



**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 Henry J.C. Aquino, Chair  
and Members of the House Committee on Transportation

Date: Wednesday, February 6, 2019  
Time: 10:00 A.M.  
Place: Conference Room 423 State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: H.B. 241, Relating to Motor Vehicles

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

Sections 2 and 3 of H.B. 241 make the following amendments to the Rental Motor Vehicle, Tour Vehicle, and Car-Sharing Vehicle Surcharge Tax 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 suggests that the measure clarify that when a vehicle is rented through a peer-to-peer motor vehicle sharing agreement, only the peer-to-peer motor vehicle sharing organization is subject to the Rental Motor Vehicle, Tour Vehicle, and Car-Sharing Vehicle Surcharge Tax (RVST). As currently written, the owner of the vehicles would be excluded from being deemed part of a peer-to-peer motor vehicle sharing organization, but not excluded from the definition of "lessor". One way to address this issue would be to amend the definition of "lessor" in section 251-1, HRS, to read:

"Lessor" means any person in the business of providing

rental motor vehicles to the public [--], including peer-to-peer motor vehicle sharing organizations, but not including registered owners of the vehicles involved in peer-to-peer motor vehicle sharing agreements facilitated by a peer-to-peer motor vehicle sharing organization.

Finally, the Department requests the bill's effective date be changed to January 1, 2020 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.



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  
House Committee on Transportation  
Wednesday, February 6, 2019  
10:00 a.m.  
State Capitol, Conference Room 423**

**On the following measure:  
H.B. 241, RELATING TO MOTOR VEHICLES**

Chair Aquino 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; and (3) require persons in the peer-to-peer vehicle sharing organization business to register with the director of taxation.

The Department supports the provision that prohibits vehicle lessors, including peer-to-peer motor vehicle sharing organizations, from renting vehicles which 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 notes, however, that it may not be suitable to place peer-to-peer motor vehicle sharing organizations in Hawaii Revised Statutes (HRS) chapter 437D, since their business model differs from that of conventional car rental companies. While many of the provisions of HRS chapter 437D may be appropriately applied to peer-to-peer rentals, others may be an ill fit. Accordingly, the Committee must carefully consider the appropriateness of placing the provisions of this measure, which apply to peer-to-peer motor vehicle sharing organizations, within HRS chapter 437D.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE  
GOVERNOR



**TESTIMONY BY:**

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
LYNN A.S. ARAKI-REGAN  
DEREK J. CHOW  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 6, 2019  
10:00 AM  
State Capitol, Room 423

**HB 241**  
**RELATING TO MOTOR VEHICLES**

House Committee on Transportation

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The Department of Transportation (DOT) supports this bill.

The DOT believes this bill will contribute to improving highway safety by ensuring that manufacturer recalls are completed on rental vehicles in a timely manner. However, we have concerns that the 48 hour deadline may be unattainable in some instances.

Thank you for the opportunity to provide testimony.



**SanHi**

GOVERNMENT STRATEGIES  
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 5, 2019

TO: Representative Aquino  
Chair, Committee on Transportation  
*Submitted Via Capitol Website*

RE: **H.B. 241 Relating to Motor Vehicles**  
**Hearing Date: Wednesday, February 6, 2019 at 10:00 a.m.**  
**Conference Room: 423**

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Dear Chair Aquino and Members of the House Committee on Transportation:

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 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 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 levels the playing field for companies and organizations participating in the rental car industry. Under H.B. 241, 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.

We strongly support H.B. 241 and ask the committee to pass the measure. Thank you for the opportunity to submit testimony on this bill.



Testimony of  
Charles Melton – Public Policy Manager  
Turo Inc., San Francisco, CA  
**In opposition to HB 241**  
February 6, 2019

Chairman Aquino and members of the Committee, I respectfully submit this written testimony on behalf of Turo, an internet-based, peer-to-peer car sharing platform. Thank you for the opportunity - and privilege - to provide our perspective on this legislation and to express our **opposition** to HB 241.

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. Furthermore, a solution that clearly recognizes an individual sharing their vehicle without the burden of being overly regulated and imposed upon with laws created specifically for multi-billion dollar and multinational corporations, like the car rental industry.

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.

Car owners can earn extra income to help cover the cost of car ownership, while drivers can choose from hundreds of different makes, models and price points to find the perfect car for their specific needs or next adventure.

In regard to HB 241, there are three key provisions within the legislation that, as a result, will hinder a new mobility solution – even before it can truly start. This legislation will place regulatory restrictions on the citizens and residents of Hawai'i, create a vehicle safety recall process that is inefficient and that relies on third parties, and establish an entirely dissimilar definition for a new mobility solution that is unlike what has been previously agreed upon by other state governments, mobility experts, and the federal government.

This legislation defines a peer-to-peer car sharing organization as a **lessor** of a vehicle, when the vehicle, is in fact, owned by a resident of Hawai'i. **To be clear, Turo does not own any vehicles.** The men and women sharing vehicles on the Turo marketplace do so with their own vehicle. They own mini-vans and station wagons to take their children to school or to football practice, or SUVs to reach remote parts of the islands. The vehicles listed on the Turo marketplace are owned by residents. The cars on the Turo marketplace are owned by the hard-working men and women of Hawai'i. *These cars* are owned by an amazing network of moms and dads, students and workers that are the cornerstone of our peer-to-peer car sharing community.

In regard to defining peer-to-peer car sharing in legislation, states like California, Washington, Oregon and just last year, Maryland, have adopted legislation that clearly and accurately defines peer-to-peer car sharing. Additionally, in a September 2018 report titled “Taxonomy and Definitions for Terms Related to Shared Mobility and Enabling Technologies,” the Society of Automotive Engineers established standard definitions of shared mobility in furtherance of consistency for consumers, providers and policymakers. The report clearly defines peer-to-peer car sharing as:

*“Personal vehicle sharing is defined as the sharing of privately owned vehicles, where companies broker transactions between vehicle hosts and guests by providing the organizational resources needed to make the exchange possible (e.g., technology, customer support, driver and motor vehicle safety certification, auto insurance, etc.). This model also includes P2P car sharing, P2P marketplace, hybrid B2C and P2P models and fractional ownership.”*

Furthermore, in 2016, the United States Department of Transportation issued a report titled “Shared Mobility: Current Practices and Guiding Principles,” which focused on new mobility options and guiding principles. This report clearly distinguishes between car rental and peer-to-peer car sharing. We are willing to work with the state of Hawai’i to ensure that peer-to-peer car sharing, a new mobility solution, is accurately defined.

Lastly, this legislation creates a new 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 like Recall Masters or Car Fax. Under HB 241, 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, the 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. Requiring a private business to comply with obligations associated with government data but without giving them the data is unreasonable. Peer-to-peer car sharing marketplaces already have robust protections for their community of users via the trust and safety, 24-hour roadside assistance and strong feedback loops.

HB 241 will establish definitions of peer-to-peer car sharing that do not accurately reflect our peer-to-peer car sharing marketplace and our community. Instead of impacting the mothers, fathers, students and working residents of Hawai’i who share their vehicle to help afford the high cost of car ownership with this legislation, let’s come together to find a smart solution to peer-to-peer car sharing regulation.



Thank you for the opportunity – and privilege – to provide this written testimony. For the reasons stated, we recommend HB 241 be held in committee and the various stakeholders work together to create a fair framework that benefits the people of Hawai'i.

**HB-241**

Submitted on: 2/5/2019 9:44:38 AM

Testimony for TRN on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

# TAX FOUNDATION OF HAWAII

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126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

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

**BILL NUMBER:** HB 241; SB 662 (Identical)

**INTRODUCED BY:** HB by AQUINO; SB by INOUYE, S. CHANG, Fevella, Ihara, K. Kahele, Kanuha, Kidani, Kim, Shimabukuro, Taniguchi

**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 in the peer-to-peer vehicle sharing organization business to register with the director of taxation.

**SYNOPSIS:** Adds a new section to chapter 437D, HRS, to deal with vehicle recalls.

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 within the coverage of the Rental Motor Vehicle and Tour Vehicle Surcharge Tax (RVST).

Makes other conforming amendments.

**EFFECTIVE DATE:** July 1, 2019.

**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.

Digested 2/4/2019