

JAN 22 2016

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE 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 enacted legislation to establish insurance requirements
9 covering transportation network company activity, thereby
10 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 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 accepts a request for transportation received through
19 the transportation network company's digital network
20 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 §431:10C-D Transportation network company and
7 transportation network company driver; insurance requirements.

8 (a) A transportation network company shall disclose in writing
9 to transportation network company drivers, as part of the
10 transportation network company's agreement with those drivers:

11 (1) The insurance coverage and limits of liability that
12 the transportation network company provides while the
13 transportation network company driver uses a vehicle
14 during transportation network company activity; and

15 (2) That the transportation network company driver's
16 personal motor vehicle insurance policy might not
17 provide any required or optional coverage because the
18 transportation network company driver uses a vehicle
19 during transportation network company activity.

20 (b) A transportation network company and any
21 transportation network company driver shall maintain a primary



1 motor vehicle insurance policy that shall be in effect during
2 transportation network company activity. The primary motor
3 vehicle insurance required under this section shall include:

4 (1) Primary liability coverage of not less than \$100,000
5 per person, with an aggregate limit of \$200,000 per
6 accident, for all damages arising out of accidental
7 harm sustained as a result of any one accident and
8 arising out of ownership, maintenance, use, loading,
9 or unloading of a motor vehicle;

10 (2) Primary liability coverage of not less than \$50,000
11 for all damages arising out of damage to or
12 destruction of property including motor vehicles and
13 including the loss of use thereof, but not including
14 property owned by, being transported by, or in the
15 charge of the insured, as a result of any one accident
16 arising out of ownership, maintenance, use, loading,
17 or unloading of the insured vehicle;

18 (3) Uninsured and underinsured motorist coverage for the
19 transportation network company driver and passengers
20 that shall be equal to the primary liability limits
21 specified in paragraphs (1) and (2);



1 (4) Personal injury protection coverage in an amount that
2 meets the requirements of section 431:10C-103.5 and
3 shall be equal to or greater than the coverage limits
4 for the personal motor vehicle insurance maintained by
5 the vehicle's owner and reported to the transportation
6 network company; and

7 (5) Collision and comprehensive coverage limits for the
8 transportation network company driver's vehicle that
9 shall be equal to or greater than the coverage limits
10 for the personal motor vehicle insurance maintained by
11 the vehicle's owner and reported to the transportation
12 network company.

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

15 (1) Motor vehicle insurance maintained by a transportation
16 network company driver; provided that the
17 transportation network company verifies that the
18 policy is maintained by the transportation network
19 company driver and is specifically written to cover
20 the transportation network company driver's use of a
21 vehicle in connection with a transportation network



1 company's digital network or software application
2 service;

3 (2) Motor vehicle insurance maintained by a transportation
4 network company; or

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

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

8 (e) Coverage under a transportation network company
9 insurance policy shall not be dependent on a personal motor
10 vehicle insurance policy first denying a claim nor shall a
11 personal motor vehicle insurance policy, including a personal
12 liability umbrella policy, be required to first deny a claim.

13 (f) In every instance where motor vehicle insurance
14 maintained by a transportation network company driver to fulfill
15 the insurance obligations of this section has lapsed or ceased
16 to exist, the transportation network company shall provide the
17 coverage required by this section beginning with the first
18 dollar of a claim.

19 (g) Nothing in this section shall be construed to require
20 a personal motor vehicle insurance policy to provide primary or
21 excess coverage during transportation network company activity.



1 During transportation network company activity, and
2 notwithstanding any other law to the contrary, the following
3 shall apply:

4 (1) The transportation network company driver's or the
5 vehicle owner's personal motor vehicle insurance
6 policy shall not be required to provide, nor shall it
7 provide, any coverage to any person or entity unless
8 the policy expressly provides for that coverage during
9 transportation network company activity, with or
10 without a separate charge, or the policy contains an
11 amendment or endorsement to provide coverage for
12 transportation network company activity, for which a
13 separately stated premium is charged; and

14 (2) The transportation network company driver's or the
15 vehicle owner's personal motor vehicle insurance
16 policy shall not have the duty to defend or indemnify
17 for the driver's activities in connection with the
18 transportation network company, unless the policy
19 expressly provides otherwise for transportation
20 network company activity, with or without a separate
21 charge, or the policy contains an amendment or



1 endorsement to provide coverage for transportation
2 network company activity, for which a separately
3 stated premium is charged.

4 (h) Notwithstanding any other law to the contrary, a
5 personal motor vehicle insurer may, at its discretion, offer a
6 motor vehicle liability insurance policy, or an amendment or
7 endorsement to an existing policy that covers a private
8 passenger vehicle, station wagon type vehicle, sport utility
9 vehicle, or similar type of vehicle with a passenger capacity of
10 eight persons or less, including the driver, while used in
11 connection with a transportation network company activity if the
12 policy expressly provides for the coverage of transportation
13 network company activity, with or without a separate charge, or
14 the policy contains an amendment or an endorsement to provide
15 coverage for transportation network company activity, for which
16 a separately stated premium may be charged.

17 (i) In a claims coverage investigation, a transportation
18 network company or its insurer shall cooperate with insurers
19 that are involved in the claims coverage investigation to
20 facilitate the exchange of information, including the provision
21 of dates and times at which an accident occurred that involved a



1 transportation network company driver and the precise times that
2 the transportation network company driver logged on and off the
3 transportation network company's digital network or software
4 application service.

5 (j) A transportation network company driver of a
6 transportation network company shall carry proof of insurance
7 coverage as required by this section within the vehicle at all
8 times when the vehicle is being used in transportation network
9 company activity. In the event of an accident, a transportation
10 network company driver shall provide this insurance coverage
11 information to any other party involved in the accident, and to
12 a police officer, upon request.

13 (k) Notwithstanding any other law affecting whether one or
14 more policies of insurance that may apply with respect to an
15 occurrence is primary or excess, this section shall determine
16 the obligations under insurance policies issued to
17 transportation network companies and, if applicable,
18 transportation network company drivers using a vehicle in
19 connection with a transportation network company activity.

20 §431:10C-E Records. (a) A transportation network company
21 shall maintain:



1 (1) Global positioning system records and electronic
2 records of transportation network company activity for
3 each individual trip provided by a transportation
4 network company driver for at least five years from
5 the date each trip was provided; and

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

11 (b) Records maintained under this section shall be made
12 readily available for purposes of a claims coverage
13 investigation pursuant to section 431:10C-D(i) or resolving any
14 other dispute related to transportation network company activity
15 no later than ten days after receipt of a written request for
16 such record."

17 SECTION 3. In codifying the new sections added by section
18 2 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.

21



S.B. NO. 2684

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

2

INTRODUCED BY:

Rosaly de Beke

~~AC. ...~~

Mike Hubbard

Mark ...

Michelle ...

Will Ezew



S.B. NO. 2684

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.

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

