

JAN 29 2015

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 services provided
10 by transportation network company drivers; provided that the
11 entity:

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

16 "Transportation network company driver" means an individual
17 who operates a motor vehicle that is:



- 1 (1) Owned, leased, or otherwise authorized for use by the
- 2 individual;
- 3 (2) Not a taxicab or for-hire vehicle; and
- 4 (3) Used to provide transportation network company
- 5 services.

6 "Transportation network company service" means the
7 transportation of a passenger between points chosen by the
8 passenger and prearranged with a transportation network company
9 driver through the use of a transportation network company
10 digital network or software application, and does not include a
11 taxicab, for-hire vehicle, or street hail service.

12 § -2 **Relation to other laws.** Neither a transportation
13 network company nor a transportation network company driver
14 shall be deemed to be a common carrier by motor vehicle, a
15 contract carrier by motor vehicle, a motor carrier as defined in
16 section 271-4, a taxicab, or a for-hire vehicle service.

17 § -3 **Permit required.** (a) No person shall operate a
18 transportation network company in the State without first
19 obtaining a permit from the public utilities commission.

20 (b) The public utilities commission shall issue a permit
21 to each applicant that meets the requirements for a



1 transportation network company as set forth in this chapter and
2 pays an annual permit fee of \$5,000 to the commission.

3 § -4 **Agent.** A transportation network company shall
4 maintain an agent in the State for service of process.

5 § -5 **Duration of service; fare charged for services.**

6 (a) Transportation network company service shall be deemed to:

7 (1) Commence when a transportation network company driver
8 accepts a request for transportation received through
9 the transportation network company's digital network
10 or software application service;

11 (2) Continue while the transportation network company
12 driver transports the passenger in the transportation
13 network company's vehicle; and

14 (3) Conclude when the passenger exits the transportation
15 network company driver's vehicle.

16 (b) A transportation network company may charge a fare for
17 transportation network company service provided to passengers;
18 provided that, if a fare is charged, the transportation network
19 company shall disclose to passengers the fare calculation method
20 on its website or within the software application service. The
21 transportation network company shall also provide passengers



1 with the applicable rates being charged and the option to
2 receive an estimated fare before the passenger enters the
3 transportation network company driver's vehicle.

4 § -6 **Identification of vehicles and drivers.** The
5 transportation network company's software application or website
6 shall display a picture of:

- 7 (1) The transportation network company driver; and
- 8 (2) The license plate number of the motor vehicle being
9 used for providing the transportation network company
10 service,

11 before the passenger enters the transportation network company
12 driver's vehicle.

13 § -7 **Electronic receipt.** Within a reasonable period of
14 time following the completion of a trip, a transportation
15 network company shall transmit an electronic receipt to the
16 passenger that specifies:

- 17 (1) The origin and destination of the trip;
- 18 (2) The total time and distance of the trip;
- 19 (3) An itemization of the total fare paid, if any; and
- 20 (4) The information required by section -6.



1 § -8 **Transportation network company and transportation**
2 **network company driver insurance requirements.** (a) Not later
3 than January 1, 2016, and thereafter, transportation network
4 companies and transportation network company drivers shall
5 comply with the motor vehicle insurance requirements of this
6 section.

7 (b) The following motor vehicle insurance requirements
8 shall apply during the time that a transportation network
9 company driver is logged into the transportation network
10 company's digital network and available to receive requests for
11 transportation but is not then providing transportation network
12 company services:

13 (1) Motor vehicle insurance liability coverage that meets
14 at least the minimum coverage requirements of section
15 431:10C-301(b); and

16 (2) Motor vehicle insurance personal injury protection
17 benefits that meet at least the minimum coverage
18 requirements of section 431:10C-103.5.

19 A transportation network company shall maintain motor
20 vehicle insurance coverage in the amounts required in paragraphs
21 (1) and (2) and provide coverage in the event a participating

1 transportation network company driver's own motor vehicle
2 insurance policy excludes coverage according to its policy terms
3 or does not provide coverage of at least the limits required in
4 paragraph (1).

5 (c) The following motor vehicle insurance requirements
6 shall apply while a transportation network company driver is
7 providing transportation network company services:

8 (1) Provides primary motor vehicle insurance coverage that
9 recognizes the transportation network company driver's
10 provision of transportation network company services;

11 (2) Provides motor vehicle insurance coverage of at least
12 \$1,000,000 for death, personal injury, and property
13 damage; and

14 (3) Provides motor vehicle insurance personal injury
15 protection benefits that meet at least the minimum
16 coverage requirements of section 431:10C-103.5.

17 (d) The coverage requirements of subsection (c) may be
18 satisfied by any of the following:

19 (1) Motor vehicle insurance coverage maintained by the
20 transportation network company driver; or



1 (2) Motor vehicle insurance coverage maintained by the
2 transportation network company; or

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

4 (e) If the motor vehicle insurance policy maintained by a
5 transportation network company driver to fulfill the insurance
6 requirements of this section lapses, fails to provide the
7 required coverage, has a claim denied, or otherwise ceases to
8 exist, the motor vehicle insurance policy maintained by a
9 transportation network company shall provide the coverage
10 required under this section beginning with the first dollar of a
11 claim.

12 (f) The motor vehicle insurance policy required under this
13 section may be placed with a surplus lines insurer who is
14 eligible to provide coverage under section 431:8-302.

15 (g) A motor vehicle insurance policy procured pursuant to
16 this section shall be deemed to satisfy the requirements of
17 section 431:10C-104.

18 § -9 **Transportation network company and insurer**

19 **disclosure requirements.** (a) The transportation network
20 company shall disclose in writing to transportation network
21 company drivers the following before the transportation network



1 company may permit transportation network company drivers to
2 accept a request for transportation network company services on
3 the transportation network company's digital network:

4 (1) The insurance coverage and limits of liability that
5 the transportation network company provides while the
6 transportation network company driver uses a personal
7 vehicle in connection with a transportation network
8 company's digital network; and

9 (2) That the transportation network company driver's own
10 insurance policy may not provide coverage while the
11 transportation network company driver uses a vehicle
12 in connection with a transportation network company's
13 digital network, depending on its terms.

14 (b) Insurers that write motor vehicle insurance in the
15 State may:

16 (1) Exclude any and all coverage and the duty to defend
17 afforded under the owner's insurance policy for any
18 loss or injury that occurs while an insured vehicle
19 provides or is available to provide transportation
20 network company services; provided that the exclusion
21 is expressly set forth in the policy and approved by



1 the insurance commissioner for sale in the State.

2 This right to exclude coverage and the duty to

3 indemnify and defend may apply to any coverage

4 included in a motor vehicle insurance policy

5 including, but not limited to:

6 (A) Liability coverage for bodily injury and property
7 damage;

8 (B) Uninsured and underinsured motorist coverage;

9 (C) Medical payments coverage;

10 (D) Comprehensive physical damage coverage;

11 (E) Collision physical damage coverage; and

12 (F) Personal injury protection coverage.

13 The insurer shall notify an insured after receiving a

14 notice of loss within the time required by section 431:13-

15 103(a)(11) that the insurer has no duty to defend or indemnify

16 any person or organization for liability for a loss that is

17 properly excluded pursuant to the terms of the applicable

18 primary or excess insurance policy.

19 (c) Insurers that write motor vehicle insurance in the

20 State shall disclose, in a prominent location on its application

21 form for insurance coverage, whether or not the insurance policy



1 provides coverage while an insured vehicle provides or is
2 available to provide transportation network company services.
3 If a motor vehicle insurance policy contains an exclusion for
4 transportation network company services, the insurer or its
5 agent shall disclose the exact language of the exclusion in
6 writing to the applicant during the application process.

7 (d) In a claims coverage investigation, transportation
8 network companies and any insurer providing coverage under
9 section -8 shall cooperate to facilitate the exchange of
10 information, including the precise times that a transportation
11 network company driver logged on and off of the transportation
12 network company's digital network in the twenty-four hour period
13 immediately preceding the accident, and shall disclose to one
14 another a clear description of the coverage, exclusions, and
15 limits provided under any insurance policy each party issued or
16 maintained.

17 § -10 **Zero tolerance for drug or alcohol use.** (a) The
18 transportation network company shall implement a zero tolerance
19 policy on the use of drugs or alcohol while a transportation
20 network company driver is providing transportation network
21 company services or is logged into the transportation network



1 company's digital network, even if not providing transportation
2 network company services, and shall provide notice of this
3 policy on its website, as well as procedures for reporting a
4 complaint about a driver with whom a passenger was matched and
5 who the passenger reasonably believes was under the influence of
6 drugs or alcohol during the course of the trip.

7 (b) Upon receipt of a passenger complaint alleging a
8 violation of the zero tolerance policy, the transportation
9 network company shall immediately suspend the transportation
10 network company driver's access to the transportation network
11 company's digital platform and shall conduct an investigation
12 into the reported incident. The suspension shall last for the
13 duration of the investigation; provided that the investigation
14 shall be conducted in a reasonably expeditious manner.

15 (c) The transportation network company shall maintain
16 records relevant to a reported incident for a period of at least
17 two years from the date that a passenger complaint is received
18 by the transportation network company.

19 § -11 Driver requirements. (a) Prior to permitting an
20 individual to act as a transportation network company driver on
21 its digital platform, the transportation network company shall:



1 (1) Require the individual to submit an application to the
2 transportation network company, which includes
3 information regarding the individual's address, age,
4 driver's license, driving history, motor vehicle
5 registration, motor vehicle insurance, and other
6 information required by the transportation network
7 company;

8 (2) Conduct, or have a third party conduct, a local and
9 national criminal background check for each applicant
10 that shall include:

11 (A) Multi-state/Multi-Jurisdiction Criminal Locator
12 or other similar commercial nationwide database
13 with validation (primary source search); and

14 (B) National Sex Offender Registry database; and

15 (3) Obtain and review a traffic violations bureau
16 certified abstract for the individual.

17 (b) The transportation network company shall not permit an
18 individual to act as a transportation network company driver on
19 its digital platform who:

20 (1) Has been found to have committed more than three
21 traffic infractions, as defined in section 291D-2, in



- 1 the prior three-year period, other than traffic
2 infractions involving parking, standing, equipment,
3 and pedestrian offenses;
- 4 (2) Has been convicted once in the prior three-year period
5 for the offense of resisting an order to stop a motor
6 vehicle, reckless driving, or driving with a suspended
7 or revoked driver license;
- 8 (3) Has been convicted in the prior seven-year period of
9 driving under the influence of drugs or alcohol;
- 10 (4) Has been convicted at any time of fraud, any sexual
11 offense, use of a motor vehicle to commit a felony, a
12 crime involving property damage, theft, acts of
13 violence, or acts of terrorism;
- 14 (5) Is a match in the National Sex Offender Registry
15 database;
- 16 (6) Does not possess a valid driver's license;
- 17 (7) Does not possess proof of registration or other
18 authorization for the motor vehicle used to provide
19 transportation network company services;



1 (8) Does not possess proof of motor vehicle insurance for
2 the motor vehicles used to provide transportation
3 network company services; or

4 (9) Is not at least nineteen years of age.

5 § -12 **Vehicle safety.** The transportation network
6 company shall require that any motor vehicle that a
7 transportation network company driver uses to provide
8 transportation network company services meets the inspection
9 requirements of section 286-26.

10 § -13 **No street hails.** A transportation network
11 company driver shall only accept rides booked through a
12 transportation network company's digital network or software
13 application service and shall not solicit or accept street
14 hails.

15 § -14 **No cash trips.** The transportation network
16 company shall adopt a policy prohibiting solicitation or
17 acceptance of cash payments from passengers and notify
18 transportation network company drivers of the policy.
19 Transportation network company drivers shall not solicit or
20 accept cash payments from passengers. Any payment for
21 transportation network company services shall be made only



1 electronically, using the transportation network company's
2 digital network or software application.

3 § -15 **No discrimination; accessibility.** (a) The
4 transportation network company shall adopt a policy of non-
5 discrimination on the basis of destination, race, color,
6 national origin, religious belief or affiliation, sex,
7 disability, age, sexual orientation, or gender identity with
8 respect to passengers and potential passengers and notify
9 transportation network company drivers of the policy.

10 (b) A transportation network company shall not impose any
11 additional charges for providing services to persons with
12 physical disabilities because of those disabilities.

13 (c) A transportation network company shall provide
14 passengers an opportunity to indicate whether they require a
15 wheelchair-accessible vehicle. If a transportation network
16 company cannot arrange wheelchair-accessible transportation
17 network company service in any instance, it shall direct the
18 passenger to an alternate provider of wheelchair-accessible
19 service, if available.

20 (d) Transportation network company drivers shall comply
21 with all applicable laws regarding non-discrimination against



1 passengers or potential passengers on the basis of destination,
2 race, color, national origin, religious belief or affiliation,
3 sex, disability, age, sexual orientation, or gender identity.

4 (e) Transportation network company drivers shall comply
5 with all applicable laws relating to accommodation of service
6 animals.

7 § -16 **Records.** A transportation network company shall
8 maintain:

9 (1) Individual trip records for at least one year from the
10 date each trip was provided; and

11 (2) Transportation network company driver records at least
12 until the one year anniversary of the date on which a
13 transportation network company driver's activation on
14 the transportation network company digital network has
15 ended.

16 § -17 **Personally identifiable information.** (a) A
17 transportation network company shall not disclose a passenger's
18 personally identifiable information to a third party unless:

- 19 (1) The passenger consents;
20 (2) Disclosure is required by law; or



1 (3) Disclosure is required to protect or defend the terms
2 of use of the service or to investigate violations of
3 those terms.

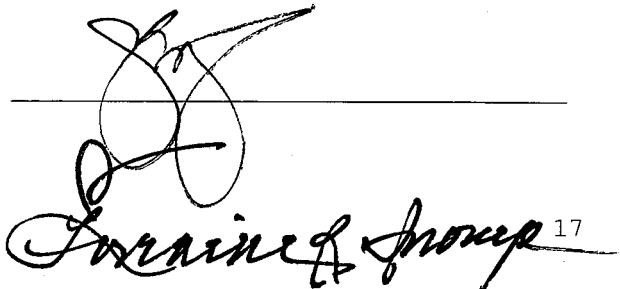
4 (b) A transportation network company may share a
5 passenger's name or telephone number with the transportation
6 network company driver providing transportation network company
7 services to the passenger in order to facilitate correct
8 identification of the passenger by the transportation network
9 company driver or to facilitate communication between the
10 passenger and the transportation network company driver.

11 § -18 **Controlling authority.** Notwithstanding any
12 other provision of law, transportation network companies and
13 transportation network company drivers shall be regulated
14 exclusively by this chapter and any rules adopted thereunder by
15 the public utilities commission pursuant to chapter 91. No
16 county may impose a tax upon, or require a license for, a
17 transportation network company or a transportation network
18 company driver."

19 SECTION 2. This Act shall take effect upon its approval.

20

INTRODUCED BY: _____


Furnace Group 17

S.B. NO. 1280

Will Eyo



S.B. NO. 1280

Report Title:

Transportation Network Companies; Service; Drivers

Description:

Requires the PUC to regulate transportation network companies. Establishes requirements for persons who operate or serve as drivers for transportation network companies.

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