

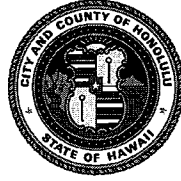
SB1161 SD1

Measure Title:	RELATING TO TRANSPORTATION NETWORK COMPANIES.
Report Title:	Transportation Network Companies; Regulation; Permitting
Description:	Establishes rules, regulations, and permitting procedures for transportation network companies operating in the State. Makes permanent insurance requirements for transportation network companies and transportation network drivers. (SD1)
Companion:	HB1093
Package:	None
Current Referral:	TRS, CPH
Introducer(s):	INOUYE, Shimabukuro

DEPARTMENT OF TRANSPORTATION SERVICES
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



WES FRYSZTACKI
DIRECTOR

JON Y. NOUCHI
DEPUTY DIRECTOR

February 26, 2019

The Honorable Rosalyn Baker
and Members of the Senate Committee
Commerce, Consumer Protection, and
Health
State Capitol, Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker and Members of the Committee:

**SUBJECT: Testimony on Senate Bill 1161 - Relating to Transportation
Network Companies**

The Department of Transportation Services provides the following comments on this measure.

Our agency is responsible for providing a multimodal transportation system for the City and County of Honolulu. For the past few years, this system has included Transportation Network Companies. We understand the value and efficiency of a single statewide regulatory framework for these service providers, however, the City and County of Honolulu desires to reserve its right to oversee and charge appropriate fees to these companies within the parameters of the statewide framework.

Thank you for the opportunity to submit these comments.

Very truly yours,


Wes Frysztacki
Director

**SB 1161: WRITTEN TESTIMONY OF TRACI LEE OF LYFT
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION,
AND HEALTH
FEBRUARY 26, 2019**

Chair Baker, Vice Chair Chang, and Committee Members,

My name is Traci Lee, and I am a Senior Public Policy Manager for Lyft, responsible for Lyft's policy and government relations in Hawai'i. This testimony is to express Lyft's support for Senate Bill 1161, which creates a statewide regulatory structure for ridesharing that will allow Lyft to expand throughout Hawai'i.

Lyft was founded in 2012 to improve people's lives with the world's best transportation and make our cities more livable. Lyft is an online ride-sharing application that connects people with efficient, friendly and safe drivers in their community. At a basic level, Lyft was created as an alternative to personal car ownership, and we make it easier for people to offer their neighbors a ride and help people carpool more efficiently.

In Hawai'i, Lyft has been a transportation option on Oahu since June 2014, and available on Big Island, Maui, and Kauai since March 2017. Lyft service enhances transportation options for locals and tourists alike while also acting as a complement to existing transportation infrastructure investments. In addition to providing safe rides home for those who want to responsibly enjoy a night on the town, we have partnered with different transportation agencies and municipalities throughout the U.S. to make it easier for people to use public transit by serving as first-mile and last-mile connectors, or by being a guaranteed ride home from work thereby incentivizing carpooling and use of public transit in at least one direction.

More than anything, Lyft is about giving people choices. As of this year, 45 states across the country have passed statewide legislation, like SB 1161, that regulates Lyft in a safe and comprehensive manner. We hope that Hawai'i can join that effort and allow consumers to have the ability of choosing Lyft in cities across this great state.

We think it is valuable that students at UH Manoa or Kapiolani Community College, or any of the many universities on the islands can get safe rides home, that seniors can continue to have the freedom that they once had when they were able to drive themselves around, with the same level of service and regulatory requirements from Honolulu to Kapolei, from Hilo to Kona, or any of the more than 350 major cities across the nation where they can open the app and request a ride. Lyft provides a transportation option for communities that are traditionally underserved by other forms of transit, as demonstrated by the fact that 56% of rides in Hawai'i start in low-income areas. People like the service because they know are going to get seamless, affordable, and reliable transportation. They use it millions of times a day across the nation because it is consistent and it safe.

In fact, at Lyft, safety is our top priority. Our goal is to make every ride safe, comfortable, and reliable. Our riders use Lyft because they feel safe with our drivers, which is a product of this commitment.

Before drivers can accept rides on the Lyft platform they must undergo a mandatory local, state, and national background check conducted by Checkr, which is the leading provider of background checks across the country. Checkr is also accredited by the National Association of Professional Background Screeners, which requires a rigorous audit of its procedures and policies by an independent auditor appointed by the Background Screen Credentialing Council (BSCC).

Lyft also contributes to safer streets by significantly reducing the instances of impaired driving. In Hawai'i, 76% of Lyft passengers are less likely to drive substance impaired to the availability of Lyft.

But what really distinguishes Lyft is how we utilize technology to provide consumers with accountability features in addition to our robust background checks.

Every Lyft ride is tracked via GPS, and all rides are cashless. Passengers receive their driver's picture and license plate before they enter the vehicle, and riders can also send their real time GPS and ETA to family and friends. In short, no ride is ever anonymous. After the ride, both the driver and passenger rate each other. The rating system is an important tool for

safety. Rides with low ratings and concerning feedback are automatically flagged for our Trust & Safety team to investigate and take action, which may include instant removal from the platform if appropriate. And if a safety-related complaint is lodged following the ride, we deactivate the driver so that he or she is not able to give any further rides until after we've investigated the complaint. This process, which provides a new level of responsiveness, accountability and transparency that has never previously existed in the transportation industry, has been reviewed and approved by the City of Honolulu, and in 45 states.

We are proud that Lyft is more than just a ridesharing application-- it is also a unique and flexible economic opportunity that turns anyone with a car into an entrepreneur who can set a schedule according to their terms. In fact, 95% percent of Lyft drivers in Hawai'i drive less than 20 hours per week. The Lyft driver community is made up of retirees, single parents, students, folks trying to get around, and families simply trying to make ends meet. In Hawai'i, Lyft drivers span a diverse cross-section of the community-- 25% of drivers are veterans, 26% are over the age of 50, and 30% are female.

Along with these community and economic benefits, we believe that Lyft is contributing to a more sustainable Hawai'i. Indeed, over 80% of cars on the road have only one occupant. 27% of Lyft users do not own or lease a personal vehicle, and 66% of non-car owners say that Lyft has impacted their decision not to own or lease a personal vehicle. By getting a Lyft instead of driving their cars, Hawaiians are not just saving time, they are reducing congestion, freeing up parking, making more efficient use of existing roads, and with this bill, supporting sustainable transportation infrastructure.

Since last spring, all Lyft rides have been carbon neutral, and Lyft is now a fully carbon neutral company. Last year, we made a multi-million dollar investment to create a program to offset over 1 million metric tons of carbon. We've purchased enough renewable energy to cover the electricity consumption of every Lyft office space, driver hub, and electric vehicle mile on our platform. We are now one of the top 10 voluntary purchasers of carbon offsets on the planet, and every ride now contributes to fighting climate change.

Statewide legislation is a path towards providing consumers, drivers and visitors a consistent experience with Lyft. We urge this committee to support establishing a clear, workable regulatory framework that can be applied to all ridesharing companies regardless of size and cities of operation to ensure that safe, reliable and affordable rides are available for all in Hawai'i.

Lyft does have some technical amendments that are respectfully requested to SB 1161, which are attached to this testimony. Thank you for your consideration of Lyft's testimony in support of SB 1161.

Lyft Suggested Technical Edits SB 1161

Lyft offers the following technical suggestions for changes to SB 1161:

- In Section 1, the definition of transportation network company would prohibit a transportation network company from owning a transportation network company vehicle. The inclusion of this prohibition would directly impact Lyft's ability to make our Express Drive program available in Hawaii. With Express Drive, millions of eligible drivers without a qualified vehicle now have the opportunity to immediately start earning money with Lyft. Express Drive is an innovative short-term vehicle access program that offers fuel efficient vehicles for rent to transportation network company drivers, which drivers can also use for their personal household needs. Express Drive rentals include insurance and routine maintenance and have a total cost of ownership that is similar to leasing a new car from a dealership. Similarly, the definition of transportation network company vehicle should be amended to clarify that any vehicle may qualify as a transportation network company vehicle, provided that the requirements of SB 1161 are met. For these reasons, Lyft would suggest the definitions be amended to read as follows:

"Transportation network company" means an entity that uses a digital network or software application service to connect passengers to transportation network company drivers. ~~provided that the entity:~~ A transportation network company:

- (1) Does not ~~own~~, control, direct, or manage the transportation network company vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract; and*
- (2) Is not a taxicab association or a for-hire vehicle owner.*

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

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

- In Section 6, Lyft suggests technical amendments to clarify that the picture of the driver and the vehicle's license plate number should be displayed to a rider during a

prearranged ride. For these reasons, Lyft suggests section 6 be amended to read as follows:

6 Identification of transportation network company vehicles and drivers. ~~The~~*During a prearranged ride, a transportation network company's digital network shall display to the rider a picture of the transportation network company driver and the license plate number of the transportation network company vehicle.*

- In Section 8, Lyft suggests technical amendments to clarify that insurance requirements in Hawaii Revised Statutes 431:10C-703 applies to transportation network companies and transportation network company drivers, rather than “entities and individuals”.

8 Disclosure; limitations; insurance requirements. *The requirements of section 431:10C-703 shall apply to transportation network companies and transportation network company drivers ~~all entities and individuals covered under this chapter.~~*

- In Section 9, Lyft suggests technical amendments to align the driver applicant process with operations. Lyft suggests section 9 be amended to read as follows:

9 Transportation network company driver requirements.

(a) ~~Prior to entering into a contract with an individual to be a transportation network company driver and~~ allowing ~~the an~~ individual to accept trip requests through a transportation network company's digital network:

(1) *The individual shall submit an application to the transportation network company and shall include the following information:*

- (A) *The individual's address;*
- (B) *The individual's age;*
- (C) *A copy of the individual's valid driver's license;*
- (D) *A copy of the applicable motor vehicle registration;*
- (E) *A copy of the applicable automobile liability insurance; and*
- (F) *Other information deemed necessary by the transportation network company;*

(2) *The transportation network company shall conduct, or have a third-party entity conduct, a national and local criminal background checks for each applicant that shall include a review of:*

(A) A multi-state and multi-jurisdictional criminal records locator or other similar commercial nationwide database with validation (primary source search); and

(B) The *US Department of Justice* national sex offender *registry public website*; and

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

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

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

(A) Attempting to evade the police;

(B) Reckless driving; or

(C) Driving on a suspended or revoked license;

(2) Within the past seven years has been:

(A) Convicted of any felony; or

(B) Convicted of any other misdemeanor relating to driving, violent, or sexual offenses;

(3) Is registered on the *US Department of Justice* national sex offender *registry public website* or any *publicly accessible* state sex offender registry;

(4) Does not possess a valid driver's license;

(5) Does not possess *proof of valid* registration for the motor vehicle or vehicles used to provide prearranged rides;

(6) Does not possess *proof of valid* automobile liability insurance for the motor vehicle or vehicles used to provide prearranged rides; or

(7) Is not at least nineteen years of age.

- In Section 10(c), Lyft suggests striking the last sentence, as “service animal” is not defined in Hawaii Revised Code 347-2.5. Instead, the definition references only “service dogs”.

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

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



Testimony of Tabatha Chow, on behalf of Uber Technologies, Inc., in support of SB1161 SD 1

February 26, 2019

To: Chairperson Rosalyn Baker and Members of the Senate Committee on Commerce, Consumer Protection and Health:

My name is Tabatha Chow and I am the Senior Operations Manager for Uber Technologies, Inc. (“Uber”) in Hawaii. I am submitting this testimony on behalf of Uber in support of SB 1161 SD 1 relating to Transportation Network Companies.

The Uber app facilitates Transportation Network Company (TNC) services. This provides flexible work opportunities for thousands of small business owners across Oahu, Maui, Big Island, and Kauai. Our technology platform connects local, independent drivers, with Hawaii residents and visitors. These independent drivers complete millions of trips every year throughout Hawaii, via the Uber platform.

SB 1161 SD 1 would provide uniform regulations for TNC operations throughout all of Hawaii. **TNC driver screening and other operating requirements are currently only mandated for Honolulu county**, under ROH Chapter 12. TNC insurance regulations are mandated by HRS 431:10C-703 and TNC airport operations are subject to HAR Title 19, Chapter 20.1. SB 1161 SD 1 would ensure TNC driver screening and other operating

requirements are mandated for all islands throughout Hawaii, not just the City and County of Honolulu.

The provisions of SB 1161 SD 1 are very similar to the current requirements of Honolulu ROH Chapter 12 and mandate background screenings for all drivers. These screenings include criminal background checks on all potential drivers. These checks must search federal, state, and local databases as well as the Sex Offender Public Registry Website. Driver Motor Vehicle Record (MVR) checks are also included. Various other TNC operating requirements are also addressed, including: operating permits, fare transparency, driver and vehicle identification, receipt requirements, non-discrimination and accessibility policies, record retention, and audit provisions.

We thank the Committee for the opportunity to provide this testimony and look forward to working together.

Respectfully,

A handwritten signature in black ink, appearing to read 'Tabatha Chow', with a stylized flourish at the end.

Tabatha Chow
Senior Operations Manager
Uber Hawaii

DALE EVANS, CEO
Charley's Taxi, a licensed Taxicab Company
& Always Charley's, a licensed Transportation Network Company
TESTIMONY IN STRONG OPPOSITION TO SB1161, SD1
Set for Decision Making on Tuesday, February 26, 2019 at 9a.m. in Room 229
By the Senate Committee on Commerce, Consumer Protection and Health

Good morning Chair Baker, Vice Chair Chang, and members of the Committee:

I strongly oppose SB1161, SD1 because it does not provide for the proper and appropriate regulation of Transportation Network Companies ("TNCs").

The advocates of this bill would like the Legislature to believe that this bill: (i) ensures the safety, reliability, and cost-effectiveness of rides provided by TNCs drivers; (ii) preserves and enhances access to important transportation options for residents and visitors of Hawaii; and (iii) provide regulatory safeguards for residents and visitors of Hawaii that utilize the services of TNC. However, a careful review of the bill clearly shows that it accomplishes none of these goals.

Unlike Motor Carriers that are regulated by the Hawaii Public Utilities Commission ("PUC") and Taxi cab operators that are regulated by the Counties, the proposed bill provides TNCs with a free pass to take advantage of Hawaii residents and visitors that use their services. **The bill as currently drafted does not require TNCs to ensure public safety and consumer protection.**

For example, although the bill asserts that it requires "fare transparency", it does not address the issue of surge pricing by TNCs. Thus, the TNC can charge an excessive and/or inappropriate fare as long it tells the customer upfront. Such a law does not protect unsophisticated consumers; e.g. our kupuna. Nor, does it prevent TNCs from taking advantage of visitors to our State, who may not know better. Unlike Taxi cab operators who are required by the Counties' Ordinances to transport riders via "the most direct and shortest route possible", TNC drivers have no such requirement. This is especially troubling because the majority of TNC drivers have little to no experience in transporting passengers. The average TNC driver is usually on the job for less than a year and usually is driving part time. By not taking "the most direct and shortest route possible" this allows TNC drivers to charge their riders more.

Moreover, the bill does not address the fact that in order to utilize TNCs' services, a rider must have a credit card and access to internet. Not everyone in Hawaii has these things, or in the case of internet know how to use it. This is especially true for our kupuna. Thus, allowing TNCs to pick and choose their riders. This discrimination is not just limited to whether a rider has a credit card or internet access, but also applies to trips in general. Unlike taxi cab operators and motor carriers regulated by the PUC who are not allowed to discriminate against riders. TNCs can choose to not accept a trip.

Another example is the bill states that the TNC shall transmit an electronic receipt to the rider at the completion of the trip within a reasonable time. This language gives the TNC too much discretion. When is a reasonable time? At the time of the completion of the trip; an hour after the completion of the trip; 24 hours after the completion of the trip; a month after the completion of the trip?

Besides failing to provide adequate transparency to ensure public safety and consumer protection, this bill also fails to provide transparency regarding TNCs' audits and records to ensure public safety and consumer protection. For example, pursuant to the bill DOT would only be permitted to visually inspect a **sample** of a TNC's records. Moreover, the public is prohibited to seeing any TNC records inspected by DOT without prior consent of the TNC. Clearly this is a case of the "fox guarding the hen house", and, thus must be amended.

Most troubling is the screening of drivers for TNCs. The requirements in the bill are lacking. Unlike Taxi cab operators, the bill does not require that TNC drivers be finger printed or be subject to medical tests for physical and mental fitness. Moreover, instead of having a criminal background check done by an official government agency (e.g. Hawaii Police Department), the bill allows the TNCs to do their own background checks, or by a third party of their choice.

Indeed, the bill also permits convicted felons to be TNC drivers, as long as they were not convicted within the last 7 years. This is the same for misdemeanors relating to driving, violent, or sexual offences. In order words, a convicted murderer would be eligible to be a TNC driver 7 years and 1 day after his conviction.

The above are just a few examples of how the bill's requirements for TNC's drivers are lacking. This section of the bill, if passed, needs to be strengthened in order to ensure public safety.

With all due respect to DOT, I oppose DOT as the regulating agency for TNCs. The bill acknowledges that currently DOT has no permitting process and until such permitting process is set by DOT, TNCs will continue to be unregulated; putting Hawaii's residents and visitors at risk. The Counties currently are tasked with regulating taxi cab operators and the PUC is tasked with regulating other motor carriers, thus why does this bill not make either the Counties or PUC regulate TNCs. The Counties and PUC have years of experience and expertise, and laws and ordinances have already been adopted and vetted to ensure public safety and consumer protection. DOT has no experience or expertise. Indeed, this bill requests an appropriation of money for DOT to administer and implement the purpose of this bill. Why are we wasting money to reinvent the wheel when the PUC and the Counties already have a program and staff to implement these issues.

Charley's has been in the business of transporting passengers and property in Hawaii for years. We are a third generation locally owned company and take pride in providing the best customer service and ensuring the safety of our drivers and riders. We believe it is important for all transportation companies, including TNCs, to do the same. That includes, Always Charley's which is a TNC. TNC's should not be allowed to come in to the State to upset the market and jeopardize the viability of our local transportation business. We are not saying that they cannot do business in the State, but they must play by the same rules as everyone else; i.e. follow the counties ordinances for Taxi cab operators and/or Hawaii Revised Statutes chapter 271 regarding motor carriers. This is especially important for Hawaii because as an economy that relies on tourism and the military, it is important that these sectors, along with our local residents, are not taken advantage of or have their safety jeopardized when they are being transported in our State.

For all the reasons above, I strongly oppose SB1161, SD1 and ask that the committee defer this Bill.

Thank for the opportunity to provide testimony in strong opposition to SB1161, SD1.

Respectfully submitted,

Dale Evans, CEO, Chairman

