
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 used to transport a passenger
8 between points chosen by the passenger and prearranged through a
9 transportation network company, and that is:

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

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

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



1 (b) The public utilities commission shall issue a permit
2 to each applicant that meets the requirements for a
3 transportation network company as set forth in this chapter and
4 pays an annual permit fee of \$ to the commission.

5 (c) The public utilities commission may adjust the fee
6 amount established under subsection (b) through rulemaking
7 subject to chapter 91.

8 (d) The fees collected under subsections (b) and (c) shall
9 be deposited into the public utilities commission special fund.

10 § -4 Agent. A transportation network company shall
11 maintain an agent in the State for service of process.

12 § -5 Business registration. A transportation network
13 company driver shall register as a business entity with the
14 business registration division of the department of commerce and
15 consumer affairs.

16 § -6 Duration of fare; amount charged for fare. (a) A
17 transportation network company fare shall be deemed to:

18 (1) Commence when a transportation network company driver
19 accepts a request for transportation received through
20 the transportation network company's digital network
21 or software application service;



1 (2) Continue while the transportation network company
2 driver transports the passenger in the transportation
3 network company driver's vehicle; and

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

6 (b) A transportation network company may charge passengers
7 a fare; provided that, if a fare is charged, the transportation
8 network company shall disclose to passengers the fare
9 calculation method on its website or within the software
10 application service. The transportation network company shall
11 also provide passengers with the applicable rates being charged
12 and the option to receive an estimated fare before the passenger
13 enters the transportation network company driver's vehicle.

14 § -7 Identification of vehicles and drivers. The
15 transportation network company's software application or website
16 shall display a picture of:

- 17 (1) The transportation network company driver; and
18 (2) The license plate number of the motor vehicle being
19 used for providing the transportation network company
20 activity,



1 before the passenger enters the transportation network company
2 driver's vehicle.

3 § -8 Electronic receipt. Within a reasonable period of
4 time following the completion of a trip, a transportation
5 network company shall transmit an electronic receipt to the
6 passenger that specifies:

- 7 (1) The origin and destination of the trip;
- 8 (2) The total time and distance of the trip;
- 9 (3) An itemization of the total fare paid, if any; and
- 10 (4) The information required by section -7.

11 § -9 Transportation network company and transportation
12 network company driver; insurance requirements. (a) A
13 transportation network company shall disclose in writing to
14 transportation network company drivers, as part of the
15 transportation network company's agreement with those drivers:

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



1 any required or optional coverage because the
2 transportation network company driver uses a vehicle
3 during transportation network company activity.

4 (b) A transportation network company and any
5 transportation network company driver shall maintain a primary
6 motor vehicle insurance policy that shall be in effect during
7 transportation network company activity. The primary motor
8 vehicle insurance required under this section shall 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 online-enabled application or platform;
- 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 online-enabled application or
11 platform.

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

20 (k) Notwithstanding any other law affecting whether one or
21 more policies of insurance that may apply with respect to an



1 occurrence is primary or excess, this section shall determine
2 the obligations under insurance policies issued to
3 transportation network companies and, if applicable,
4 transportation network company drivers using a vehicle in
5 connection with a transportation network company activity.

6 § -10 Zero tolerance for drug or alcohol use. (a) The
7 transportation network company shall implement a zero tolerance
8 policy on the use of drugs or alcohol while a transportation
9 network company driver is providing transportation network
10 company activity or is logged into the transportation network
11 company's digital network, even if not providing transportation
12 network company activity, and shall provide notice of the zero
13 tolerance policy on its website, as well as procedures for
14 reporting a complaint about a driver with whom a passenger was
15 matched and who the passenger reasonably believes was under the
16 influence of drugs or alcohol during the course of the trip.

17 (b) Upon receipt of a passenger complaint alleging a
18 violation of the zero tolerance policy, the transportation
19 network company shall immediately suspend the transportation
20 network company driver's access to the transportation network
21 company's digital platform and shall conduct an investigation



1 into the reported incident. The suspension shall last for the
2 duration of the investigation; provided that the investigation
3 shall be conducted in a reasonably expeditious manner.

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

8 § -11 Driver requirements. (a) Prior to permitting an
9 individual to act as a transportation network company driver on
10 its digital platform, the transportation network company shall:

11 (1) Require the individual to submit an application to the
12 transportation network company; including information
13 regarding the individual's address, age, driver's
14 license, driving history, motor vehicle registration,
15 motor vehicle insurance, and other information
16 required by the transportation network company;

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



- 1 (A) Multi-state/Multi-Jurisdiction Criminal Locator
2 or other similar commercial nationwide database
3 with validation (primary source search); and
4 (B) National Sex Offender Registry database;
- 5 (3) Obtain and review a traffic violations bureau
6 certified abstract for the individual;
- 7 (4) Require the individual to submit evidence of a
8 physical examination to determine the individual's
9 health and fitness to act as a transportation network
10 company driver every four years;
- 11 (5) Require the individual to have at least one year of
12 driving experience in Hawaii;
- 13 (6) Require the individual to submit fingerprints for
14 analyses by a local law enforcement agency; and
- 15 (7) Require the individual to use only a hands free device
16 when conducting a transportation network company
17 activity.
- 18 (b) The transportation network company shall not permit an
19 individual to act as a transportation network company driver on
20 the transportation network company's digital platform who:



- 1 (1) Has been found to have committed more than three
2 traffic infractions, as defined in section 291D-2, in
3 the prior three-year period, other than traffic
4 infractions involving parking, standing, equipment,
5 and pedestrian offenses;
- 6 (2) Has been convicted once in the prior three-year period
7 for the offense of resisting an order to stop a motor
8 vehicle, reckless driving, or driving with a suspended
9 or revoked driver license;
- 10 (3) Has been convicted in the prior seven-year period of
11 driving under the influence of drugs or alcohol;
- 12 (4) Has been convicted at any time of fraud, any sexual
13 offense, any domestic violence offense, use of a motor
14 vehicle to commit a felony, a crime involving property
15 damage, theft, acts of violence, or acts of terrorism;
- 16 (5) Is a match in the National Sex Offender Registry
17 database;
- 18 (6) Does not possess a valid driver's license;
- 19 (7) Does not possess proof of registration or other
20 authorization for the motor vehicle used to provide
21 transportation network company activity;



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

4 (9) Is not at least twenty-one 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 activity meets the inspection
9 requirements of section 286-26.

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

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



1 transportation network company's digital network or software
2 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 activity 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) A transportation network company
8 shall maintain:

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

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

19 (b) Records maintained under this section shall be made
20 readily available for purposes of a claims coverage
21 investigation pursuant to section -9(i) or resolving any



1 other dispute related to transportation network company activity
2 no later than ten days after receipt of a written request for
3 such record.

4 § -17 Personally identifiable information. (a) A
5 transportation network company shall not disclose a passenger's
6 personally identifiable information to a third party unless:

- 7 (1) The passenger consents;
8 (2) Disclosure is required by law; or
9 (3) Disclosure is required to protect or defend the terms
10 of use of the service or to investigate violations of
11 those terms.

12 (b) A transportation network company may share a
13 passenger's name or telephone number with the transportation
14 network company driver providing transportation network company
15 activity to the passenger in order to facilitate correct
16 identification of the passenger by the transportation network
17 company driver or to facilitate communication between the
18 passenger and the transportation network company driver.

19 § -18 Controlling authority. Notwithstanding any other
20 provision of law, transportation network companies and
21 transportation network company drivers shall be regulated



1 exclusively by this chapter and any rules adopted pursuant to
2 this chapter by the public utilities commission pursuant to
3 chapter 91. No county may impose a tax upon, or require a
4 license for, a transportation network company or a
5 transportation network company driver."

6 SECTION 2. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so much
8 thereof as may be necessary for fiscal year 2015-2016 for the
9 purpose of implementing this Act.

10 The sum appropriated shall be expended by the public
11 utilities commission for the purposes of this Act.

12 SECTION 3. This Act shall take effect on July 1, 2112.



Report Title:

Transportation Network Companies; Transportation Network Company Drivers; Motor Vehicle Insurance; Qualifications; Public Utilities Commission; Permit; Appropriation

Description:

Requires the public utilities commission to regulate transportation network companies and transportation network company drivers. Requires drivers to register as business entities with the Department of Commerce and Consumer Affairs. Establishes insurance requirements and qualifications for persons who operate or serve as drivers for transportation network companies. Appropriates funds to the PUC. (SB1280 HD2)

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