
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 activity,
10 thereby protecting transportation network company drivers, their
11 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 "Transportation network company" means an entity that uses
7 a digital network or software application service to connect
8 passengers to transportation network company drivers; provided
9 that the entity:

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

14 "Transportation network company activity" means the period
15 of time when the transportation network company driver logs onto
16 the transportation network company's digital network or software
17 application service until the moment the transportation network
18 company driver logs off of the digital network or software
19 application service or until the ride is complete and the
20 passenger exits the transportation network company driver's
21 vehicle, whichever is later.



1 "Transportation network company driver" means an individual
2 who operates a motor vehicle used to transport a passenger
3 between points chosen by the passenger and prearranged through a
4 transportation network company and that is:

- 5 (1) Owned, leased, or otherwise authorized for use by the
- 6 individual;
- 7 (2) Not a taxicab or for-hire vehicle; and
- 8 (3) Used in transportation network company activity.

9 **§431:10C-B Relation to other laws.** Neither a
10 transportation network company nor a transportation network
11 company driver shall be deemed to be a common carrier by motor
12 vehicle, a contract carrier by motor vehicle, a motor carrier as
13 defined in section 271-4, a taxicab, or a for-hire vehicle
14 service.

15 **§431:10C-C Duration of fare.** A transportation network
16 company fare shall be deemed to:

- 17 (1) Commence when a transportation network company driver
- 18 turns on the driver's software application and
- 19 prepares to accept a request for transportation
- 20 received through the transportation network company's
- 21 digital network or software application service;



- 1 (2) Continue while the transportation network company
- 2 driver accepts and transports the passenger in the
- 3 transportation network company driver's vehicle; and
- 4 (3) Conclude when the passenger exits the transportation
- 5 network company driver's vehicle; provided that when
- 6 the transportation network company driver continues to
- 7 be available for network or application-generated
- 8 rides, the transportation network company driver shall
- 9 continue to be covered by the transportation network
- 10 company's motor vehicle insurance coverage.

11 §431:10C-D Transportation network company and
 12 transportation network company driver; disclosure; limitations;
 13 insurance requirements. (a) A transportation network company
 14 shall disclose in writing to transportation network company
 15 drivers, as part of the transportation network company's
 16 agreement with those drivers:

- 17 (1) The insurance coverage and limits of liability that
- 18 the transportation network company provides while the
- 19 transportation network company driver uses a vehicle
- 20 during transportation network company activity; and



1 (2) That the transportation network company driver's
2 personal motor vehicle insurance policy might not
3 provide any required or optional coverage because the
4 transportation network company driver uses a vehicle
5 during transportation network company activity.

6 (b) A transportation network company or any transportation
7 network company driver shall maintain a primary motor vehicle
8 insurance policy that shall be in effect during transportation
9 network company activity. The primary motor vehicle insurance
10 required under this section shall include:

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

17 (2) Primary liability coverage of not less than \$50,000
18 for all damages arising out of damage to or
19 destruction of property including motor vehicles and
20 including the loss of use thereof, but not including
21 property owned by, being transported by, or in the



1 charge of the insured, as a result of any one accident
2 arising out of ownership, maintenance, use, loading,
3 or unloading of the insured vehicle;

4 (3) Uninsured and underinsured motorist coverages for the
5 transportation network company driver and passengers,
6 as provided in section 431:10C-301, which shall be
7 equal to the primary liability limits specified in
8 paragraph (1). Uninsured and underinsured motorist
9 coverage offers shall also provide for written
10 rejection of the coverages as provided in section
11 431:10C-301;

12 (4) Uninsured and underinsured motorist coverage stacking
13 options as provided in section 431:10C-301;

14 (5) Personal injury protection coverage in an amount that
15 meets the requirements of section 431:10C-103.5; and

16 (6) An offer of required optional insurance coverages as
17 provided in section 431:10C-302.

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

20 (1) Motor vehicle insurance maintained by a transportation
21 network company driver; provided that the



1 transportation network company verifies that the
2 policy is maintained by the transportation network
3 company driver and is specifically written to cover
4 the transportation network company driver's use of a
5 vehicle in connection with a transportation network
6 company's digital network or software application
7 service;

8 (2) Motor vehicle insurance maintained by a transportation
9 network company; or

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

11 (d) The insurer providing insurance under this section
12 shall have the duty to defend and indemnify the insured.

13 (e) Coverage under a transportation network company
14 insurance policy shall not be dependent on a personal motor
15 vehicle insurance policy first denying a claim nor shall a
16 personal motor vehicle insurance policy, including a personal
17 liability umbrella policy, be required to first deny a claim.

18 (f) In every instance where motor vehicle insurance
19 maintained by a transportation network company driver to fulfill
20 the insurance obligations of this section has lapsed or ceased
21 to exist, the transportation network company shall provide the



1 coverage required by this section beginning with the first
2 dollar of a claim.

3 (g) Nothing in this section shall be construed to require
4 a personal motor vehicle insurance policy maintained by a
5 transportation network company driver 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 motor vehicle insurance
12 policy shall not be required to provide any coverage
13 to any person or entity unless the policy expressly
14 provides for that coverage during transportation
15 network company activity, with or without a separate
16 charge, or the policy contains an amendment or
17 endorsement to provide coverage for transportation
18 network company activity, for which a separately
19 stated premium may be charged; and

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



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

10 (h) Notwithstanding any other law to the contrary, a
11 personal motor vehicle insurer may, at its discretion, offer a
12 motor vehicle 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 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 for
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 transportation network company activity. The
5 transportation network company insurance carrier shall be
6 licensed to do business as a motor vehicle insurance company in
7 the State.

8 §431:10C-E Records. (a) A transportation network company
9 shall maintain:

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

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

20 (b) Records maintained under this section shall be made
21 readily available for purposes of a claims coverage



1 investigation pursuant to section 431:10C-D(i) or resolving any
2 other dispute related to transportation network company activity
3 no later than ten days after receipt of a written request for
4 such record.

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

- 10 (1) A disclaimer of liability of a transportation network
11 company or transportation network company driver;
- 12 (2) A waiver, before the occurrence of an accident, of any
13 claim or right to file a lawsuit by a passenger
14 against a transportation network company or
15 transportation network company driver; or
- 16 (3) An agreement by the passenger to defend, indemnify, or
17 hold harmless a transportation network company or
18 transportation network company driver.

19 **§431:10C-G Limitations and exclusion inapplicable.**
20 Nothing in this part shall limit or affect any motor vehicle
21 insurance policy applicable to a passenger, pedestrian, or



1 person other than a transportation network company driver while
2 the driver is engaged in transportation network company
3 activity."

4 SECTION 3. In codifying the new sections added by section
5 2 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 4. This Act shall take effect on July 1, 2016.



H.B. NO.

260
H.D. 1
S.D. 1
Proposed

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. (Proposed SD1)

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

