
5 policy shall not be required to provide a duty to  
6 defend or indemnify the driver's activities in  
7 connection with the transportation network company,  
8 unless the policy expressly provides otherwise while  
9 the driver is engaged in a prearranged ride, with or  
10 without a separate charge, or the policy contains an  
11 amendment or endorsement to provide coverage while the  
12 driver is engaged in a prearranged ride, for which a  
13 separately stated premium may be charged.

14 (m) This section shall not restrict any motor vehicle  
15 insurance policy coverage applicable to a passenger or  
16 pedestrian, other than the limitations in the transportation  
17 network company driver's or the vehicle owner's personal motor  
18 vehicle insurance policy described in subsection (l).

19 (n) Notwithstanding any other law to the contrary, a  
20 personal motor vehicle insurer may, at its discretion, offer a  
21 motor vehicle liability insurance policy, or an amendment or



1 endorsement to an existing policy that covers a private  
2 passenger vehicle, station wagon type vehicle, sport utility  
3 vehicle, or similar type of vehicle with a passenger capacity of  
4 eight persons or less, including the driver, while the driver is  
5 logged onto the transportation network company's digital network  
6 or software application service, or while engaged in a  
7 prearranged ride, if the policy expressly provides for coverage  
8 while the driver is logged onto the transportation network  
9 company's digital network or software application service or  
10 engaged in prearranged rides, with or without a separate charge,  
11 or the policy contains an amendment or an endorsement to provide  
12 coverage while the driver is logged onto the transportation  
13 network company's digital network or software application  
14 service or engaged in a prearranged ride, for which a separately  
15 stated premium may be charged.

16 (o) Notwithstanding any other law affecting whether one or  
17 more policies of insurance that may apply with respect to an  
18 occurrence is primary or excess, this section shall determine  
19 the obligations under insurance policies issued to  
20 transportation network companies and, if applicable,  
21 transportation network company drivers.



1           §431:10C-D Records. (a) A transportation network company  
2 shall maintain:

3           (1) Global positioning system records and electronic  
4 records for each period while a transportation network  
5 company driver is logged onto the transportation  
6 network company's digital network or software  
7 application service or is engaged in a prearranged  
8 ride for at least five years from the date each  
9 prearranged ride was provided; and

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

15          (b) Records maintained under this section shall be made  
16 readily available for purposes of an accident investigation  
17 pursuant to section 431:10C-C(k) or resolving any other dispute  
18 related to transportation network company drivers while they are  
19 logged onto the transportation network company's digital network  
20 or software application service or while they are engaged in a



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

3 §431:10C-E Disclaimers, waiver of liability, and indemnity  
4 agreements invalid. None of the following agreements between a  
5 transportation network company or transportation network company  
6 driver and a passenger shall be valid or enforceable in this  
7 State:

8 (1) A disclaimer of liability of a transportation network  
9 company or transportation network company driver;

10 (2) A waiver, before the occurrence of an accident, of any  
11 claim or right to file a lawsuit by a passenger  
12 against a transportation network company or  
13 transportation network company driver; or

14 (3) An agreement by the passenger to defend, indemnify, or  
15 hold harmless a transportation network company or  
16 transportation network company driver."

17 SECTION 3. The insurance commissioner shall conduct an  
18 annual study on the impact of this measure on personal motor  
19 vehicle insurance policy rates in the State and shall submit a  
20 written report of findings and recommendations, including any  
21 necessary proposed legislation, to the legislature no later than



1 twenty days prior to the convening of the regular sessions of  
2 2017, 2018, 2019, 2020, and 2021.

3 SECTION 4. If any provision of this Act, or the  
4 application thereof to any person or circumstance, is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of the Act that can be given effect without the  
7 invalid provision or application, and to this end the provisions  
8 of this Act are severable.

9 SECTION 5. In codifying the new sections added by section  
10 2 of this Act, the revisor of statutes shall substitute  
11 appropriate section numbers for the letters used in designating  
12 the new sections in this Act.

13 SECTION 6. This Act shall take effect upon its approval;  
14 provided that section 2 of this Act shall take effect on  
15 September 1, 2016; provided further that this Act shall be  
16 repealed on September 1, 2021.





**Report Title:**

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

**Description:**

Establishes motor vehicle insurance requirements for transportation network companies and transportation network company drivers to take effect on 9/1/2016. Requires the Insurance Commissioner to examine the effects of this measure on personal motor vehicle insurance policy rates in the State and submit an annual report to the Legislature. Sunsets 9/1/21.  
(HB260 CD1)

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