

# SB732

**Measure Title:** RELATING TO TRANSPORTATION NETWORK COMPANIES.

**Report Title:** Transportation Network Companies; Common Carriers; Motor Carriers; Motor Vehicle Insurance

**Description:** Regulates transportation network companies under the motor carrier law. Requires transportation network drivers to carry certain levels of commercial motor vehicle insurance. Prohibits personal motor vehicle insurance policies issued or renewed after July 1, 2015, from including coverage for taxicabs or motor vehicles used by motor carriers.

**Companion:**

**Package:** None

**Current Referral:** CPN/TRA

**Introducer(s):** BAKER, CHUN OAKLAND, GREEN, INOUYE, Espero, Ihara, Keith-Agaran, Kidani, Nishihara, Riviere, Taniguchi

<u>Sort by Date</u>		Status Text
1/23/2015	S	Introduced.
1/26/2015	S	Passed First Reading.
1/28/2015	S	Referred to CPN/TRA.
2/10/2015	S	The committee(s) on CPN/TRA has scheduled a public hearing on 02-13-15 9:00AM in conference room 229.

TESTIMONY OF RANDY IWASE  
CHAIR, PUBLIC UTILITIES COMMISSION  
TO THE  
SENATE COMMITTEES ON  
COMMERCE AND CONSUMER PROTECTION  
AND TRANSPORTATION

FEBRUARY 13, 2015  
9:00 a.m.

**MEASURE:** S.B. No. 732

**TITLE:** Relating to Transportation Network Companies

Chair Baker, Chair Nishihara and Members of the Committees:

**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 Committees’ 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 provide comments on this measure.



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**Alison H. Ueoka**  
Executive Director

## TESTIMONY OF MICHAEL ONOFRIETTI

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### COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair  
Senator Brian T. Taniguchi, Vice Chair

### COMMITTEE ON TRANSPORTATION

Senator Clarence K. Nishihara, Chair  
Senator Breene Harimoto, Vice Chair

Friday, February 13, 2015  
9:00 a.m.

### **SB 732**

Chair Baker, Vice Chair Taniguchi, and members of the Committee on Commerce and Consumer Protection, and Chair Nishihara, Vice Chair Harimoto, 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 **supports** SB 732.

Section 1 of the Bill properly finds that (a) transportation network companies, which are currently operating in Hawaii, have expanded, modernized and enhanced the delivery of transportation services to the consuming public; (b) consumers must be afforded the protection of law when utilizing the services of transportation network companies, as they are when using the services of other traditional common carriers; and (c) assigning the insurance risks of transportation network drivers to commercial motor vehicle insurance policies, thereby ensuring the continued availability and affordability of

personal motor vehicle insurance policies, is of utmost public importance. Therefore, the purposes of the Bill to regulate transportation network companies and to require that transportation network drivers obtain commercial motor vehicle insurance coverages clearly serve the public interest.

Sections 2 and 3 of the Bill correctly place regulation and oversight of “transportation network companies” and “transportation network drivers” with the State Public Utilities Commission (PUC). Although transportation network companies and transportation network drivers may use different technologies to match customers with drivers, they still provide transportation services like other traditional motor carriers who currently are regulated by the PUC.

Section 4 of the Bill explicitly requires motor carriers, including transportation network companies and transportation network drivers, to maintain insurance coverage in amounts required by section 431:10C-301(b) (as later amended in Section 6 of the Bill) or in greater amounts the PUC may require.

Significantly, Section 6 of the Bill amends section 431:10C-301(b) under the Motor Vehicle Insurance Law to specifically require that taxicabs and motor carriers, including “transportation network companies” and “transportation network drivers,” maintain commercial motor vehicle policies including liability coverages of 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.

This approach to the insurance requirements is preferable over the tiered insurance approach set forth in SB 1280, which also is being heard by these Committees. Section 6 of SB 732 establishes the same liability insurance limits currently required of taxicabs by county ordinance and other motor carriers by PUC regulation. Taxicabs and traditional motor carriers also maintain commercial motor vehicle insurance policies on their vehicles, rather than personal motor vehicle insurance policies. Thus, Section 6 protects the public by mandating identical minimum liability insurance limits, as well as

the same source of coverage, for all common carriers providing the same primary service – the transportation of passengers or property for compensation. The insurance approach in Section 6 of SB 732 also minimizes confusion and litigation over exactly when the accident happened (before or after the digital network or application was turned on, and before or after the “transportation network driver” is logged into the digital network and available to receive requests for transportation), thereby reducing claims coverage costs.

Moreover, nothing in Section 6 prohibits a transportation network company or a transportation network driver from purchasing even greater insurance coverages if either so desires.

Section 6 additionally specifies that personal motor vehicle insurance policies shall not include coverage of any kind for taxicabs and motor carriers, including “transportation network companies” and “transportation network drivers.” This provision places the commercial transportation risk where it belongs, under a commercial motor vehicle insurance policy, resulting in greater availability and affordability of personal motor vehicle insurance policies.

Based on the foregoing, the Hawaii Insurers Counsel **supports** SB 732 and recommends that it be passed. Thank you for the opportunity to testify.



To: The Honorable Rosalyn Baker, Chair  
Senate Committee on Commerce and Consumer Protection

The Honorable Clarence Nishihara, Chair  
Senate Committee on Transportation

From: Mark Sektnan, Vice President

Re: **SB 732 – Relating to Transportation Network Companies**  
**PCI Position: SUPPORT**

Date: Friday, February 13, 2015  
9:00 a.m., Conference Room 229

Aloha Chairs Baker and Nishihara, Vice Chairs Taniguchi and Harimoto and Members of the Committees:

The Property Casualty Insurers Association of America (PCI) is pleased to support SB 732 which sets up a regulatory structure for this new type of passenger transportation. This bill closes the insurance gaps for transportation network companies (TNCs), such as Uber and Lyft, which provide commercial ridesharing services. SB 732 will ensure that TNCs and their drivers have consumer protections in place including appropriate insurance coverage.

In Hawaii, PCI member companies write approximately 42.2 percent of all property casualty insurance written in Hawaii. PCI member companies write 43.2 percent of all personal automobile insurance, 65.2 percent of all commercial automobile insurance and 75 percent of the workers' compensation insurance in Hawaii.

SB 732 treats TNC services the same as other common carriers because these businesses are engaged in the same activity – the transportation of passengers and property for compensation. This bill also encourages development of new insurance products to meet the needs of the growing commercial ridesharing services. Insurers are responding to the new market by designing new products and making them available in the states that are enacting common sense sound regulatory structures for TNC services.

SB 732 is a step in the right direction for drivers, passengers and Hawaii's consumers because it protects Hawaii drivers from subsidizing the insurance costs of TNCs by clearly stating that the personal motor vehicle insurance policy does not cover this commercial activity. It also provides important protections for the passenger, the public and the driver.

We ask for your favorable consideration of SB 732. Thank you.



February 13, 2015

**TESTIMONY BEFORE THE SENATE COMMITTEE ON  
COMMERCE & CONSUMER PROTECTION, AND ON TRANSPORTATION  
ON SB 732 RELATING TO TRANSPORTATION NETWORK COMPANIES**

Thank you Chair Baker, Chair Nishihara, 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.

Thank you.

**Testimony of  
Mihoko E. Ito  
on behalf of  
USAA**

DATE: February 12, 2015

TO: Senator Roz Baker  
Chair, Committee on Commerce and Consumer Protection

Senator Clarence Nishihara  
Chair, Committee on Transportation  
*Submitted Via [CPNTestimony@capitol.hawaii.gov](mailto:CPNTestimony@capitol.hawaii.gov)*

RE: **S.B. 732 Relating to Transportation Network Companies**  
**Hearing Date: Friday, February 13, 2015 at 9:00 a.m.**  
**Conference Room: 229**

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Dear Chair Baker and Chair Nishihara, and Members of the Joint Committees:

We submit this testimony in regard to S.B. 732 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.

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Gary M. Slovin  
Mihoko E. Ito  
C. Mike Kido  
Tiffany N. Yajima

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- **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 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 Hawaii drivers and 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 these reasons, USAA believes that any proposed legislation should incorporate the principles outlined above. USAA is happy to work with the Committee and provide language that embodies these comments.

Thank you very much for the opportunity to testify.



- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company
- GEICO Casualty Company

TIMOTHY M. DAYTON, CPCU, GENERAL MANAGER ALASKA & HAWAII  
711 Kapiolani Blvd., Suite 300 ■ Honolulu, HI 96813-5238 ■ Email: [tdayton@geico.com](mailto:tdayton@geico.com)  
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**Senate Committee on Commerce and Consumer Protection**  
**Senate Committee on Transportation**  
Room 229 State Capitol  
Friday, February 13, 2015, 9:00 a.m.

**SB 732 - RELATING TO Transportation Network Companies**

Chair Nishihara, Chair Baker, Vice-Chair Harimoto, Vice-Chair Taniguchi and Members of the Committees:

My name is Timothy Dayton, Branch Manager of the Hawaii GEICO office, Hawaii's largest auto insurer. **GEICO supports Senate Bill Number 732.** Senate Bill 732 would require that Transportation Network Companies' (TNC) Drivers be insured under a commercial policy of insurance that would be in effect 24 hours a day, 7 days a week.

This measure recognizes the need for public safety and places the protection of the public by requiring insurance to be in place 24/7. The requirement that TNC drivers be insured under commercial policies meets the need for public safety and places the protection of the public by providing certainty that insurance will be in place at all phases of TNC activity as the highest priority.

**GEICO respectfully urges the committee to pass **Senate Bill 732.****

Sincerely,

Timothy M. Dayton, CPCU



February 11, 2015

Re: Written Testimony in Support of SB 732 and SB 1351

Chair and Committee Members:

HAWAII'S MOTOR CARRIER ACT INTELLIGENTLY AND EFFECTIVELY REGULATES A DANGEROUS BUT NECESSARY ACTIVITY WITH THE PURPOSE OF PROTECTING THE PUBLIC

**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, personal or commercial, 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 decades to protect the safety of the public. A sample of just a few of the many safety regulations aimed at protecting the public are:

1. ALL DRIVERS FOR HIRE in Hawaii (whether part-time or full-time) are required to pass a **physical exam** that tests,
  - a) the drivers' blood pressure and diabetes level 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 (much like the TNCs) 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.
4. In the case of taxi, the state, not Google or Uber, **calibrates and inspects every meter every year.**
5. And to further protect our consumer, 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 **STATE OF EMERGENCIES that favor the rich over the more vulnerable POOR.**

6. 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.**

7. 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.**

I CAME, I SAW, I CONQUERED; GREAT ATTITUDE IF YOU'RE CEASAR CONQUERING ANOTHER NATION, NOT SO IF YOU'RE COMING INTO A STATE AND ASKING ITS PEOPLE TO ENTRUST THEIR LIVES AND SAFETY

**UberX and Lyft have entered every city and state, including Hawaii, by ignoring the existing transportation regulations (public safety) 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. Uber and Lyft are 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 on a national scale.**

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 to stand their ground.** The regulators and legislators in Nevada who are used 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 of their existing transportation laws and shut them down for non-compliance when they refused. Uber has been suspended in Portland, and they have also been required to follow existing transportation laws in San Antonio and Miami-Dade. 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 and modern dispatching system, 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?**

TOTAL DISRESPECT FOR THE RULE OF LAW; UBER'S POSITION IS THAT IF YOU CAN'T BEAT'EM, IGNORE'EM

**In Miami, Uber simply, unbelievably, notoriously and famously operate illegally. They coach drivers on how best to circumvent laws AND reimburse drivers for fines and cost for having vehicles impounded by law enforcement. In Portland where Uber has voluntarily suspended their activities to provide Portland's council an opportunity to pass "appropriate" legislation, Uber has warned the City that if they fail to pass the law authorizing them to operate by April, they'll terminate their "voluntary" suspension and just begin operation - talk about disrespecting the rule of law and government.**

CONCLUSION

I hope that our legislators and leaders have 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.

B.T. Trans, LLC dba EcoCab

By:     /s/ David Jung  
David H. Jung  
Its General Manager