



DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310  
P.O. BOX 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Ways and Means  
Wednesday, April 3, 2019  
10:20 a.m.  
State Capitol, Conference Room 211**

**On the following measure:  
H.B. 241, H.D. 2, S.D. 1, RELATING TO MOTOR VEHICLES**

**WRITTEN TESTIMONY ONLY**

Chair Dela Cruz and Members of the Committee:

My name is Stephen Levins, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection. The Department supports this bill.

The purposes of this bill are to: (1) prohibit vehicle lessors from renting, leasing, or offering for rent or lease, vehicles subject to a manufacturer's recall, until appropriate repairs are made; (2) define peer-to-peer vehicle sharing related terms; (3) require persons in the peer-to-peer vehicle sharing organization business to register with the Director of Taxation; and (4) require all vehicles rented or leased by peer-to-peer vehicle sharing organizations to carry minimum liability insurance coverage.

The Department supports the provision that prohibits vehicle lessors, including peer-to-peer motor vehicle sharing organizations, from renting vehicles that are subject to recall notices until all repairs required by the recall have been completed. Hawaii's

vibrant tourism industry brings many visitors to the islands who rent cars as part of their vacation experience. The recall provision in section 1 of the bill provides protections for vacationing renters and residents by removing potentially unsafe vehicles from the road, such as those with defective Takata airbags.

The Department also supports the establishment of a new chapter relating to peer-to-peer motor vehicle sharing organizations, rather than placing these organizations within Hawaii Revised Statutes chapter 437D, which relates to the rental motor vehicle industry, since the peer-to-peer business model differs from that of conventional car rental companies.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

**STATE OF HAWAII  
DEPARTMENT OF TAXATION**

830 PUNCHBOWL STREET, ROOM 221

HONOLULU, HAWAII 96813

<http://tax.hawaii.gov/>

Phone: (808) 587-1540 / Fax: (808) 587-1560

Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Senate Committee on Ways and Means

Date: Wednesday, April 3, 2019  
Time: 10:20 A.M.  
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: H.B. 241, H.D. 2, S.D. 1, Relating to Motor Vehicles

The Department of Taxation (Department) supports H.B. 241, H.D. 2, S.D. 1, and provides the following comments for the Committee's consideration.

H.B. 241, H.D. 2, S.D. 1, has a defective effective date of July 1, 2050 and Sections 3 and 4 of the measure make the following amendments to the Rental Motor Vehicle, Tour Vehicle, and Car-Sharing Vehicle Surcharge Tax (RVST) under Chapter 251, Hawaii Revised Statutes (HRS):

- Add three new definitions for the terms "peer-to-peer motor vehicle sharing," "peer-to-peer motor vehicle sharing agreement" and "peer-to-peer motor vehicle sharing organization";
- Amend the definition of "lessor"; and
- Require persons engaging in a peer-to-peer motor vehicle sharing organization business to register with the Department under section 251-3, HRS.

First, the Department notes that it supports this measure because it promotes efficient tax collection by allowing the Department to collect the tax due from a single source rather than from each individual car owner.

Second, the Department notes that this measure is identical to S.B. 662, S.D. 2, a measure which the Committees on Commerce, Consumer Protection, and Health and Transportation amended in several ways at the Department's suggestion. The Department appreciates the consideration of its testimony and notes that it can administer this bill as currently drafted, but requests an effective date of January 1, 2020 in order to give the Department time to make the necessary changes to forms and its computer system.

Thank you for the opportunity to provide testimony in support of this measure.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

---

**SUBJECT:** RENTAL MOTOR VEHICLE AND TOUR VEHICLE SURCHARGE, Coverage of Peer-to-Peer Vehicle Sharing Businesses

**BILL NUMBER:** HB 241, SD-1

**INTRODUCED BY:** Senate Committees on Commerce, Consumer Protection, and Health, and Transportation

**EXECUTIVE SUMMARY:** Prohibits vehicle lessors from renting, leasing, or offering for rent or lease, vehicles subject to a manufacturer's recall, until appropriate repairs are made. Defines peer-to-peer vehicle sharing related terms. Requires persons engaging in peer-to-peer vehicle sharing organization business to register with the director of taxation. Requires all vehicles rented or leased by peer-to-peer vehicle sharing organizations to carry minimum liability insurance coverage.

**SYNOPSIS:** Adds a new chapter to the HRS to deal with peer-to-peer motor vehicle sharing organizations.

Adds a new section to chapter 437D, HRS, to impose requirements related to manufacturers' recalls of motor vehicles being rented or leased.

Amends section 251-1, HRS, to add a new definition of "peer-to-peer motor vehicle sharing organization" as a legal entity qualified to do business in the State engaged in the business of facilitating the use, rental, or sharing of privately-owned passenger motor vehicles for noncommercial use by persons within the State. This term does not include the registered owner of the vehicle involved in a peer-to-peer motor vehicle sharing agreement facilitated by a peer-to-peer motor vehicle sharing organization."

Amends section 251-3, HRS, to explicitly bring peer-to-peer motor vehicle sharing organization businesses (as described in the new chapter of the HRS being added) within the coverage of the Rental Motor Vehicle and Tour Vehicle Surcharge Tax (RVST).

Makes other conforming amendments.

**EFFECTIVE DATE:** July 1, 2050.

**STAFF COMMENTS:** The amendments made by this bill would clearly place peer-to-peer rentals within the RVST. That would appear to make sense given that such businesses compete directly with rental car businesses who are now obligated to pay the RVST.

The regulatory aspects of this bill prohibit renting, leasing, or peer-to-peer vehicle sharing if the vehicle is the subject of a recall but has not undergone the manufacturer's recommended repairs.

Re: HB 241, SD-1  
Page 2

This is comparable to Federal law, 49 U.S.C. section 30120(i),<sup>1</sup> which prohibits car rental companies with a fleet of 35 or more vehicles from renting a vehicle subject to recall until any required repairs have been completed.

Digested 4/1/2019

---

<sup>1</sup> Raechel and Jacqueline Houck Safe Rental Car Act of 2015, which was incorporated into the Fixing America's Surface Transportation (FAST) Act, Pub. L. No. 114-94, 129 Stat. 1312 (2015).



Testimony of  
Charles Melton – Public Policy Manager  
Turo Inc., San Francisco, CA  
**House Bill 241 HD2 SD1**  
April 2, 2019

Chair Dela Cruz and members of the Senate Committee on Ways and Means, I respectfully submit the written perspective of Turo, an internet-based, peer-to-peer car sharing platform on HB 241 HD2 SD1. Thank you for this opportunity. I will begin by stating that Turo and the peer-to-peer car sharing community are willing to develop a legislative solution that works on behalf of the residents of Hawai'i; a solution that supports innovation and a new mobility option.

Turo is a peer-to-peer car sharing platform that connects car owners with those in need of a mobility solution. Through the Turo online marketplace, anyone with the need for mobility can obtain the freedom a vehicle can provide. In Hawai'i our community of car owners share their vehicle with mothers, fathers, neighbors and community members while earning a little extra income to help cover the cost of car ownership.

Regarding HB 241 HD2 SD1, this legislation defines a peer-to-peer car sharing organization as a **lessor** of a vehicle. To be clear, **Turo does not own any vehicles**. The vehicles on the Turo marketplace are owned by the residents of Hawai'i, an amazing network of moms and dads, students and workers that are the cornerstone of our peer-to-peer car sharing community.

HB 241 HD2 SD1 creates a one-size-fits-all and jumbled process to address vehicle recalls. Under the current federal process for vehicle safety recalls, when a vehicle safety recall is issued by an Original Equipment Manufacturer (OEM), the National Highway Traffic Safety Administration (NHTSA) notifies only the car owner. Because Turo owns no cars, we are not notified of any vehicle safety recalls. Furthermore, information from NHTSA is only available to the public on a one-VIN-at-a-time basis or through purchasing the data through a third-party database. Under HB 241 HD2 SD1, peer-to-peer car sharing marketplaces would be responsible for removing cars from the site within 48 hours of the recall being listed in the NHTSA database without any meaningful way for the marketplace to receive that information directly from NHTSA. Without receiving any information from NHTSA, peer-to-peer car sharing marketplaces would then have to obtain that government data from a third-party private vendor, solely relying on their accuracy and efficiency, and then comply with the law within 48 hours. Because of the complexities of the existing notification process of vehicle safety recalls, Turo kindly asks that additional time and consideration be provided through a task force to appropriately create a safety recall regulatory structure for peer-to-peer car sharing.

Turo is willing to work with the state to ensure that peer-to-peer car sharing is accurately defined under an applicable regulatory structure and that the residents of Hawai'i who share their personal vehicle are recognized as inherently different than that of a rental car

corporation. We believe that a task force will allow all stakeholders to come to the table to discuss an appropriate regulatory structure for peer-to-peer car sharing. Turo strongly supports the creation of this task force and respectfully asks for the Senate Committee on Ways and Means to return to the language of HB 241 HD2.

Thank you for the opportunity to provide our perspective on this legislation.



**SanHi**

GOVERNMENT STRATEGIES  
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: April 2, 2019

TO: Senator Donovan M. Dela Cruz  
Chair, Committee on Ways and Means

*Submitted Via Capitol Website*

FROM: Mihoko Ito

RE: **H.B. 241, H.D. 2, S.D. 1 Relating to Motor Vehicles**  
**Hearing Date: Wednesday, April 3, 2019 at 10:20 a.m.**  
**Conference Room: 211**

---

Dear Chair Dela Cruz and Members of the Committee on Ways and Means:

We submit this testimony on behalf of Enterprise Holdings, which includes Enterprise Rent-A-Car, Alamo Rent-A-Car, National Car Rental, Enterprise CarShare and Enterprise Commute (Van Pool).

Enterprise **strongly supports** H.B. 241, H.D. 2, S.D. 1 which prohibits lessors from renting, leasing, or offering for rent or lease, vehicles subject to a manufacturer's recall; defines peer-to-peer motor vehicle sharing; and requires peer-to-peer motor vehicle sharing organizations to register with the director of taxation.

The evolution of the rental car industry has created new and innovative ways to rent a car. Enterprise supports the evolution of the industry so long as consumer safety and accountability remain the priority.

H.B. 241, H.D. 2, S.D. 1 ensures that consumer safety remains a priority by codifying safety requirements for motor vehicle recalls. The proposed language applies to both the rental car industry and the peer-to-peer market. Codifying vehicle recall language for rental motor vehicles and peer-to-peer motor vehicle sharing is a vital step in protecting the safety of consumers and others on the road.

Enterprise supports competition in the market place, and H.B. 241, H.D. 2, S.D. 1 levels the playing field for companies and organizations participating in the rental car industry. Under H.B. 241, H.D. 2, S.D. 1, Peer-to-peer motor vehicle sharing organizations would be subject to the same regulations applied to rental car companies. These fees include the airport use fees that are applied to other commercial transportation organizations. Under the proposed language, peer-to-peer motor vehicle sharing organizations bear the responsibility of collecting and remitting taxes from the consumer, placing no burden upon the individual car owners.

Thank you for the opportunity to submit testimony regarding this measure.



**Written Testimony  
Before the Hawaii State Senate  
Committee on Ways and Means  
April 3, 2019**

**By  
Suman Tatapudy  
Orrick, Herrington and Sutcliffe LLP on behalf of Getaround**

Good morning Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Senate Committee on Ways and Means. Thank you for the opportunity to submit testimony. My name is Suman Tatapudy with the law firm of Orrick, Herrington & Sutcliffe LLP and I am submitting testimony on behalf of Getaround to oppose House Bill 241 (HD2 SD1).

Getaround is a peer-to-peer carsharing marketplace platform that empowers members to safely share their personal vehicles with others by the hour and the day. Getaround operates in more than one hundred cities, and while not currently in Hawaii, we certainly would like to be in the future. Our technology helps users find, book and unlock nearby vehicles on-demand using their smartphones. Our platform connects people whose cars are sitting idle and unused with people who need to use a car—giving people access to a pool of shared vehicles. It's the modern equivalent of borrowing a friend or family members' car.

Carsharing—and Getaround's carsharing platform—makes car ownership more affordable. Owning a car is expensive. Car payments, maintenance, insurance and parking all add up. For people who need to own a car, carsharing offsets ownership costs by allowing them to share the car when it would otherwise be sitting idle in a parking spot. An extra \$300 to \$600 a month would mean a lot to lower and middle-income residents of Hawaii.

And it's not just car owners that benefit: carsharing provides convenient and affordable on-demand access to vehicles for the growing number of Americans who do not own cars, or for whom car ownership is cost prohibitive. Low and middle-income residents of Hawaii would benefit tremendously from convenient access to affordable transportation—transportation that helps get them to work, to run errands, or carry their kids to school. That's what carsharing provides, especially the carsharing our platform makes possible.

As one of the nation's leading peer-to-peer carsharing platforms, Getaround supports consumer-friendly protections and laws that provide liability and insurance certainty. Where the law is unclear, we want and crave certainty so that we can orient our business accordingly and make sure that everyone – from our owners, to our users, to third-parties who encounter cars on the road – are protected.

It's incredibly important for the state to get this right: as the growth of peer-to-peer carsharing nationwide shows, consumers want to add carsharing to their transportation options. But it is still a young and emerging market and a rushed series of regulations may do far more harm than good.

Fundamentally, and despite calls for immediate action from companies that view themselves as competitors of peer-to-peer carsharing, there is no reason to rush this. Of the three major peer-to-peer carsharing platforms, two of them do not even operate in Hawaii yet.

While we support the Legislature taking a close look at the carsharing industry, quickly deeming carsharing as equivalent to car lessors (rental car companies) is not the right solution. We welcome the opportunity to work collaboratively with all stakeholders to craft a regulatory structure for our new and growing industry, and we would certainly be glad to work with them and the Committee on future legislation. We also recognize the importance of appropriately taxing this new market. But we also believe carsharing requires a detailed and nuanced study as to the appropriate tax structure, considering all current tax burdens on carsharing and vehicle owners, and how sound tax policy for carsharing can benefit all residents of Hawaii. We believe the House Bill 241 (HD2) by Chair Aquino provides that opportunity.

Accordingly, we urge the committee to retain the language in House Bill 241 (HD2) that creates a task force so that members can approach carsharing with a full and considered understanding of any issues that might warrant legislation.



Jon Hedegard  
Senior Regional Counsel  
Northwest Region

April 2, 2019

The Honorable Donovan Dela Cruz  
Chair, Senate Ways and Means Committee

re: HB 241 SD1, Relating to Motor Vehicles  
Hearing Date: Wednesday, April 3, 2019 at 10:20 a.m. Conference Room: 211

Senator Dela Cruz and members of the Senate Ways and Means Committee, thank you for the opportunity to provide comments on HB 241 SD1.

Drift, a subsidiary of Allstate, is a startup peer-to-peer car sharing company. Currently Drift is not doing business in Hawaii. In fact, it only has an initial location in Denver. Drift is looking to expand operations in the near future though and it will make decisions on locations based on demand and regulatory climate.

As currently drafted, we believe HB 241 HD2 is the correct approach to car sharing. It will gather the regulators and key stakeholders and will ensure appropriate and necessary conversations regarding car sharing.

Unfortunately, the insurance language and regulatory language in HB 241 SD1 do not fit well with current Hawaii insurance law or the current realities of the peer to peer car sharing business. Consumers, insurers, and peer to peer car sharing companies would benefit from a more deliberate study of the issue to make sure that any insurance requirements provide protection for consumers and do not conflict with existing policy language. Please note that Drift does not oppose insurance requirements. We support a workable insurance coverage requirement to protect the car owner, the car sharer, and the general public. While rental car companies do not have similar requirements or any requirements to even verify that a renter has insurance, Drift believes appropriate coverage requirements are an important consumer protection. That said, any insurance requirement should be written in a manner that aligns with current insurance practices and language in Hawaii. Insurers in Hawaii should not be forced to spend time and money to litigate or alter their policy language to address this issue. To that end, insurers and peer to peer car sharing companies are currently working hard to develop a model that legislatures can consider that would protect consumers. Model language would provide coverage but also avoid any disruption to insurers that are not covering peer to peer car sharing and do not want to have to have their staff and attorneys develop

language unique to Hawaii to ensure that they are not covering a commercial use that they have not charged premiums to insure against.

The National Conference of Insurance Legislators (NCOIL) recently met and discussed various sharing economy issues. They noted that a national model and approach is the optimal way to address peer to peer car sharing. They likened the situation to the previously mentioned TNC debates and noted how much better the outcomes were when a national model was developed by stakeholders and that model was available for review by insurance regulators and adoption by legislatures.

A review of that analogous situation with legislation regarding Transportation Network Companies may be useful. The first state to adopt TNC legislation was Colorado in 2014. The language did not work well for any party. Proposals from Uber and regarding insurance simply didn't work well for consumers or insurers. Insurers and insurance regulators had issues with those proposals. Stakeholders agreed to model principles in early 2015 and then model language was developed and refined. By late spring of 2015, the insurance language was agreed to by stakeholders. It was then provided, to reviewed by, and approved of by insurance regulators around the country. That language is the basis for the insurance component of TNC regulation that has been adopted across the country and that was adopted in Hawaii in 2016. Hawaii had the benefit of learning from other states' experiences and using the best language as a base for the insurance language that it would adopt. Consumers, legislators, insurers, and TNCs, benefited from this thoughtful approach. Some legislatures adopted rushed legislation before the model language was developed and refined; that passed language was less effective, costlier for insurers, and, in some cases, require additional legislation to fix.

There are complicated and difficult issues in car sharing. HB 241 SD1 uses language that is problematic and, if passed, would likely have to be changed in future legislation. Additionally, proposed recall notice requirements could make compliance onerous or impossible for a car sharing company. Insurance language has not been worked with insurers. It may be a barrier that precludes car sharing companies from entering or continuing in the Hawaii market. There are better, more effective ways to get at this issue and other important issues and together, we believe, those solutions can be developed into legislation that is broadly acceptable.

Drift believes that the previous approach in HB 241 HD2 to convene a workgroup to review all of these issues more closely and then to make legislative recommendations is the best way forward for Hawaii consumers. Drift would be happy to participate in those conversations and develop comprehensive solutions that work for everyone.

Mahalo,

Jon Hedegard