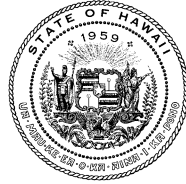


DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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RONA M. SUZUKI  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

To: The Honorable Sylvia Luke, Chair;  
The Honorable Ty J.K. Cullen, Vice Chair;  
and Members of the House Committee on Finance

From: Rona M. Suzuki, Director  
Department of Taxation

**Re: H.B. 1833, H.D. 2, Relating to Peer-to-Peer Car-Sharing**

Date: Monday, February 24, 2020

Time: 11:00 A.M.

Place: Conference Room 308, State Capitol

The Department of Taxation (Department) appreciates the intent of the tax provisions in H.B. 1833, H.D. 2, and provides the following comments. H.B. 1833, H.D. 2, has a defective effective date of July 1, 2050.

As noted in prior hearings, Section 1 of this measure is based on model legislation proposed by the National Council of Insurance Legislators. Section 2 amends the Rental Vehicle Surcharge Tax (RVST) by adding new definitions for "car-sharing program agreement," "peer-to-peer car-sharing program" and "shared car" and a new section levying a peer-to-peer car-sharing surcharge tax of an unspecified amount per day on any day or portion of a day a "shared car" is shared and specifying that the tax shall be collected and paid over by the peer-to-peer program.

Section 2, establishing a "peer-to-peer car-sharing surcharge tax," is *not* included in the model legislation. The Department appreciates the intent of Section 2 of this measure because it believes collection of RSVT from one source is the most efficient way to collect the tax.

However, "shared cars" are already subject to the RVST under current law. As written, H.B. 1833, H.D. 2: (1) imposes the RVST on shared car transactions twice and (2) requires both peer-to-peer car-sharing programs and shared car owners to register for RVST licenses. To correct this, shared car owners engaging in shared car transactions would need to be specifically exempted from the RVST and the owners would need to be exempted from the requirement to register for an RVST license if they are engaging exclusively in shared car rental transaction. If adopted as proposed, the Department request an appropriation or fee to be included the tax rate to enable it to design, set-up, and manage this new tax.

Instead, the Department offers an approach similar to the approach taken in H.B. 2368. For H.B. 2368, the Department is **offering an amendment to clarify that the RVST marketplace facilitator is *not* the lessor of the vehicle.** The renting of shared cars by individuals is substantively no different than the renting of cars by a company. As such, the Department does not believe that a separate imposition as proposed by this measure is appropriate or necessary. The suggestion below takes same approach as Act 2, Session Laws of Hawaii 2019, with respect to marketplace facilitators and general excise tax.

The Department **recommends replacing Section 2 of this bill with the following two sections** instead:

SECTION 1. Chapter 251, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§251- Rental motor vehicle marketplace facilitators. (a) A rental motor vehicle marketplace facilitator, as defined under section 251-1, shall be subject to the tax levied under section 251-2(a) for rental motor vehicles rented or leased by rental motor vehicle lessors through its forum.

(b) Any person other than a rental motor vehicle marketplace facilitator who provides a forum, whether physical or electronic, in which rental motor vehicle lessors list or advertise rental motor vehicles for lease and takes or processes lease orders shall:

- (1) Post a conspicuous notice on its forum that informs rental motor vehicle lessors intending to lease rental motor vehicles in this State that the rental motor vehicle lessor is required to pay the rental motor vehicle and tour vehicle surcharge tax under section 251-2; and
- (2) No later than the twentieth day of the fourth month following the close of the taxable year, submit a report to the department that includes, with respect to each rental motor vehicle lessor, the following:
  - (A) The rental motor vehicle lessor's name, billing address, and mailing address;
  - (B) The address in this State at which the rental motor vehicle was delivered to the lessee; and
  - (C) The aggregate dollar amount of the lessee's leases from the lessor;

provided that the person, in lieu of complying with the notice and reporting requirements in this subsection, may elect to be deemed the rental motor vehicle lessor as provided in subsection (a).

(c) Any person who fails to comply with subsection (b) and has not elected to be deemed the rental motor vehicle lessor, unless it is shown that the failure is due to reasonable cause and not due to

neglect, shall be assessed a penalty of \$1,000 if the failure is for not more than one month, with an additional \$1,000 for each additional month or fraction thereof during which the failure continues, not to exceed \$12,000 in the aggregate.

(d) Notwithstanding subsections (a) and (b), this section shall not apply to transactions involving rental motor vehicles leased by a lessor, who in any single month in the past twelve months, has leased one or more rental motor vehicles for thirty or more days or portions of days in the aggregate. For purposes of this subsection, the term "lessor" does not include a rental motor vehicle marketplace facilitator."

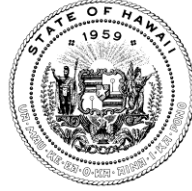
SECTION 2. Section 251-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Rental motor vehicle marketplace facilitator" means any person, other than a rental motor vehicle lessor, who assists in the lease of rental motor vehicles on behalf of a rental motor vehicle lessor by:

- (1) Providing a forum, whether physical or electronic, in which lessors list or advertise the lease of rental motor vehicles; and
- (2) Collecting payment from the rental motor vehicle lessee, either directly or indirectly through an agreement with a third party."

Finally, the Department requests an effective date no earlier than January 1, 2021 to allow time to update its forms and computer system if its RVST can be used, as proposed.

Thank you for the opportunity to provide comments.



DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

**STATE OF HAWAII  
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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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 Finance  
Monday, February 24, 2020  
11:00 a.m.  
State Capitol, Conference Room 308**

**On the following measure:  
H.B. 1833, H.D. 2, RELATING TO PEER-TO-PEER CAR-SHARING**

Chair Luke and Members of the Committee:

My name is Stephen Levins, and I am the Executive Director of the Department of Commerce and Consumer Affairs' Office of Consumer Protection (OCP). The Department appreciates the intent of and offers comments on this bill.

The purpose of this bill is to prohibit vehicle owners from making a vehicle subject to a manufacturer's recall available as a shared car on a peer-to-peer car-sharing program, until the vehicle has undergone safety recall repairs, defines terms relating to peer-to-peer car sharing, and establishes insurance coverage requirements during the car-sharing period.

The business model of peer-to-peer car rental differs markedly from that of the existing traditional car rental, which Hawaii Revised Statutes chapter 437D currently regulates. Consequently, the Department believes that the creation of a new chapter governing peer-to-peer car sharing in Hawaii is a sensible legal adaptation to address this new business model. The Department also believes that to ensure consumers are

adequately protected, the new chapter should require sufficient insurance and liability protections for consumers, as well as clear and conspicuous disclosures related to the terms and conditions associated with the car sharing agreement, all required taxes and fees, and the total price to rent the vehicle.

Ensuring that a provision governing vehicle recalls exists is particularly important to the Department. It is axiomatic that consumer safety is of paramount importance in renting a vehicle to a consumer. As such, the prohibition on shared vehicle owners allowing a vehicle under a manufacturer's recall to be available for vehicle-sharing, until necessary safety recall repairs have been made, is a critical component of this bill and should be required in any comprehensive law regulating the industry. The average completion rate for newer passenger vehicle recalls is 75%, and this percentage drops to 44% for vehicles 5 to 10 years old. The recall provision will help to protect consumers who rent vehicles from a peer-to-peer car-sharing program by removing potentially unsafe vehicles from the road, such as those with defective Takata airbags.

Current federal law already requires conventional car rental companies to remove vehicles subject to recall from their rental fleets. It only makes sense to have this same restriction apply to the peer-to-peer car-sharing industry.

The Department understands this measure is a work in progress and is willing to work with other stakeholders to craft a comprehensive peer-to-peer car-sharing chapter that will ensure the protection of consumers.

Thank you for the opportunity to testify on this bill.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: RENTAL MOTOR VEHICLE SURCHARGE, Add RVST Tax for Peer-to-Peer Rentals

BILL NUMBER: HB 1833, HD-2

INTRODUCED BY: House Committee on Transportation

EXECUTIVE SUMMARY: Authorizes and regulates peer-to-peer car-sharing.

SYNOPSIS: Adds a new chapter to the HRS that regulates peer-to-peer car sharing.

Amends section 237D-6.5, HRS, to change the earmark from the special land and development fund to HTA, and to change the amount from \$3 million to \$5 million.

Adds a new section to chapter 251, HRS, to impose a car-sharing surcharge tax of \$\_\_\_ per day or portion of a day that a shared car is shared pursuant to a car-sharing program agreement.

EFFECTIVE DATE: July 1, 2050.

STAFF COMMENTS: The proposed measure would add another tax increase and would perpetuate the earmarking of rental motor vehicle and tour vehicle surcharge tax revenues. (This tax is earmarked for the highway fund.) Yes, our highways and bridges need work, and the fuel tax that now feeds the highway fund has proven to be less stable as more and more consumers start using alternative fuel vehicles, electric vehicles, and hybrids. But does that justify bypassing the normal appropriation and budgeting process that also considers sweltering primary schools, underfunded state pensions, or the unique costs of intercollegiate athletics?

Rather than the continual earmarking of revenues, a direct appropriation of general funds to HDOT would be preferable. Earmarking revenues from any tax type for a particular purpose decreases transparency and accountability.

Next, it should be remembered that revenues diverted for a special purpose, in this case to fund highways and bridges, will not be counted against the state's spending ceiling or debt limit and will obscure the state's true financial condition.

The tax is currently an unspecified amount. We would understand if the tax is the same as the rate of Rental Motor Vehicle and Tour Vehicle Surcharge Tax (RVST) that is now imposed upon car rentals. If the tax is a different amount, we would be concerned about how the difference is justified.

Digested 2/21/2020



**SanHi**

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 21, 2020

TO: Representative Sylvia Luke  
Chair, Committee on Finance  
*Submitted Via Capitol Website*

FROM: Matt Tsujimura

RE: **H.B. 1833, H.D.2 Relating to Peer-to-Peer Car-Sharing**  
**Hearing Date: Monday, February 24, 2020 at 11:00 a.m.**  
**Conference Room: 308**

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Dear Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance:

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 **supports** H.B. 1833, H.D.2 which authorizes and regulates peer-to-peer car-sharing in the State. H.B. 1833, H.D.2 creates a new chapter in the Hawaii Revised Statutes to regulate peer-to-peer vehicle sharing in Hawaii.

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. The emergence of the peer-to-peer car-sharing model is a beneficial and innovative model that should be embraced with appropriate rules to allow it to grow in Hawaii. Providing the right structure through legislation will give greater choice to consumers; create more competition within the industry; and allow local car owners to earn extra income – all while creating a fair and equal competitive market for the companies.

H.B. 1833, H.D.2 is a comprehensive bill that includes language regarding consumer safety, insurance and indemnification, airport operations, and taxes and fees. We thank the Committees on Transportation and Consumer Protection and Commerce for their work on H.B. 1833, H.D.2.

We strongly support the passage of H.B. 1833, H.D.2, to continue the discussion of how best to regulate this innovative new way of providing transportation.

Thank you for the opportunity to submit testimony on this bill.



**TECHNET**  
THE VOICE OF THE  
INNOVATION ECONOMY

TechNet Southwest | Telephone 916.600.3551  
915 L Street, Suite 1270, Sacramento, CA 95814  
[www.technet.org](http://www.technet.org) | @TechNetUpdate

February 23, 2020

Representative Luke  
415 South Beretania St  
Honolulu, HI 96813

**RE: COMMENTS ON HB 1833 HD2**

Dear Representative Luke,

On behalf of TechNet, I am respectfully submitting comments on HB 1833 HD2, related to Peer-to-Peer Car Sharing. TechNet is the national, bipartisan network of innovation economy CEOs and senior executives. Our diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over three million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

TechNet proudly supported HB 1833 HD1 because it set out a comprehensive peer-to-peer car sharing regulatory framework and was in line with language approved by the National Conference of Insurance Legislators (NCOIL) and was agreed upon through extensive stakeholder participation. The NCOIL model ensures important consumer protections and safety measures including recall protections, robust insurance and driver licensure requirements, disclosures and much more.

Peer-to-peer car sharing has become an incredibly convenient way of connecting people wishing to utilize internet-based platforms to safely and securely share their personal vehicle with drivers seeking affordable, convenient, accessible and locally sourced mobility options. TechNet supports the NCOIL model which fosters and encourages this growing innovation while establishing important safeguards and consumer protections.

Unfortunately, HB 1833 HD2 includes language that is not in line with the agreed upon NCOIL model and would put peer-to-peer car sharing companies and the Hawai`i residents who share their personal vehicle through the platform at a significant disadvantage. We believe HB 1833 HD1 is the proper peer-to-peer regulatory structure for Hawai`i and would align with peer-to-peer car sharing laws already adopted in other states.

If you have any questions regarding TechNet's comments on HB 1833 HD2, please do not hesitate to contact Courtney Jensen, Executive Director, at 916-600-3551 or [cjensen@technet.org](mailto:cjensen@technet.org).

Thank you,  
Courtney Jensen  
Executive Director, Southwest  
TechNet





Testimony of  
Charles Melton – Senior Public Policy Manager  
Turo Inc., San Francisco, CA

**Comments on HB 1833 HD2**

February 24, 2020

Chair Luke, Vice Chair Cullen and members of the House Committee on Finance, I respectfully **submit comments** on HB 1833 HD2 on behalf of Turo, an internet-based, peer-to-peer car sharing platform.

Turo is a peer-to-peer car sharing platform that connects personal car owners with those in need of a mobility solution. Through the Turo online marketplace, anyone with the need of a mobility option 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 recover the cost of car ownership.

The foundation of this legislation is the originally introduced HB 1833, which is based on the Peer-to-Peer Car Sharing Program Model Act. The Model Act is supported by the National Council of Insurance Legislators and was agreed upon through extensive stakeholder participation and ensures there are robust measures for consumer safety, transparent pricing, insurance coverage and roadside assistance for every peer-to-peer car sharing user.

HB 1833 HD2 includes language that reaches beyond the agreed upon Peer-to-Peer Car Sharing Model Act. We believe that the contents of **HB 1833 HD1** is more properly aligned with the Model Act and is the appropriate, and sensible legislation to create consumer protections, ensure platforms are held accountable, while also allowing Hawai'i resident to share their personal vehicle. Furthermore, **HB 1833 HD1** would align the Hawai'i peer-to-peer car sharing regulatory structure with peer-to-peer car sharing laws that have already been adopted in other states like Colorado and Indiana.

Turo and our community of Hawai'i peer-to-peer car sharing residents are appreciative of the legislature's interest in protecting consumers while also establishing a comprehensive regulatory framework for peer-to-peer car sharing. Thank you for the opportunity to provide comments on HB 1833 HD2.

February 23, 2020

Chairwoman Sylvia Luke  
House Committee on Finance  
Hawaii State Capitol  
415 South Beretania St.  
Honolulu, HI 96813



*Re: H.B. 1833 HD2 – Peer-to-Peer Car Sharing*

Aloha Chairwoman Luke:

Avail is a peer-to-peer car sharing company that is backed by Allstate. It allows car-owners to share their cars with drivers in need of convenient, affordable transit options. Peer-to-peer car sharing is a way for individual car owners to earn extra income and for individuals to access a new transit option. Car sharing gives Hawaii residents a new solution to longstanding mobility needs, including offering transportation where public transit is not an option and consumer friendly alternatives to traditional car rental companies. By using existing personal vehicles, car sharing has been shown to reduce traffic congestion as well.

We write today to discuss H.B. 1833 HD2 on peer-to-peer car sharing, which is set to be heard by the House Committee on Finance. We are very appreciative of your interest in this pro-consumer and innovative business platform, however we believe that the previous version of this legislation, H.B. 1833 HD1, is better suited to address the necessary regulations and consumer protections for peer-to-peer car sharing. H.B. 1833 HD1 is better aligned with the National Council of Insurance Legislators (NCOIL) model bill which applies appropriate regulations and consumer protections on the peer-to-peer car sharing industry and has been endorsed by a range of stakeholders including the peer-to-peer car sharing industry, insurance industry and car rental companies.

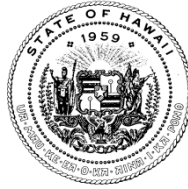
In its current form H.B. 1833 HD2 diverges from many of the core components of the NCOIL model including industry agreed upon insurance regulations and consumer protections. These changes would prevent Hawaii residents from enjoying the economic and transportation benefits of peer-to-peer car sharing while also stifling innovation and creating an unlevel playing field with traditional car rental companies. It is essential to enact legislation that helps Hawaii residents participate in this innovative transportation model which is why we support the proposed language in H.B. 1833 HD1.

Thank you again for considering our comments and we look forward to working with you as this bill continues through the legislative process.

Mahalo,

*Danielle Lenth*

Danielle Lenth  
Director of External Relations  
Avail/Allstate



**TESTIMONY BY:**

JADE T. BUTAY  
DIRECTOR

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

**LATE**

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

February 24, 2020  
11:00 AM  
State Capitol, Room 308

**H.B. 1833, H.D. 2**  
**RELATING TO PEER-TO-PEER CAR-SHARING**

House Committee on Finance

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The Department of Transportation (DOT) **supports** H.B.1833, H.D. 2 which will regulate peer-to-peer car-sharing and deposit the peer-to-peer surcharge tax to the State Highway Fund. Car sharing has become more noticeable and prevalent at our airports, including parking lots.

The Airports Division charges a fee for various types of pre-arranged ground transportation services at public airports under Hawaii Administrative Rules 19-20.1, Subchapter 9, in consideration of using state airport facilities for conducting business.

We agree as noted in the proposed language that peer-to-peer car sharing businesses obtain an agreement such as an airport permit and comply with all rules of the Airport Division. In addition, another category must be added under Hawaii Administrative Rule 19-20.1-56 for peer-to-peer car sharing services.

Currently, peer-to-peer car sharing businesses operate under the radar and are not reporting any fees to the Airport Division which is a concerning issue of fairness and level playing fields.

Thank you for the opportunity to provide testimony.

**TESTIMONY OF NAHELANI WEBSTER FOR THE HAWAII ASSOCIATION  
FOR JUSTICE (HAJ) IN OPOSITION TO H.B. 1833 HD1**

Monday February 10, 2020  
2:00 PM  
Room 329

**LATE**

To: Chair Roy M. Takumi and Members of the House Committee on Consumer  
Protection & Commerce:

My name is Nahelani Webster and I am presenting this testimony on behalf of the  
Hawaii Association for Justice (HAJ) in opposition to H.B. 1833 HD1, Relating to Peer  
to Peer Car Sharing.

We appreciate the Committee's efforts to legislate in this important area. The rise  
of Peer to Peer Car Sharing in our state presents risks for our residents and visitors that  
must be addressed. Owners who make their vehicles available through Peer to Peer sites  
may not be aware that motor vehicle insurance policies commonly exclude coverage for  
cars when used in exchange for payment. If an accident were to occur, the victim, driver  
and the car owner could find themselves without coverage for the loss. It should be the  
responsibility of the Peer-to-Peer company to carry adequate insurance coverage, the  
same way Transportation Network Companies are mandated to provide coverage.

Therefore, we propose adding the following language:

"In addition to any other insurance coverage required by  
this chapter, a peer-to-peer car sharing program shall maintain  
insurance in an amount of at least one million dollars that  
provides coverage for the program's liability for an act or  
omission of the program that is the proximate cause of death,  
bodily injury, or property damage to any person in any one

accident because of the operation of a shared vehicle through the program.”

H.B. 1833 HD1 does not provide adequate security and protection for motor vehicle accidents. Hawaii’s statutory minimum coverage reflects a compromise between the needs of accident victims and the financial difficulties faced by cash-strapped families. There is no reason for companies deriving substantial profit to be subject to the same modest requirements. For these national companies the low rates of insurance coverage in H.B. 1833 HD1 amounts to a windfall at the expense of residents and visitors who sustain injury.

H.B. 1833 HD1 only requires the car sharing company to ensure a policy is available that meets the statutory minimum and does not exclude car sharing. That is certainly no guarantee of coverage to persons that may be injured.

**Recommended amendments to page 4, delete lines 20 through to page 5, line 5.** This language is overly broad and creates loopholes in the insurance coverage resulting in a lack of coverage. For example, if a driver was to state the year of their vehicle to be 2013, when it was in fact 2012, then this assumption of liability would not apply to the vehicle owner? The peer-to-peer car company should be responsible to ensure they have accurate and correct information from those using their service.

In addition, if the shared vehicle driver fails to return the shared vehicle pursuant to the terms of program agreement then the peer-to-peer company should carry adequate insurance to protect both the vehicle owner and driver.

Adequate insurance coverage for residents and visitors is in the public interest and supports the tourism and other industries in the state. H.B. 1833 HD1 in its present form does not provide that.

Thank you for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.