

TESTIMONY OF RANDY IWASE
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON
TRANSPORTATION

February 9, 2015
10:00 a.m.

MEASURE: H.B. No. 1463
TITLE: Relating to Transportation.

Chair Aquino and Members of the Committee:

DESCRIPTION:

This measure amends Chapter 271, Hawaii Revised Statutes (“HRS”), to provide for the regulation of transportation network companies (“TNCs”).

POSITION:

The Public Utilities Commission (“Commission”) offers the following comments for the Committee’s consideration.

COMMENTS:

The Commission notes that taxicab services are exempt from Commission regulation pursuant to HRS 271-5(3) and are presently regulated under the authority given to the counties pursuant to HRS 46-16.5(c). It appears to the Commission that TNCs and their drivers engage in similar activities and provide similar services as taxicabs and taxicab drivers. Therefore, the Commission believes that it is appropriate for the counties to have similar authority to regulate TNCs.

Thank you for the opportunity to testify on this measure.

**HOUSE COMMITTEE
ON
TRANSPORTATION**

February 9, 2015

House Bill 1463 Relating to Transportation

Chair Aquino and members of the House Committee on Transportation, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm).

State Farm offers the following comments about House Bill 1463 Relating to Transportation. We believe that Transportation Network Companies (hereinafter TNCs) should be subject to certain basic insurance principles.

- TNCs need to provide insurance coverage to protect the public, passengers, and their drivers.
- This is a commercial activity that should not be covered by the private passenger auto policy (PPAP). To do so would affect the rates of all purchasers of individual personal auto policies to subsidize the cost of doing business for TNCs.

Liability Coverage: the **primary** coverage should be with the TNC from time the app is turned on by the TNC's driver.

- There should be an affirmative duty to defend under the primary TNC coverage **once the app is turned on**. This provides a bright line and clarity so that there can be no disputes. At this point, the law should provide that the driver's PPAP does not provide coverage.
- All businesses are subject to liability for negligence, and they protect themselves with insurance coverage. TNCs should be no different and there should be no limit to their potential liability, which they can insure against.
- The liability coverage should match livery coverage limits required by law:

Hawaii Revised Statutes § 271-17 (Security for Protection of Public) gives the Public Utility Commission the authority to determine the amount of insurance, and this is provided for in Hawaii Administrative Rules § 6-62-8.

Although we believe the limits should be sufficient to protect the public, State Farm believes required limits should be left to the sound discretion of the Public Utilities Commission and the Legislature, but we suggest that they should be at least equivalent to and similar to other livery requirements.

- TNCs should disclose to their drivers their coverage and limits of liability, and that the driver's personal policy might not provide any coverage in the event of an accident while the vehicle is driven by a TNC driver.
- The law should be clear that the PPAP shall not provide any coverage and has no duty to defend, unless the coverage is expressly stated in the policy language or an endorsement. This will allow the private insurance market to develop products for TNC drivers to purchase, if they so choose, and will prevent the costs of this coverage from being borne by consumers that do not act as TNC drivers.

Claims Cooperation

- The law should provide that TNCs and their insurers must cooperate with the claims investigation by providing data of when their app is turned off and on.
- TNCs should be required to maintain records for at least 1 year past the statute of limitations.

1st Party Coverages for TNC drivers from the time the app is turned on should at a minimum be as follows:

- Property Damage Coverage equal to but not less than those in driver's own PPAP.
- UM/UIM coverage for the driver and passengers equal to but not less than those in driver's own PPAP.
- PIP Coverage for driver and passengers equal to but not less than those in driver's own PPAP and sufficient to meet Hawaii's minimum requirements.

HB 1463 as drafted lacks the following elements:

- There is no clear statement that the TNC insurance policy must provide primary coverage and has the sole duty to defend from app on.
- There is no requirement for the TNC to notify its drivers of the coverage it provides.
- There is no requirement for record retention for claims purposes.
- There is no requirement for any first party coverages.
- The bill is internally **inconsistent**: as drafted it specifically states that TNC drivers are not subject to the "motor carrier law," but then states that the insurance requirements for "motor carriers" applies to them.

If the proposed measure is to move forward we believe that these principles should be embodied in it. We would be willing to provide a draft bill containing these elements to the Committee, if it so desires.

Thank you for the opportunity to present this testimony.

February 7, 2015

Representative Henry J.C. Aquino, Chair
Committee on Transportation
House of Representatives

Re: HB 1463 Relating to Transportation
Committee Hearing
February 9, 2015 10am
Conference Room 309

Dear Chair Aquino and Committee Members:

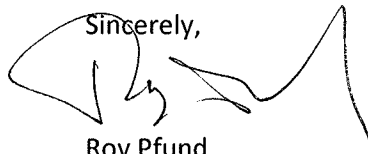
My name is Roy Pfund, Vice President of Roberts Hawaii, Inc. the largest tour and transportation company in Hawaii. I am submitting testimony in support of HB 1463 which is seeking to regulate TNC's (Transportation Network Companies) and their drivers.

TNC's like Uber and Lyft are marketing companies that are using the smart phone and related technology to be the middleman between the consumer and the driver. TNC's do not own or operate any of the vehicles that provide their transportation services, but instead solicit third party or contract drivers to perform their services. If the TNC's only contracted with authorized and regulated PUC (Public Utility Company) drivers or County regulated taxi drivers to perform their services, we would not be having this hearing today. Instead of using existing regulated drivers, the TNC's have created a new class of unregulated drivers that currently operate outside of the PUC and County regulations. We need to update our existing laws as contained in HB 1463 to incorporate these unregulated drivers for the following reasons:

1. Public Safety. The public's safety is best protected by regulating transportation companies. PUC and Taxi companies are required to carry commercial insurance to protect the public. In addition, PUC companies are required to conduct regular driver training, drug testing, vehicle maintenance, etc. designed to keep operations safe. Independent non regulated drivers from TNC's are not subject to this higher standard.
2. Consumer Protection. PUC and Taxi companies must file and follow a regulated rate structure. TNC's follow a demand based charge system, which allows them to charge whatever price the market will bear at a given time period. There are many documented cases of price gouging by the TNC companies, is this what we want for our consumers?
3. Fairness. To allow TNC's and their contracted unregulated drivers to operate outside of the existing PUC or Taxi driver categories is unfair and discriminatory to the existing PUC and Taxi

companies. TNC's and their drivers will have an unfair competitive advantage by not having to incur the costs to adhere to the public safety requirements and by being able to gouge consumers with surge pricing. In addition, if these drivers are unregulated, how does the State enforce GET collections and how do the Airports and Harbors collect their arrival fees? If we pay these taxes and fees, so should the TNC's and their drivers.

We have existing laws in place to regulate PUC Companies and drivers as well as County regulations over the Taxi companies and drivers. All we need to do is to define the TNC and require that any TNC driver fall under either the PUC or Taxi categories. Thank you for allowing me to provide you with my testimony. If you have any comments or questions please contact me at roy.pfund@robertshawaii.com

Sincerely,

Roy Pfund
Vice President



February 9, 2015

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION
ON HB 1463 RELATING TO TRANSPORTATION**

Thank you Chair Aquino and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

HTA supports this bill.

An entity that chooses to offer transportation services to the public must be regulated in the interest of that public. Currently, an entity is regulated by the State Public Utilities Commission (PUC) or by the various county taxi administrators.

These agencies protect the public by ensuring that reasonable levels of commercial liability insurance is in place for passengers, property and other vehicles. This also ensures a fair and reliable level of rates and fees will be charged for services. The registration of service providers facilitates the ability to locate them should the need arise.

The only item in this bill that puzzles us is the reference to chapter 431 of the Hawaii Revised Statutes on page 16, in line 5 as that chapter does not address commercial insurance and all of the levels required by the PUC are greater than that provided for in 431.

Thank you.

Hawaii State Legislature
House Committee on Transportation
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

February 7, 2015

Filed via electronic testimony submission system

RE: TNC bills (HB 1287 and HB 1463) - NAMIC's Written Testimony for Committee Hearing

Dear Representative Aquino, Chair; Representative LoPresti, Vice Chair; and members of the House Committee on Transportation:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 9, 2015, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. NAMIC has 69 members who write property/casualty and workers' compensation insurance in the State of Hawaii, which represents 30% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC's members appreciate the importance of business innovation and we support the development and growth of transportation network companies (TNCs) and other "sharing-economy" business endeavors.

NAMIC believes that TNCs, like all other business operations, need to take full responsibility for the legal liability exposure and public safety risks posed by their business activities. Since the TNCs are engaged in a new form of commercial transportation, it is reasonable and appropriate

for them to be required by state law to be responsible for all the commercial transportation liability issues created by their business activities.

The TNC commercial transportation model requires TNC drivers to transport TNC passengers for hire in the TNC driver's private vehicle. Since the TNC driver's activities are clearly commercial in nature, the TNC driver's private passenger automobile insurance policy is most likely not going to provide a duty to defend or any insurance coverage for the commercial transportation use of the TNC driver's personal automobile. Consequently, the TNC commercial transportation model creates an "insurance coverage gap" which poses a legal liability exposure problem and public safety risk for the TNC service driver, TNC passengers, and the general public.

State Legislatures throughout the nation have been working on passing pro-consumer protection legislation to address this "insurance coverage gap", in a way that is pro-business innovation, pro-consumer-protection, and pro-business responsibility. In the two states that have enacted laws to date (California and Colorado) and in all the states evaluating proposed legislation, elected officials have focused their attention upon making sure that there is a clear demarcation between commercial auto activities and private passenger auto activities, so that TNC activities don't become an unnecessary insurance rate cost-driver for private passenger auto insurance consumers.

NAMIC appreciates the fact that there are presently seven TNC bills pending before the Hawaii State Legislature, and that a number of these proposed bills offer different legislative and regulatory approaches to address the "insurance coverage gap" issue. NAMIC is confident that the House Committee on Transportation will properly decide which proposed legislation best promotes "responsible" transportation business development, best preserves the availability and affordability of private passenger auto insurance coverage, and best facilitates consumer safety.

In regard to the two bills before this committee for public hearing, NAMIC respectfully submits the following comments for consideration by the House Committee on Transportation.

From a public policy standpoint, NAMIC believes that TNC legislation should set forth clear and specific insurance coverage requirements for TNC commercial activities, expressly acknowledge the legal and practical distinction between private passenger use of a motor vehicle and commercial transportation use, and protect private passenger auto insurance consumers from having to subsidize the standard business operational costs of TNC commercial activities.

NAMIC is encouraging State Legislatures across the country to pass legislation that thoroughly addresses the following TNC insurance coverage public policy elements:

- 1) "Sharing economy" business innovation, like the TNC industry, should be encouraged, but it must be thoughtfully regulated to address liability exposure created by these evolving business models. Clear guidelines for TNC insurance requirements are necessary to protect consumers and facilitate the growth of a healthy and sustainable "sharing-economy" business sector.

- 2) Legislation should safeguard private passenger automobile insurance products and consumers from legal uncertainty created by the TNC business model, by expressly protecting the enforceability of private passenger automobile policy language that excludes insurance coverage and the duty to defend for “livery” or “for hire” operations of a motor vehicle, and preserves the ability of auto insurers to engage in appropriate risk-based insurance rating and underwriting practices.
- 3) Legislation should clearly define the TNC activity and TNC insurance requirements, so that there is no legal ambiguity that could lead to costly litigation for private passenger automobile insurers and their consumers. TNC activity should have a “bright-line” standard that defines the scope and duration of TNC activities. Both the California and Colorado laws, and the clearly emerging national trend defines the TNC activity as being tied to the TNC driver logging on/off the TNC app. NAMIC suggests that the TNC activity definition should be “the period of time when a driver is logged onto the TNC’s app to the time the driver logs off the app or the ride is completed and the passenger has exited the vehicle, whichever is later.” This “bright-line” approach provides reasonable clarity for all interested parties, and a practical and discernable legal standard to resolve disputes over whether the driver was engaged in a TNC activity at the time of the accident/incident.

As for the specific TNC insurance requirement, in an effort to reduce the potential for protracted and costly insurance coverage litigation, NAMIC recommends that TNCs and/or TNC drivers be expressly required to have in effect *primary* insurance coverage that specifically covers the TNC activity as defined in the legislation, including the *sole* duty to defend the TNC driver for accidents/incidents arising out of or relating to the TNC activity. The TNC insurance coverage and/or TNC driver’s insurance coverage should be primary without requiring any denial of coverage from the TNC driver’s private passenger automobile insurer.

In regard to specific coverage limits, NAMIC believes that coverage limits should be left to the sound discretion of the Public Utilities Commission and the Legislature, but we suggest that they should be at least equivalent to and similar to other livery requirements, and at a minimum comparable to private passenger automobile financial responsibility coverage limits.

- 4) TNCs should be required to disclose to TNC drivers that the TNC driver’s private passenger automobile insurance may not provide any insurance coverage or a duty to defend for TNC activities, and disclose to consumers information about TNC and/or TNC driver’s insurance coverage and coverage limits. TNCs should be required to provide proof to consumers and regulators that the TNC and/or the TNC drivers are in compliance with the required TNC activity insurance coverages. NAMIC believes that TNCs should be required to maintain commercial coverage in case the TNC driver’s insurance coverage for TNC activities fails to comply with state law, or is cancelled, non-renewed or lapses.

- 5) The legislation should require TNCs to promptly cooperate with the TNC driver's private passenger automobile insurer and any insurer providing the TNC driver with insurance coverage for TNC activities, if there is an incident/accident arising out of or relating to the TNC activity, and that TNCs should be required to retain all TNC activity records and digital logs for the length of the state statute of limitations for automobile accident civil lawsuits. TNCs should also be required to provide timely copies of information and documentation relating to the TNC driver's TNC activities to the TNC driver's private passenger automobile insurer and any insurer providing the TNC driver with insurance coverage for TNC activities.

In light of the aforementioned TNC insurance coverage public policy elements, NAMIC is concerned that neither HB 1287 nor HB 1463 fully address all of the essential "insurance coverage gap" issues raised by the TNC business model.

NAMIC's concerns with HB 1287 –

1) The proposed legislation defines the TNC activity as commencing once the "driver accepts a request for transportation". This creates an "insurance coverage gap" for the TNC driver during the time that the driver is engaged in a commercial transportation activity but has yet to be matched to a passenger;

2) The proposed legislation creates arguably a situation where the TNC insurance coverage doesn't become operative until the TNC driver's private passenger auto insurer formally denies the TNC driver's insurance claim. The language specifically states, "the insurer shall notify an insured after receiving a notice of loss within the time required by section 431:13-103(a) (11) that the insurer has no duty to defend or indemnify any person or organization for liability for a loss that is properly excluded pursuant to the terms of the applicable primary or excess insurance policy." NAMIC is concerned that this will create an unreasonable delay in the settlement of insurance claims to the detriment of TNC drivers, passengers, and injured parties. Additionally, this formal coverage and duty to defend denial requirement will create an unnecessary administrative burden and cost (and possible legal expense) for private passenger auto insurers, which could act as an insurance rate cost-driver; and

3) The proposed legislation also fails to require necessary and appropriate insurance coverage disclosures to the TNC driver, and fails to require the TNC to retain TNC driver activity records necessary to resolve liability and coverage disputes.

NAMIC's concerns with HB 1463 –

1) Although the proposed legislation states that TNC drivers are to procure commercial insurance coverage consistent with the "motor carrier" law in an amount in amounts required by the financial responsibility statute (Section 431:10C-301(b) or "in such greater amounts as the [public utilities] commission may require", NAMIC is concerned that this commercial insurance coverage requirement fails to address a number of important "insurance coverage gap" legal issues. For example, the proposed legislation still leaves open to legal dispute whether the

“motor carrier” coverage requirement for TNC drivers is primary insurance coverage, and whether the “motor carrier” coverage requirement for TNC drivers provides the sole duty to defend the TNC driver.

2) The proposed legislation also fails to require necessary and appropriate insurance coverage disclosures to the TNC driver, and fails to require the TNC to retain TNC driver activity records necessary to resolve liability and coverage disputes.

In essence, the fundamental problem with HB 1463 is that it fails to recognize that TNC activities, although clearly commercial in nature, are somewhat different from the traditional “motor carrier” commercial activity, and TNCs retain the services of many drivers who are not traditional “motor carrier” drivers, i.e. they may not fully appreciate the legal implications and liability exposure associated with commercial transportation. Therefore, these “motor carrier” statutes need to be amended to address more than just the inclusion of a reference to TNCs within the purview of the statute, they also need to include provisions necessary to address TNC business model created “insurance coverage gap” legal issues.

Consequently, NAMIC believes that the House Transportation Committee should consider all of the various TNC bills introduced and available for introduction, and then select the bill that best addresses all of the “insurance coverage gap” legal issues that need to be properly resolved in order to preserve the availability and affordability of private passenger auto insurance coverage, address public safety concerns created by the TNC model, and establish a sound public policy and legal framework for the growth of the TNC industry and the development of new “sharing economy” business models.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC’s written testimony.

Respectfully,



Christian John Rataj, Esq.
NAMIC Senior Director – State Affairs, Western Region

**Testimony of
Gary M. Slovin / Mihoko E. Ito
on behalf of
USAA**

DATE: February 8, 2015

TO: Representative Henry Aquino
Chair, Committee on Transportation
Submitted Via TRNTestimony@capitol.hawaii.gov

RE: **H.B. 1463 – Relating to Transportation Network Companies**
Hearing Date: Monday, February 9, 2015 at 10:00 a.m.
Conference Room: 309

Dear Chair Aquino and Members of the Committee:

We submit this testimony in regard to H.B. 1463 on behalf of USAA, a diversified financial services company. USAA is the leading provider of competitively priced financial planning, insurance, investments, and banking products to members of the U.S. military and their families. USAA has over 82,000 members in Hawaii, the vast majority of which are military-based members.

USAA offers the following **comments** regarding this measure. Fundamentally, USAA believes that any proposal to regulate TNCs must include:

- **Insurance coverage:** TNCs must have primary insurance coverage that specifically covers TNC activity. Because TNC activity is commercial activity, this activity should not be covered by personal insurance.
- **Definition of TNC activity:** To provide a clear guideline, TNC activity needs to be defined specifically as – the period of time an app is turned on to the time the app is turned off.
- **Clear Exclusion of Personal Auto Policy:** It must be very clear that personal auto insurance does not provide coverage for TNC activity unless the policy expressly provides for that coverage. It must also be clear that

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- the personal auto policy will not have any duty to defend, which will limit coverage disputes.
- **Claims Cooperation:** TNCs must be required to demonstrate that the required coverage is in place. They should also be required to share data and information in timely fashion to facilitate resolution of any coverage.

The insurance industry needs clear guidelines, such as the ones outlined above, in order to preserve its ability to take rating and underwriting actions for specific populations of insureds, including TNCs.

USAA supports the intent of this measure, which is to protect consumers by requiring TNCs to be subject to the same insurance requirements as commercial motor carriers. However, USAA believes that simply requiring commercial insurance may not accomplish the dual objective of continuing to allow TNCs to operate in Hawaii while addressing consumer protection concerns. For that reason, USAA believes that any proposed legislation should incorporate the principles outlined above. USAA will be happy to work with the Committee and provide language that embodies these comments.

Thank you very much for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 06, 2015 1:21 PM
To: TRNtestimony
Cc: djung@ecocabhawaii.com
Subject: Submitted testimony for HB1463 on Feb 9, 2015 10:00AM

HB1463

Submitted on: 2/6/2015

Testimony for TRN on Feb 9, 2015 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
David H. Jung	Individual	Support	No

Comments: Representatives Souki, Aquino and Yamane, Thank you so much for introducing HB 1463 which recognizes the importance of including TNC under the Motor Carrier Act. Vehicular death is the no. 1 cause of accidental death in the United States. While driving provides us with mobility and independence that is necessary for economic growth and quality of life, it is nevertheless an **INHERENTLY DANGEROUS ACTIVITY** that needs to be regulated for public safety. Accordingly, every driver in Hawaii must be licensed by the state, and pass a written and road test administered by the city. For those of us making a living and getting paid driving others (whether part time or full time), the standards are necessarily increased. The additional requirements have been carefully legislated over the years to protect the safety of the public. A sample of just a few of many safety regulations aimed at protecting the public are: 1. ALL DRIVERS FOR HIRE in Hawaii are required to pass a physical exam that tests a) the drivers' blood pressure and for diabetes to insure that drivers do not pass out while driving passengers, b) peripheral vision and hearing to minimize accidents through greater awareness of surrounding, c) hernia to insure that drivers can physically assist a passenger if necessary (e.g. carrying them out of a burning vehicle or other emergency events, or just simply helping with bags). 2. Taxi drivers, because our services are on-demand and not required to be pre-arranged are tested on road knowledge of the 40 main points of interest in Honolulu that include the court houses, social service buildings, tax offices, emergency rooms of hospitals etc. This insures that in case of emergency, all drivers know where the emergency rooms of each of the hospitals are, and the poor, disabled and elderly have ready access to our social services. 3. Vehicles to be purchased for commercial purposes are provided a one year inspection even when purchased new. In the case of taxi, in order to protect the consumer, the state rather than trusting Google and Uber requires calibration and inspection of every meter every year. As for our rate, our state and city law requires a fair and predictable rate that will best allow even the poor access to the service - i.e. no surge pricing during high demand including emergency that only the rich can afford. 4. All vehicles for hire are required to be not just registered as a commercial vehicle, but clearly marked and numbered for identification so that, in part, law enforcement and witnesses can easily identify our vehicles in case of accidents. 5. All vehicles for hire also pay additional fees to both the state and city to pay for the administrative cost of regulation AND to offset the additional wear and tear and use of public roads and facilities. In cases of airport and harbors, there's also need to screen access against potential terrorism. It seems natural that if you're using public roads and facilities to make a living, you should pay for the additional use of public roads and facilities. UberX and Lyft refuses to follow any regulations governing the operations of vehicles for hire including the regulations designed to protect

the public listed above as 1-5 under the defense that they are self-regulated (quite frankly, when I first heard from Uber the "self-regulated" argument, I thought they were joking, but they were dead serious). TNCs are mostly venture capital led mainland companies worth, in the case of Uber, \$40 Billion dollars. Their meteoric valuation has led them to feel that they're above the law. This is reflected on how they launch their business and how they treat others. Uber, as they've done in Hawaii, simply ignores all regulations regarding transportation for hire and dares the regulators and legislators to go against them, and they've threatened reporters with "digging up dirt" against them if they dare to provide negative coverage of Uber. Uber, high on venture capitalist steroid (money), has become the school yard bully. So far the regulators and legislators in California, Seattle, Chicago and D.C. have caved in to Uber's bullying tactics to varying degree. Recent trend, however, is for regulators and legislators not to cave in or back down. The regulators and legislators in Nevada who are use to dealing with threats and bullying from real gangsters (not the wanna be Wall Street type like Uber) has required Uber to comply with all transportation laws and shut them down for non-compliance. Uber has been suspended in Portland, and they have also been required to follow existing transportation laws in San Antonio and Miami-Dade. In Miami, Uber simply, unbelievably, notoriously and famously operate illegally, coach drivers on how best to circumvent laws AND reimburse drivers for fines and cost for having vehicles impounded by law enforcement - talk about disrespecting the rule of law. Maybe they really are becoming true gangsters. Perhaps the biggest change has been in Asia. The entire country of China, India (following a rape of passenger) and Korea have all recognized Uber to be a "transportation for hire business" with a fancy app., and required that their drivers fully comply with all existing laws governing "transportation for hire business". In all 3 countries, Uber has agreed to work towards full compliance of the country's regulations and laws. If they're so compliant with foreign legislation, why are they so defiant of ours? I am very grateful that we have legislator with the intestinal fortitude to "dare" go against such a powerful mainland interest, and the integrity to put Hawaii's public safety over politics and money. Thank you, David Jung.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

TESTIMONY OF MICHAEL ONOFRIETTI

COMMITTEE ON TRANSPORTATION
Rep. Henry J.C. Aquino, Chair
Rep. Matthew S. LoPresti, Vice Chair

Monday, February 9, 2015
10:00 a.m.

HB 1463

Chair Aquino, Vice Chair LoPresti, and members of the Committee on Transportation, my name is Michael Onofrietti, President of the Hawaii Insurers Council, a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately thirty-six percent of all property and casualty insurance premiums in the state.

The Hawaii Insurers Council **opposes** certain provisions of HB 1463, which amends the Motor Carrier Law, Chapter 271 of the Hawaii Revised Statutes, to address regulation of “transportation network companies” and “transportation network drivers.” However, the Hawaii Insurers Council agrees with the findings and purpose of HB 1463, and would like the opportunity to work with this Committee and interested parties to revise the specific provisions of HB 1463 to carry out the public policies of protecting the consuming public and ensuring the availability and affordability of personal motor vehicle insurance policies in the State.

The Hawaii Insurers Council opposes HB 1463 for two main reasons.

First, while the Bill correctly places regulation and oversight of “transportation network companies” with the State Public Utilities Commission (PUC), it divides regulation and

oversight of “transportation network drivers” between the PUC and the counties. On the one hand, Section 3 of the Bill exempts “transportation network drivers” from the provisions of Chapter 271, thereby placing oversight with the counties. On the other hand, Section 5 (security for protection of public), Section 6 (unlawful operation), and Section 8 (indentification of carrier), do govern the conduct of “transportation network drivers,” thereby empowering the PUC to regulate “transportation network drivers.” This division of jurisdiction over “transportation network drivers” is confusing and could operate to hurt the consuming public.

The Hawaii Insurers Council believes regulation and government oversight of both “transportation network companies” and “transportation network drivers” should be the sole responsibility of the PUC.

Second, the Hawaii Insurers Council opposes Section 5 of the Bill, which deals with the required security for the protection of the public. It does not explicitly mandate that all “transportation network companies” and “transportation network drivers” maintain motor vehicle insurance in amounts no less than \$100,000 per person and \$200,000 per accident for bodily injury, and no less than \$50,000 per accident for property damage liability. Section 5 also does not mandate that insurance coverage for “transportation network companies” and, especially, “transportation network drivers” be under a commercial motor vehicle insurance policy.

Because “transportation network companies” and “transportation network drivers” engage in commercial activity, their insurance must be under a commercial motor vehicle insurance policy, at mandated higher limits, and not under a personal motor vehicle insurance policy. Properly assigning the insurance risk is of utmost importance.

Based on the foregoing, the Hawaii Insurers Counsel opposes HB 1463, but welcomes the opportunity to work with this Committee and stakeholders on revising the Bill. Thank you for the opportunity to testify.

TESTIMONY OF CHARLEY'S TAXI re HB 1463

By Dale Evans, President & Chairman, Tel 233-3333

1451 S King St Suite 300, Honolulu 96814

TRN Hg @ 10 am, Monday, Feb 09, 2015, Cf Room 309, Hawaii State Capitol

TNC BUSINESS MODEL IGNORES BASIC LAWS & REGULATIONS FOR PUBLIC SAFETY AND CONSUMER PROTECTIONS including, not limited to:

[Federal Motor Carrier Safety Regulation](#) – requires driver certificates to meet health requirements

[FBI Integrated Automated Fingerprint Identification System \(IAFIS\)](#) is a national criminal database vs regional background checks by names that are unreliable

[U.S. Immigration Work Authorization \(Green Card\)](#) to show immigrant status

[NTEP](#) and [NIST Handbook 44](#) certification of Taxicab Meters to accurately calculate the distance and elapsed time as basis for charging fares to the general public. GPS routing is typically inaccurate

[NHTSA](#) bans cell phone use for commercial drivers

[HRS 209-9](#) prohibits price gouging during a state declared emergency or severe weather warning. "Surge pricing (Uber) and "Prime Time Tip" (Lyft) routinely charge customers 2-5x normal fare during peak traffic, holidays, games & concerts

[ROH 12-4](#) Prohibits Trip Refusal – Denies service to all but APP subscribers and requires credit card authorization. Ranking of passengers (Profiles) results in service refusal to customers who don't tip, or short trips.

[ROH 12-1.9 Driver Certificate Process](#) requires familiarity with taxicab regulations, oral exam testing driver's knowledge of roads, streets, highways and places in order to take shortest most economical route. Traffic Abstract also required.

[ROH 12-1.14](#) sanitation of vehicles

[ROH 12-1.21](#) requires drivers to take the most direct or economical route unless otherwise agreed to by the passengers. Drivers get lost, unfamiliar with routing.

[ROH 12-1.23](#) requires commercial automobile insurance policy applicable to full time and part time taxi driving. Limited (gap) coverage exposes passengers picked up without signing up on APP to no insurance coverage.

Mockery of the Hawaii Motor Carrier Act and Taxicab Ordinance

No need to re-invent the wheel to accommodate Uber Lyft who are evading laws and regulations and all the taxes and fees that the taxicab and PUC carriers are subject to – in ways that only bolster their massive profits and competitive advantage over taxi drivers and taxicab companies.

Uber already admits to being a taxicab company in India and New York City, shows that Uber and Lyft will do what it take to operate in a city and state depending on what they can get away with.

[Uber Finally Admits They're a Taxi Company, Applies for license in India. **The Uber-Taxi Jack Smith IV, Observer, 1.23.15**](#)

[Medallion Ripple Effect.](#) YellowCab NYC, 1.18.15