

SB 359

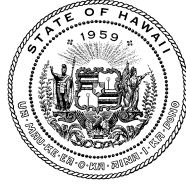
RELATING TO TAXATION.

Requires a general excise tax license to be conspicuously displayed within any vehicle being driven by a taxicab driver or transportation network company driver.

Provides penalties.

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To: The Honorable Rosalyn H. Baker, Chair
and Members of the Senate Committee on Commerce, Consumer Protection, and Health

The Honorable Lorraine R. Inouye, Chair
and Members of the Senate Committee on Transportation and Energy

Date: Monday, February 13, 2017
Time: 1:20 P.M.
Place: Conference Room 225, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 359, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of S.B. 359 and offers the following comments for your consideration.

S.B. 359 requires drivers of taxicabs and transportation network company drivers to display their General Excise Tax licenses inside their cars. Failure to display the license results in escalating fines for repeated violations, enforced by the Department of Taxation. S.B. 359 is effective upon approval.

The Department notes that it is unclear what issue this measure is intended to address. If the intent is to provide a mechanism for the Department to obtain tax identification numbers from a "transportation network company" or a taxicab company, the Department suggests amending this measure to mandate collecting and reporting of Hawaii tax identification numbers to the Department on an annual or semi-annual basis. The data in this form will be more useful for the Department in enforcing tax compliance.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

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SUBJECT: GENERAL EXCISE, Required Display of License in Taxicabs and Transportation Network Vehicles

BILL NUMBER: SB 359; HB 900 (Identical)

INTRODUCED BY: SB by INOUYE, K. RHOADS, RUDERMAN, Baker, Dela Cruz, Gabbard, Harimoto; HB by AQUINO

EXECUTIVE SUMMARY: Requires a general excise tax license to be conspicuously displayed within any vehicle being driven by a taxicab driver or transportation network company driver, and provides penalties. Display of a license is already required under existing law, and this instance could be handled administratively or the penalties for failure to display a license generally could be modified.

SYNOPSIS: Adds a new section to HRS to chapter 237 that requires every driver of a taxicab, and every transportation network company driver, to conspicuously display within the vehicle operated by the driver a full-sized, unaltered copy of the general excise tax license issued to the driver of the taxicab or network company driver, as applicable. If a driver of a taxicab or a transportation network company driver is an employee of a general excise tax licensee, the driver is to display the license issued to the driver's employer.

Failure to display the license may result in a fine of not more than \$500 a day for a first violation, \$1,000 a day for a second, and \$5,000 a day for a third and any subsequent violation.

Provides that the fines will go to the tax administration special fund (HRS section 235-20.5).

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: HRS section 237-9(a) already imposes a display requirement: "The license may be inspected and examined, and shall at all times be conspicuously displayed at the place for which it is issued."

If the failure to display a license is a taxpayer problem generally, then the solution may be to either issue administrative guidance specifying how the requirement is complied with for certain industries including this one, or to modify the penalties for noncompliance with the existing statute.

Is there evidence suggesting that the failure to display a license is specific to the taxicab and TNC industries? If there is, that may justify differential treatment.

Digested 2/10/2017



**Senate
Commerce, Consumer Protection and Health Committee**

Monday, February 13, 2017

1:20 p.m.

Room 225

SUPPORT: S.B. 359, RELATING TO TAXATION

Aloha Chairs Sen. Baker and Sen. Inouye and Members of the Committee,

My name is Dale Evans, President and CEO of Charley's Taxi. I write in strong support of S.B. 359. For years, Hawaii's taxi industry has been fighting to establish a level playing field for private transportation companies in the islands. For too long, Transportation Network Companies (TNCs) have been able to operate without meaningful regulations that safeguard the public and ensure companies play by the rules.

S.B. 359 addresses one of the most important loopholes that have been exploited by TNCs – nonpayment of General Excise Taxes.

- While taxi companies are required to operate under a litany of regulations, TNC drivers have not bothered to comply with the most basic laws related to the legally required payment of the GET.
- A review of DCCA and DoTAX data indicates only a handful of drivers have registered for a required GET License.
- Uber and Lyft claim to have thousands of drivers. If all were properly paying their taxes, that could result in millions of dollars in tax revenue for Hawaii.
- Requiring drivers to display their GET license in cars is a common sense solution that will encourage compliance from tax scofflaws.
- As legislators seek to close the budget gap, this industry has the potential to provide much needed revenue for the state.
- As legislators seek to capture taxes from online retailers and the short-term rental industry, it should not lose sight of the tax revenue potential from TNCs.

For these reasons, I hope the committee will pass this measure to capture badly needed tax revenue and enforce compliance from TNC drivers who have failed to pay their fair share for far too long.

Thank you for the opportunity to testify.

TESTIMONY OF TABATHA CHOW ON BEHALF OF UBER TECHNOLOGIES
IN OPPOSITION TO SB 359

February 13, 2017

To: Chair Rosalyn Baker, Chair Lorraine Inouye and Members of the Senate Committee on Commerce, Consumer Protection, and Health and Committee on Transportation and Energy:

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 359. SB 359 would require a general excise tax license to be displayed within a vehicle driven by a transportation network company driver or taxicab driver.

Let me first start by noting that the Honolulu City Council passed Ordinance 16-25 on August 3, 2016 (amended on December 1, 2016 as Ordinance 16-38), which outlined new regulations and driver requirements for transportation network companies (TNCs) in Honolulu. This new City ordinance, which took effect on January 15, 2017, does not require physical certificates of any kind for TNC drivers.

In addition, at the beginning of each year, Uber provides a 1099K or 1099MISC tax form to all drivers who took at least one Uber trip in the prior tax year. This tax form is standard among independent contractors (like Uber drivers) and is used to calculate GET obligations. Uber is a participant in the combined filing program with the IRS, which means that any 1099K or 1099MISC that is filed for federal tax purposes will also be given to the State of Hawaii via the IRS. In short, this means that the State of Hawaii has all tax documents needed to ensure the tax obligations, GET or otherwise, of every Uber driver are met. Displaying a physical copy of a driver's GET certificate is unnecessary.

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

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 10:51 AM
To: TRE Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB359 on Feb 13, 2017 13:20PM*

SB359

Submitted on: 2/7/2017

Testimony for TRE/CPH on Feb 13, 2017 13:20PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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.

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