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# 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 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           Additionally, this Act provides express authority to the  
2 counties to regulate transportation network companies,  
3 transportation network company activity, and transportation  
4 network company drivers.

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

8                       "PART . TRANSPORTATION NETWORK COMPANIES

9           §431:10C-A Definitions. As used in this part:

10           "Transportation network company" means an entity that uses  
11 a digital network or software application service to connect  
12 passengers to transportation network company drivers; provided  
13 that the entity:

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

18           "Transportation network company activity" means the period  
19 of time when the transportation network company driver logs onto  
20 the transportation network company's digital network or software  
21 application service until the moment the transportation network



1 company driver logs off of the digital network or software  
2 application service or until the ride is complete and the  
3 passenger exits the transportation network company driver's  
4 vehicle, whichever is later.

5 "Transportation network company driver" means an individual  
6 who operates a motor vehicle used to transport a passenger  
7 between points chosen by the passenger and prearranged through a  
8 transportation network company and that is:

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

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

19 §431:10C-C Duration of fare. A transportation network  
20 company fare shall be deemed to:



- 1 (1) Commence when a transportation network company driver  
2 turns on their software application and prepares to  
3 accept a request for transportation received through  
4 the transportation network company's digital network  
5 or software application service;
- 6 (2) Continue while the transportation network company  
7 driver accepts and transports the passenger in the  
8 transportation network company driver's vehicle; and
- 9 (3) Conclude when the passenger exits the transportation  
10 network company driver's vehicle; provided that when  
11 the transportation network company driver continues to  
12 be available for network or application-generated  
13 rides, the transportation network company driver shall  
14 continue to be covered by the transportation network  
15 company's motor vehicle insurance coverage.

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



1 (1) The insurance coverage and limits of liability that  
2 the transportation network company provides while the  
3 transportation network company driver uses a vehicle  
4 during transportation network company activity; and

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

10 (b) A transportation network company and any  
11 transportation network company driver shall maintain a primary  
12 motor vehicle insurance policy that shall be in effect during  
13 transportation network company activity. The primary motor  
14 vehicle insurance required under this section shall include:

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



- 1           (2) Primary liability coverage of not less than \$50,000  
2           for all damages arising out of damage to or  
3           destruction of property including motor vehicles and  
4           including the loss of use thereof, but not including  
5           property owned by, being transported by, or in the  
6           charge of the insured, as a result of any one accident  
7           arising out of ownership, maintenance, use, loading,  
8           or unloading of the insured vehicle;
- 9           (3) Uninsured and underinsured motorist coverages for the  
10           transportation network company driver and passengers,  
11           as provided in section 431:10C-301, which shall be  
12           equal to the primary liability limits specified in  
13           paragraph (1). Uninsured and underinsured motorist  
14           coverage offers shall also provide for written  
15           rejection of the coverages as provided in section  
16           431:10C-301;
- 17           (4) Uninsured and underinsured motorist coverage stacking  
18           options as provided in section 431:10C-301;
- 19           (5) Personal injury protection coverage in an amount that  
20           meets the requirements of section 431:10C-103.5; and



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

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

5 (1) Motor vehicle insurance maintained by a transportation  
6 network company driver; provided that the  
7 transportation network company verifies that the  
8 policy is maintained by the transportation network  
9 company driver and is specifically written to cover  
10 the transportation network company driver's use of a  
11 vehicle in connection with a transportation network  
12 company's digital network or software application  
13 service;

14 (2) Motor vehicle insurance maintained by a transportation  
15 network company; or

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

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

19 (e) Coverage under a transportation network company  
20 insurance policy shall not be dependent on a personal motor  
21 vehicle insurance policy first denying a claim nor shall a



1 personal motor vehicle insurance policy, including a personal  
2 liability umbrella policy, be required to first deny a claim.

3 (f) In every instance where motor vehicle insurance  
4 maintained by a transportation network company driver to fulfill  
5 the insurance obligations of this section has lapsed or ceased  
6 to exist, the transportation network company shall provide the  
7 coverage required by this section beginning with the first  
8 dollar of a claim.

9 (g) Nothing in this section shall be construed to require  
10 a personal motor vehicle insurance policy maintained by a  
11 transportation network company driver to provide primary or  
12 excess coverage during transportation network company activity.  
13 During transportation network company activity, and  
14 notwithstanding any other law to the contrary, the following  
15 shall apply:

16 (1) The transportation network company driver's or the  
17 vehicle owner's personal motor vehicle insurance  
18 policy shall not be required to provide any coverage  
19 to any person or entity unless the policy expressly  
20 provides for that coverage during transportation  
21 network company activity, with or without a separate





1 charge, or the policy contains an amendment or  
2 endorsement to provide coverage for transportation  
3 network company activity, for which a separately  
4 stated premium is charged; and

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

16 (h) Notwithstanding any other law to the contrary, a  
17 personal motor vehicle insurer may, at its discretion, offer a  
18 motor vehicle liability insurance policy, or an amendment or  
19 endorsement to an existing policy that covers a private  
20 passenger vehicle, station wagon type vehicle, sport utility  
21 vehicle, or similar type of vehicle with a passenger capacity of



1 eight persons or less, including the driver, while used in  
2 connection with a transportation network company activity if the  
3 policy expressly provides for the coverage of transportation  
4 network company activity, with or without a separate charge, or  
5 the policy contains an amendment or an endorsement to provide  
6 coverage for transportation network company activity, for which  
7 a separately stated premium may be charged.

8 (i) In a claims coverage investigation, a transportation  
9 network company or its insurer shall cooperate with insurers  
10 that are involved in the claims coverage investigation to  
11 facilitate the exchange of information, including the provision  
12 of dates and times at which an accident occurred that involved a  
13 transportation network company driver and the precise times that  
14 the transportation network company driver logged on and off the  
15 transportation network company's digital network or software  
16 application service.

17 (j) A transportation network company driver shall carry  
18 proof of insurance coverage as required by this section within  
19 the vehicle at all times when the vehicle is being used for  
20 transportation network company activity. In the event of an  
21 accident, a transportation network company driver shall provide



1 this insurance coverage information to any other party involved  
2 in the accident, and to a police officer, upon request.

3 (k) Notwithstanding any other law affecting whether one or  
4 more policies of insurance that may apply with respect to an  
5 occurrence is primary or excess, this section shall determine  
6 the obligations under insurance policies issued to  
7 transportation network companies and, if applicable,  
8 transportation network company drivers using a vehicle in  
9 connection with a transportation network company activity. The  
10 transportation network company insurance carrier shall be  
11 licensed to do business as a motor vehicle insurance company in  
12 the State.

13 §431:10C-E Records. (a) A transportation network company  
14 shall maintain:

15 (1) Global positioning system records and electronic  
16 records of transportation network company activity for  
17 each individual trip provided by a transportation  
18 network company driver for at least five years from  
19 the date each trip was provided; and

20 (2) Transportation network company driver records at least  
21 until the five year anniversary of the date on which a



1 transportation network company driver's activation on  
2 the transportation network company digital network or  
3 software application service has ended.

4 (b) Records maintained under this section shall be made  
5 readily available for purposes of a claims coverage  
6 investigation pursuant to section 431:10C-D(i) or resolving any  
7 other dispute related to transportation network company activity  
8 no later than ten days after receipt of a written request for  
9 such record.

10 §431:10C-F Disclaimers, waiver of liability, and indemnity  
11 agreements invalid. None of the following agreements between a  
12 transportation network company or transportation network company  
13 driver and a passenger shall be valid or enforceable in this  
14 State:

- 15 (1) A disclaimer of liability of a transportation network  
16 company or transportation network company driver;
- 17 (2) A waiver, before the occurrence of an accident, of any  
18 claim or right to file a lawsuit by a passenger  
19 against a transportation network company or  
20 transportation network company driver; or



1 (3) An agreement by the passenger to defend, indemnify, or  
2 hold harmless a transportation network company or  
3 transportation network company driver.

4 §431:10C-G Limitations and exclusion inapplicable.

5 Nothing in this part shall limit or affect any motor vehicle  
6 insurance policy applicable to a passenger, pedestrian, or  
7 person other than a transportation network company driver while  
8 the driver is engaged in transportation network company  
9 activity."

10 SECTION 3. Section 46-16.5, Hawaii Revised Statutes, is  
11 amended by amending subsection (c) to read as follows:

12 "(c) Every county is empowered to regulate:

13 (1) Entry into the business of providing public passenger  
14 vehicle service within the jurisdiction of that  
15 county.

16 (2) The rates charged for the provision of public  
17 passenger vehicle service.

18 (3) The establishment of stands to be employed by one or a  
19 limited number of providers of public passenger  
20 vehicle service.



1       (4) Transportation network companies, transportation  
2       network company activity, and transportation network  
3       company drivers.

4       For the purposes of this subsection, "transportation  
5 network company", "transportation network company activity", and  
6 "transportation network company driver" shall have the same  
7 meaning as defined in section 431:10C-A."

8       SECTION 4. In codifying the new sections added by section  
9 2 of this Act, the revisor of statutes shall substitute  
10 appropriate section numbers for the letters used in designating  
11 the new sections in this Act.

12       SECTION 5. New statutory material is underscored.

13       SECTION 6. This Act shall take effect on July 1, 2050.



**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. Provides express authority for counties to regulate transportation network companies. (SB2684 HD1)

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

