

STAND. COM. REP. NO. 3461

Honolulu, Hawaii

APR 08 2016

RE: H.B. No. 260  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred H.B. No. 260, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize the Insurance Commissioner to issue a limited license to any owner, operator, or employee of a self-service storage facility to sell or solicit insurance on property or personal effects stored in a tenant's space at a self-service storage facility.

Prior to holding a hearing on this measure, your Committee made available for public review a proposed S.D. 1 of this measure. The proposed S.D. 1 deleted the contents of this measure and inserts provisions that establish motor vehicle insurance requirements for transportation network companies and transportation network company drivers, with an effective date of July 1, 2016.

Your Committee received testimony in support of the proposed S.D. 1 from the Property Casualty Insurers Association of America, Hawaii Insurers Council, and USAA. Your Committee received testimony in opposition to the proposed S.D. 1 from the National Association of Professional Surplus Lines Offices, Ltd.; Uber Technologies; Lyft; Hawaii Association for Justice; and one individual. Your Committee received comments on the proposed S.D. 1 from the Department of the Attorney General, Department of

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Commerce and Consumer Affairs, Department of Transportation, and Hawaii Transportation Association.

Your Committee finds that transportation network companies are entities that use a digital network or software application service to connect passengers with transportation network company drivers. Your Committee further finds that concerns have been raised about potential gaps in motor vehicle insurance coverage associated with transportation network companies. In response, by the end of 2015, twenty-nine states had enacted legislation to establish insurance requirements covering transportation network companies and drivers. Your Committee further finds that the proposed S.D. 1 protects transportation network company drivers, their passengers, and the public by establishing responsible insurance requirements for the transportation network company industry in Hawaii.

Your Committee has heard the concern that language in the proposed S.D. 1, which requires a transportation network company insurance carrier to be licensed to do business as a surplus lines motor vehicle insurance company in the State, may conflict with certain existing federal and state laws. Your Committee understands these concerns and concludes an amendment to the proposed S.D. 1 to delete this language is appropriate.

Your Committee additionally finds that in 2015, motor vehicle insurers and transportation network companies recently reached a national agreement to address certain gaps in insurance coverage and provide a framework to ensure safe transportation options that protect transportation network company drivers, riders, and the public. The National Conference of Insurance Legislators' Transportation Network Company Model Act recognizes the unique status of a personal vehicle when used by a transportation network company driver and the distinct periods of use associated with transportation network company drivers. Furthermore, the model act also requires that all other compulsory coverages required by state law also be included. For Hawaii, this means that personal injury protection benefits must be required coverage while a transportation network company driver is available to receive prearranged rides or engaged in a prearranged ride. Your Committee concludes that amendments to the proposed S.D. 1 are necessary to mirror some of the language from the model act.

Accordingly, your Committee has amended this measure by adopting the proposed S.D. 1 and further amending the measure by:



- (1) Inserting definitions for "personal vehicle" and "prearranged ride" and making conforming amendments associated with these new definitions;
- (2) Deleting a definition for "transportation network company activity" and making conforming amendments associated with this removed definition;
- (3) Deleting language regarding what constituted a transportation network company fare, as this language is more appropriately addressed within the definition of "prearranged ride";
- (4) Clarifying the motor vehicle insurance requirements for a transportation network company driver or transportation network company on the transportation network company driver's behalf, including:
  - (A) Requiring the primary motor vehicle insurance to cover the transportation network company driver while the driver is logged onto the transportation network company's digital network or software application service or engaged in a prearranged ride;
  - (B) Specifying the insurance requirements that apply when a driver is logged onto the digital network but not engaged in a prearranged ride;
  - (C) Specifying the insurance requirements that apply while a driver is engaged in a prearranged ride;
  - (D) Clarifying the limits of motor vehicle insurance coverage maintained by a transportation network company;
  - (E) Clarifying the optional insurance coverage options that must be offered and which a transportation network company driver or transportation network company on the transportation network company driver's behalf may then elect to purchase;
  - (F) Clarifying the insurers under which insurance proposed by this measure may be placed;



- (G) Clarifying when the insurance requirements proposed by this measure are deemed satisfied;
  - (H) Clarifying the requirements for a transportation network company driver to carry proof of coverage during the use of a personal vehicle in connection with a transportation network company's digital network or software application service and provide insurance coverage information to specified parties in the event of an accident or pursuant to an accident investigation; and
  - (I) Deleting language that would have required a transportation network company insurance carrier to be licensed to do business as a surplus lines motor vehicle insurance company in the State;
- (5) Deleting language that would have prohibited this measure from limiting or affecting a motor vehicle insurance policy applicable to a passenger, pedestrian, or person other than a transportation network company driver while the driver was engaged in transportation network company activity, as this language was ambiguous and potentially confusing; and
  - (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee notes that this amended measure establishes an appropriate motor vehicle insurance framework for transportation network companies and transportation network company drivers in Hawaii and ensures that the services provided by transportation network companies do not affect the rates of all purchasers of personal motor vehicle insurance policies in the State.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 260, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 260, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,

*Rosalyn H Baker*


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ROSALYN H. BAKER, Chair



The Senate  
Twenty-Eighth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:	Committee Referral:	Date:		
HB 260 HD 1	CPH	4-1-16		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
KIDANI, Michelle N. (VC)	/			
ESPERO, Will	/			
IHARA, Jr., Les				/
NISHIHARA, Clarence K.	/			
RUDERMAN, Russell E.				/
SLOM, Sam				/
<b>TOTAL</b>	4			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:	Original	Yellow	Pink	Goldenrod
	File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy

\*Only one measure per Record of Votes