
A BILL FOR AN ACT

RELATING TO TRANSPORTATION NETWORK COMPANIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that statewide regulation
2 of transportation network companies is needed to ensure the
3 safety, reliability, and cost-effectiveness of rides provided by
4 transportation network company drivers as well as to preserve
5 and enhance access to important transportation options for
6 residents and visitors of the State.

7 Accordingly, the purpose of this Act is to provide
8 statewide regulation of transportation network companies to
9 provide operational consistency across the State and to
10 establish a permitting process within the department of
11 transportation.

12 SECTION 2. The Hawaii Revised Statutes is amended by
13 adding a new chapter to title 15 to be appropriately designated
14 and to read as follows:

15 "CHAPTER

16 **TRANSPORTATION NETWORK COMPANIES**

17 § -1 Definitions. As used in this chapter:



1 "Department" means the department of transportation.

2 "Digital network" means any online-enabled technology
3 application service, website, or system offered or utilized by a
4 transportation network company that enables the prearrangement
5 of rides with transportation network company drivers.

6 "Director" means the director of transportation.

7 "Prearranged ride" has the same meaning as in section 431:
8 10C-701.

9 "Transportation network company" means an entity that uses
10 a digital network to connect passengers to transportation
11 network company drivers; provided that the entity:

12 (1) Does not control, direct, or manage the transportation
13 network company vehicles or transportation network
14 company drivers that connect to its digital network,
15 except where agreed to by written contract; and

16 (2) Is not a taxicab association or a for-hire vehicle
17 owner.

18 "Transportation network company driver" has the same
19 meaning as in section 431:10C-701.

20 "Transportation network company rider" or "rider" means an
21 individual or person who uses a transportation network company's



1 digital network to connect with a transportation network company
2 driver who provides prearranged rides to the rider in a
3 transportation network company vehicle between destination
4 points chosen by the rider.

5 "Transportation network company vehicle" means a vehicle
6 that is:

- 7 (1) Used by a transportation network company driver to
8 provide a prearranged ride;
- 9 (2) Owned, leased, or otherwise authorized for use by the
10 transportation network company driver; and
- 11 (3) Not operating as a taxicab, limousine, or other for-
12 hire vehicle.

13 **§ -2 Director of transportation; authority.** The
14 director shall have full authority to:

- 15 (1) Implement and enforce this chapter and any rules
16 adopted pursuant to this chapter relating to
17 transportation network companies and transportation
18 network drivers;
- 19 (2) Investigate the actions of any person or organization
20 acting in the capacity of a transportation network
21 company driver; and



1 (3) Inspect the records of a transportation network
2 company to verify that the company complies with the
3 requirements of this chapter.

4 § -3 **Relation to other laws; commercial vehicle; for**
5 **hire vehicle; registration; exemption.** Neither a transportation
6 network company nor a transportation network company driver
7 shall be deemed a common carrier by motor vehicle, a contract
8 carrier by motor vehicle, a motor carrier, a taxicab, or a for-
9 hire vehicle service under chapter 271. No transportation
10 network company driver shall be required to register a
11 transportation network company vehicle as a commercial or for-
12 hire vehicle.

13 § -4 **Transportation network company; permit; required.**

14 (a) No person shall operate a transportation network company in
15 the State without first having obtained a permit from the
16 director, the application for which shall be in a form and
17 content to be determined by the director; provided that any
18 transportation network company operating in the State before the
19 effective date of this chapter may continue operating until the
20 director has established a permitting process and sets a
21 registration deadline.



1 (b) The director shall issue a permit to each applicant
2 that satisfies the requirements for a transportation network
3 company as set forth by the director and shall collect an annual
4 permit fee of \$ from the applicant prior to the
5 issuance of a permit.

6 § -5 **Fare transparency.** If a fare is collected from a
7 rider, the transportation network company shall disclose the
8 fare or fare calculation method to the rider on its digital
9 network before the beginning of the prearranged ride. If the
10 fare is not disclosed to the rider before the beginning of the
11 prearranged ride, the rider shall have the option to receive an
12 estimated fare before the beginning of the prearranged ride.

13 § -6 **Agent for service.** Any transportation network
14 company that operates in the State shall maintain an agent for
15 service of process in the State.

16 § -7 **Transportation network company vehicles;**
17 **certification.** (a) No vehicle may be used by a transportation
18 network company unless the company has certified, for each
19 vehicle:

- 20 (1) The vehicle identification number;
21 (2) The registered owner's full legal name;



- 1 (3) Proof of registration for the motor vehicle in the
2 name of the driver;
- 3 (4) The license plate number and expiration date;
- 4 (5) Proof of current vehicle safety inspection and date of
5 the annual inspection for the motor vehicle; and
- 6 (6) Proof of insurance.

7 (b) A company shall ensure that the driver has renewed the
8 vehicle's annual registration and passed the annual safety
9 inspection. The company shall suspend a driver's access to its
10 digital network upon discovery of a driver's failure to renew
11 the vehicle's annual registration or vehicle safety inspection.
12 Access to its digital network may be restored upon the driver's
13 submission of documents confirming the renewal of the vehicle's
14 annual registration and passing the annual safety inspection.

15 (c) No vehicle may be recertified unless all outstanding
16 penalties assessed against the driver operating the vehicle
17 being recertified are paid in full to the director.

18 § -8 Identification of transportation network company
19 vehicles and drivers. During a prearranged ride, a
20 transportation network company's digital network shall display a
21 picture of the transportation network company driver and the



1 license plate number of the transportation network company
2 vehicle.

3 **§ -9 Electronic receipt.** Following the completion of a
4 prearranged ride, the transportation network company shall
5 transmit an electronic receipt on behalf of the transportation
6 network company driver that shall include the following
7 information:

8 (1) The origin and destination or destinations of the
9 prearranged ride;

10 (2) The total time and distance of the prearranged ride;
11 and

12 (3) The total fare paid.

13 **§ -10 Disclosure; limitations; insurance requirements.**

14 The requirements of section 431:10C-703 shall apply to
15 transportation network companies and transportation network
16 company drivers.

17 **§ -11 Transportation network company driver**

18 **requirements.** (a) Prior to allowing an individual to act as a
19 transportation network company driver and accept a request for a
20 prearranged ride through a transportation network company's
21 digital network:



- 1 (1) The individual shall submit an application to the
2 transportation network company that shall include the
3 following information:
- 4 (A) The individual's address;
 - 5 (B) The individual's age;
 - 6 (C) A copy of the individual's valid driver's
7 license;
 - 8 (D) A copy of the applicable motor vehicle
9 registration;
 - 10 (E) A copy of the applicable motor vehicle insurance;
11 and
 - 12 (F) Other information deemed necessary by the
13 transportation network company;
- 14 (2) The transportation network company shall each year
15 conduct, or have a third-party commercial background
16 check company conduct, national and local criminal
17 background checks for each applicant and each driver.
18 The criminal background check shall include a review
19 of:
- 20 (A) A multi-state and multi-jurisdictional criminal
21 records locator or other similar commercial



1 nationwide database with validation (primary
2 source search); and

3 (B) The United States Department of Justice national
4 sex offender public website; and

5 (3) The transportation network company shall obtain and
6 review, or have a third-party entity obtain and
7 review, a driving history research report for the
8 individual.

9 (b) The transportation network company shall not permit an
10 individual to act as a transportation network company driver on
11 its digital network who:

12 (1) Has more than three moving violations within the prior
13 three years, or one of the following major violations
14 in the past three years:

15 (A) Resisting an order to stop a motor vehicle in the
16 second degree;

17 (B) Reckless driving; or

18 (C) Driving on a suspended or revoked license;

19 (2) Within the past seven years has been:

20 (A) Convicted of any felony; or



- 1 (B) Convicted of any misdemeanor relating to driving,
2 violent, or sexual offenses;
- 3 (3) Is registered on the United States Department of
4 Justice national sex offender public website or any
5 publicly accessible state sex offender registry;
- 6 (4) Does not possess a valid driver's license;
- 7 (5) Does not possess proof of a current and valid
8 registration for the motor vehicle or vehicles used to
9 provide prearranged rides;
- 10 (6) Does not possess proof of valid motor vehicle
11 insurance for the transportation network company
12 vehicle; or
- 13 (7) Is not at least nineteen years of age.
- 14 (c) A transportation network company driver shall be
15 considered an independent contractor, and not an employee of a
16 transportation network company, if all of the following
17 conditions are met:
- 18 (1) The transportation network company does not prescribe
19 the specific hours during which the transportation
20 network company driver is required to be logged in to
21 the transportation network company's digital network;



1 (2) The transportation network company does not impose any
2 restrictions upon the transportation network company
3 driver's ability to use other transportation network
4 companies' digital networks;

5 (3) The transportation network company does not restrict a
6 transportation network company driver from engaging in
7 any other occupation or business; and

8 (4) The transportation network company and the
9 transportation network company driver agree in writing
10 that the transportation network company driver is an
11 independent contractor.

12 (d) A transportation network company shall not control,
13 direct, or manage the transportation network company vehicles or
14 transportation network company drivers that connect to its
15 digital network, unless a written contract expressly provides
16 otherwise.

17 **§ -12 Unlawful operation; revocation or suspension of**
18 **registration; suits by persons injured.** (a) The director may
19 revoke or suspend the registration of a transportation network
20 company upon determining that the company has:



- 1 (1) Engaged in unfair or deceptive acts or practices
- 2 prohibited by section 480-2;
- 3 (2) Engaged in any dishonest, fraudulent, or deceitful
- 4 act;
- 5 (3) Misrepresented any material fact in obtaining
- 6 registration; or
- 7 (4) Violated any of the provisions of this chapter.
- 8 (b) Any person who is injured by any unfair or deceptive
- 9 act or practice prohibited by section 480-2 or any provision of
- 10 this chapter may bring proceedings to enjoin the unlawful
- 11 practices and shall be awarded reasonable attorney's fees
- 12 together with the costs of suit.

13 § -13 Non-discrimination; accessibility. (a) The

14 transportation network company shall adopt a policy of non-

15 discrimination on the basis of destination, race, color,

16 national origin, religious belief or affiliation, sex,

17 disability, age, sexual orientation, or gender identity with

18 respect to riders and potential riders and shall notify the

19 transportation network company drivers of the policy.

20 (b) In addition to any policy established pursuant to

21 subsection (a), transportation network company drivers shall



1 comply with all applicable laws regarding nondiscrimination
2 against riders or potential riders on the basis of destination,
3 race, color, national origin, religious belief or affiliation,
4 sex, disability, age, sexual orientation, or gender identity.

5 (c) Transportation network company drivers shall comply
6 with all applicable laws to accommodate service animals.

7 For purposes of this subsection, "service animal" has the
8 same meaning as in section 347-2.5.

9 (d) A transportation network company shall not impose
10 additional charges for providing services to persons with
11 physical disabilities.

12 § -14 Audit procedures; confidentiality of records. (a)
13 Not more than annually, the department may visually inspect a
14 sample of records maintained by a transportation network company
15 for the sole purpose of verifying that a transportation network
16 company complies with this chapter. The sample shall be chosen
17 randomly by the department in a manner agreeable to both
18 parties. The audit shall take place at a mutually agreed
19 location in the State. Any record furnished to the department
20 shall exclude information that would tend to identify specific
21 transportation network company drivers or riders.



1 (b) In response to a specific complaint against any
2 transportation network company driver or transportation network
3 company, the department may inspect records held by the
4 transportation network company that are necessary to investigate
5 and resolve the complaint. The department and transportation
6 network company shall conduct the inspection at a mutually
7 agreed upon location in the State. Any record furnished to the
8 department shall exclude information that would tend to identify
9 specific transportation network company drivers or riders,
10 unless the identity of a transportation network company driver
11 or rider is relevant to the complaint.

12 (c) Any records inspected by the department under this
13 section shall be confidential, are not subject to disclosure to
14 a third party by the department without the prior written
15 consent of the transportation network company, and shall be
16 exempt from disclosure under chapter 92F. Nothing in this
17 section shall be construed as limiting the applicability of any
18 other exemptions under chapter 92F.

19 § -15 **Complaints; investigation and examination.** (a)
20 Any person having reason to believe that this chapter or the
21 rules adopted pursuant thereto have been violated, or that the



1 registration of a transportation network company under this
2 chapter should be suspended or revoked, may file a written
3 complaint with the director setting forth the details of the
4 alleged violation or the grounds for suspension or revocation.

5 (b) The director shall have full authority to conduct
6 investigations, examinations, and hearings of any violations or
7 complaints arising from the operations of transportation network
8 companies or a specific complaint against a transportation
9 network company driver. The director may:

- 10 (1) Direct, subpoena, or order the attendance of, and
11 examine under oath, all persons whose testimony may be
12 required about the operations of a transportation
13 network company or complaint against a driver;
- 14 (2) Direct, subpoena, or order the production of books,
15 accounts, files, and other documents the director
16 deems relevant to the inquiry;
- 17 (3) Interview the officers, directors, employees, drivers,
18 independent contractors, agents, and customers of the
19 company subject to this chapter; and
- 20 (4) Hold hearings.



1 (c) To carry out the purposes of this section, the
2 director shall have full authority to:

3 (1) Retain attorneys, accountants, or other professionals
4 and specialists, who may be exempt from chapter 76, as
5 examiners, auditors, or investigators to conduct or
6 assist in the conduct of examinations or
7 investigations; and

8 (2) Use, hire, contract, or employ publicly or privately
9 available analytical systems, methods, or software to
10 examine or investigate the company or person subject
11 to this chapter.

12 (d) The director shall have full authority to charge an
13 examination or investigation fee, as established by rule adopted
14 pursuant to chapter 91, based upon the cost per hour per
15 examiner for all transportation network companies and persons
16 subject to this chapter who are examined or investigated by the
17 director.

18 (e) Unless otherwise provided by chapter 92F, the
19 government records of any investigation or examination arising
20 from a complaint of a violation of this chapter shall be made
21 public only after a hearing.



1 § -16 Uniform statewide regulation. (a) This chapter
2 shall apply uniformly throughout the State and in all political
3 subdivisions of the State.

4 (b) This chapter shall supersede any ordinance or other
5 rule adopted by a political subdivision that specifically
6 governs transportation network companies, transportation network
7 company drivers, or transportation network company vehicles,
8 including those adopted before the effective date of this
9 chapter."

10 SECTION 3. Act 236, Session Laws of Hawaii 2016, is
11 amended by amending section 6 to read as follows:

12 "SECTION 6. This Act shall take effect upon its approval;
13 provided that section 2 of this Act shall take effect on
14 September 1, 2016 [~~; provided further that this Act shall be~~
15 ~~repealed on September 1, 2021]~~."

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken.

18 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Transportation Network Companies; Regulation; Permitting

Description:

Establishes requirements and permitting procedures for transportation network companies operating in the State. Makes permanent insurance requirements for transportation network companies and transportation network drivers. Effective 7/1/2050. (HD2)

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