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GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 6, 2019

TO: Senator Donovan M. Dela Cruz
Chair, Committee on Ways and Means
Submitted Via Capitol Website

FROM: Matthew Tsujimura

RE: **S.B. 662 S.D. 1 Relating to Motor Vehicles**
Hearing Date: Tuesday, February 19, 2019 at 9:30 a.m.
Conference Room: 211

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Senate 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** S.B. 662 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.

S.B. 662 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 S.B. 662 S.D. 1 levels the playing field for companies and organizations participating in the rental car industry. Under S.B. 662 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.

We strongly support S.B. 662 S.D. 1 and ask the committee to pass the measure.
Thank you for the opportunity to submit testimony on this bill.



DAVID Y. IGE
GOVERNOR

JOSH GREEN
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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Ways and Means
Tuesday, February 19, 2019
9:30 a.m.
State Capitol, Conference Room 211**

**On the following measure:
S.B. 662, 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; 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 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.

TAX FOUNDATION OF HAWAII

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

BILL NUMBER: SB 662, 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 in the peer-to-peer vehicle sharing organization business to register with the director of taxation and pay the rental motor vehicle and tour vehicle surcharge tax (RVST).

SYNOPSIS: Adds a new HRS chapter relating to peer-to-peer motor vehicle sharing organizations. Contains provisions requiring lessors of recalled vehicles to take them out of service until the repairs required under the recall are completed.

Adds a new section to chapter 437D, HRS, to deal with vehicle recalls similarly.

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."

Also amends the definition of "lessor" to mean any person in the business of providing rental motor vehicles to the public[.], and shall include peer-to-peer motor vehicle sharing organizations. "Lessor" shall not include the registered owner of the vehicle involved in peer-to-peer motor vehicle sharing agreements 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: January 1, 2020.

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.

In doing so, the bill defines the term “lessor,” on whom the tax is imposed, as the entity providing the peer-to-peer platform as opposed to the person who owns the vehicle used to provide the transportation.

As defined, it may be permissible for some platform organizations to claim that they have no physical presence in Hawaii and therefore no nexus allowing the State to assert its taxing power. This would allow transactions to escape the RVST because the bill gives up the right to tax the registered owner of the vehicle. We note that the current law deeming nexus to exist if an organization has 200 transactions or \$100,000 in sales within the State during the current or previous taxable, year, HRS section 237-2.5 (added by Act 41, SLH 2018) appears to apply for general excise tax purposes only and does not seem to apply to the RVST in chapter 251. The Committee may wish to consider adding a provision that would apply those nexus standards to the RVST, if it can be done within the scope of the bill’s title.

Digested 2/15/2019



Testimony of
Charles Melton – Public Policy Manager
Turo Inc., San Francisco, CA
In opposition to Senate Bill 662 SD1
February 19, 2019

Chair Dela Cruz, Vice Chair Keith-Agaran and members of the Senate Ways and Means 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 to provide our perspective on this legislation and to express our **opposition** to SB 662 SD1.

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 while earning a little extra income to help cover the high cost of car ownership.

In regard to SB 662 SD1, 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 Hawai'i 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 separate from other mobility solutions, including entirely different from rental car.

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 one-size-fits-all and inefficient 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 SB 662, 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. Turo is willing to work with the state to establish recall regulations that are appropriate and specific for our community of peer-to-peer car sharing residents in Hawai’i.

Thank you for the opportunity to provide this written testimony. For the reasons stated, we recommend SB 662 SD1 be held in committee. If it is the desire of this Committee to move this legislation, we request and recommend that the Committee follow the same action of the House and establish a working group as found in House Bill 241, HD2.

Again, SB 662 SD1 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 negatively 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 SB 662 SD1, let’s come together to find a smart solution to establish peer-to-peer car sharing regulation. We look forward to working with the legislature to create a fair framework that benefits the people of Hawai’i.

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LATE

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

Date: Tuesday, February 19, 2019
Time: 9:30 A.M.
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 662, S.D.1, Relating to Motor Vehicles

The Department of Taxation (Department) supports S.B. 662, S.D. 1, and provides the following comments for the Committee's consideration.

S.B. 662, S.D. 1 has an effective date of January 1, 2020.

Sections 3 and 4 of S.B. 662, S.D. 1, 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):

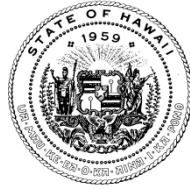
- Adds three new definitions for the terms "peer-to-peer motor vehicle sharing," "peer-to-peer motor vehicle sharing agreement" and "peer-to-peer motor vehicle sharing organization";
- Amends the definition of "lessor"; and
- Requires persons engaging in a peer-to-peer motor vehicle sharing organization 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 the Committees on Commerce, Consumer Protection, and Health and Transportation made several amendments at the Department's suggestion. The Department appreciates the consideration of its testimony and notes that it can administer this bill as currently drafted.

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

DAVID Y. IGE
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TESTIMONY BY:

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February 19, 2019
9:30 a.m.
State Capitol, Room 211

S.B. 662, S.D.1
RELATING TO MOTOR VEHICLES

Senate Committee on Ways and Means

The Department of Transportation (DOT) **supports** S.B. 662, S.D.1.

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.

Thank you for the opportunity to provide testimony.