

TESTIMONY OF TABATHA CHOW ON BEHALF OF UBER TECHNOLOGIES IN OPPOSITION
TO SB 1096

February 6, 2016

To: Chairperson Lorraine R. Inouye and Chairman Clarence K. Nishihara and Members of the Senate Committee on Transportation and Energy and the Senate Committee on Public Safety, Intergovernmental, and Military Affairs:

My name is Tabatha Chow and I am the Hawaii Operations Manager for Uber Technologies, Inc. I am submitting this testimony in Opposition to SB 1096.

The Honolulu City Council passed Ordinance 16-25 on August 3, 2016 (amended on December 1, 2016 as Ordinance 16-38) regulating the driver screening requirements of taxicab companies and transportation network companies (TNCs). This Ordinance took effect on January 15, 2017 and mandates criminal background checks going back seven (7) years on all potential drivers. These checks must search federal, state, and local databases as well as the Sex Offender Public Registry Website. Rather than summarize the disqualifying offenses outlined in the Ordinance, I have attached the relevant section of the Ordinance to this testimony (Exhibit A) for reference by the Committees.

The background check requirements in this newly enacted Ordinance replace the prior taxicab driver background check requirements written decades ago. The prior checks required fingerprints, and only checked local databases with a two (2) year search. The Honolulu City Council passed the new requirements to enhance the effectiveness of driver background checks in order to provide greater public safety. SB 1096 would undo this progress.

The proposed amendments presented in SB 1096 would mandate that counties collect fingerprints and perform background checks themselves. In addition to the significant financial and operational burden this would put on the counties, there is no evidence to support the notion that such county-led fingerprint checks would provide any additional layers of safety. In

fact, fingerprint-based background checks have numerous documented cases of incomplete and inaccurate information, with one 2013 study completed by The National Employment Law Project concluding that, “roughly 50% of the FBI records are incomplete or inaccurate”.¹ It is extremely important that the records and databases checked are complete and accurate, because qualified driving candidates may be unfairly turned away when they are not.

Additionally, due to sometimes significant delays in reporting to the FBI database, candidates who should be disqualified (and would be under current city Ordinance) may not be flagged by a fingerprint check. The current background checks required in Ordinance in 16-38 thoroughly check accurate, reliable, and up to date databases, without necessitating fingerprint collection.

Thank you for the opportunity to testify and I am available to answer any questions that you may have.

¹ “WANTED: Accurate FBI Background Checks for Employment” 2013
<http://www.nelp.org/content/uploads/2015/03/Report-Wanted-Accurate-FBI-Background-Checks-Employment.pdf>

EXHIBIT A

Ordinance 16-38

Sec.12- .5 Certification of private transportation driver.

- (a) No person shall act as a private transportation driver in the city without certification by a registered private transportation company or by the department if the private transportation driver and private transportation company are one and the same person, pursuant to this article.

In the event a private transportation company is required to certify the driver, the private transportation company shall conduct an investigation regarding the certification of the driver at no expense to the city concerning the character, experience, and qualifications of the driver to determine whether or not the driver is fit, willing and able to operate a vehicle for hire in a manner consistent with the general welfare of the public and in accordance with the requirements of this article and all other applicable laws, rules, and regulations.

- (b) No private transportation driver may be certified, and any existing certification must be revoked for any driver, who:
- (1) Has been found to have committed five infractions, as defined in HRS Section 291 D-2, in the prior two-year period, other than traffic infractions involving parking, standing, or equipment, including seat belts, and offenses committed as a pedestrian;
 - (2) Has been convicted once in the prior two-year period for the offense of resisting an order to stop a motor vehicle, reckless driving, excessive speeding, racing on a highway, or driving with a suspended or revoked driver license;
 - (3) Is not at least 21 years of age;
 - (4) Has been convicted in the prior seven-year period of driving under the influence of an intoxicant, including drugs or alcohol;
 - (5) Has been convicted in the prior seven-year period of any of the following:
 - (A) Offenses against the person or property of another, including:
 - (i) Assault,
 - (ii) Kidnapping.
 - (iii) Manslaughter,

- (iv) Murder,
- (v) Negligent homicide,
- (vi) Reckless endangering,
- (vii) Robbery,
- (viii) Theft,
- (ix) Computer crimes.
- (x) Credit card offenses, or
- (xi) Identity theft:

(B) Offenses that are sex related, including:

- (i) Displaying indecent matter,
- (ii) Indecent exposure,
- (iii) Open lewdness.
- (iv) Promoting pornography,
- (v) Prostitution or promoting prostitution.
- (vi) Sexual assault, or
- (vii) Sexual abuse: or

(C) Offenses that are drug related, including:

- (i) Promoting a dangerous drug,
- (ii) Promoting a detrimental drug.
- (iii) Promoting a harmful drug, or
- (iv) Promoting intoxicating compounds: or

(6) Is a match in the National Sex Offender Public Website.

(c) In order to determine if a driver is qualified for certification, the private transportation company shall, at a minimum, obtain records to establish that the Driver:

- (1) Has a current and valid Hawaii State driver's license;
- (2) Has one year of driving experience;
- (3) Is at least 21 years of age;
- (4) Has a valid automobile insurance policy as required by law;
- (5) Completed a seven year national criminal background check which includes a director approved Multi-state/Multi-Jurisdiction Criminal Locator or other similar validated nationwide database and National Sex Offender Public Website search, which reflects the absence of convictions for any of the offenses identified in this article. The criminal background check

must be conducted prior to the initial certification of the driver and every two years thereafter;

- (6) Has certified that the driver is physically and mentally fit to be a private transportation driver and is free of any known medical condition that would put a passenger at risk:
- (7) Submitted a current traffic violations bureau certified abstract; and
- (8) Has met all other qualifications under this article.

February 6, 2017

The Honorable Lorraine Inouye, Chair and
Committee Members
Committee on Transportation and Energy
The Honorable Clarence Nishihara, Chair and
Committee Members
Committee on Public Safety, Intergovernmental, and
Military Affairs
Hawaii State Capitol, Rm. 225
Honolulu, HI 96813

RE: SB 1096 RELATING TO CRIMINAL HISTORY RECORD CHECKS

Dear Chair Inouye and Nishihara and Committee Members:

My name is Timothy Burr testifying in opposition to SB 1096 Relating to Criminal History Record Checks.

Transportation network companies like Lyft require drivers to submit to and pass a comprehensive background check. All drivers who apply to drive on the Lyft platform undergo a criminal background check and a driving record check. Lyft uses a third-party expert, Sterling Talent Solutions, to conduct the criminal background check which includes a query of local, state and federal databases.

This criminal background check process helps ensure the safety of drivers and passengers alike. For ridesharing, background checks are necessary, but fingerprints are a red herring.

The safety screening processes that Lyft conducts are rigorous and thorough. It's been shown that, when onerous burdens (steps that don't improve passenger and driver safety) are placed on individual drivers, part-time drivers don't participate in the process.

That's important when you remember 82% of Lyft drivers drive 20 hours a week or less - drivers who are on the road a few hours after their full-time job, around school, or on the weekend.

Further, ordinance 16-38 (Bill 55) enacted by the City Council of Honolulu, and which became effective on January 15, 2017, adopted this rigorous background check process.

We urge you to oppose this measure. Thank you for this opportunity to testify.