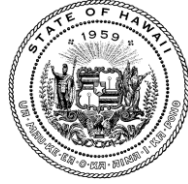


DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LT. GOVERNOR



ISAAC W. CHOY  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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To: The Honorable Karl Rhoads, Chair;  
The Honorable Jarrett Keohokalole, Vice Chair;  
and Members of the Senate Committee on Judiciary

The Honorable Donovan M. Dela Cruz, Chair;  
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair  
and Members of the Senate Committee on Ways and Means

From: Isaac W. Choy, Director  
Department of Taxation

Date: Tuesday, April 5, 2022  
Time: 10:05 A.M.  
Place: Via Video Conference, State Capitol

**Re: H.B. 1971, H.D. 2, S.D. 1, Relating to Peer-to-Peer Car-Sharing**

The Department of Taxation (Department) supports the tax provisions of H.B. 1971, H.D. 2, S.D. 1, and offers the following comments for your consideration.

H.B. 1971, H.D. 2, S.D. 1, creates a new chapter to regulate peer-to-peer car-sharing and imposes the current rental vehicle surcharge tax (RVST) on peer-to-peer car-sharing programs (P2P). The bill has a defective effective date of July 1, 2050.

The Department supports the tax provisions of H.B. 1971, H.D. 2, S.D. 1, in its current form. The proposed new chapter to regulate P2Ps specifically states that P2Ps are subject to the General Excise Tax and daily RVST. The Department supports this imposition of the RVST as it is a consistent imposition of the tax across very similar industries.

H.B. 1971, H.D. 2, S.D. 1, also amends chapter 251, Hawaii Revised Statutes (HRS) to include an imposition of RVST directly on P2Ps. The Department supports including a statement of RVST liability directly in chapter 251, HRS, as this statement will leave no ambiguity or confusion regarding the P2Ps RVST liability.

Thank you for the opportunity to provide testimony on this measure.



DAVID Y. IGE  
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JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Judiciary  
and  
Senate Committee on Ways and Means**

**Tuesday, April 5, 2022  
10:05 a.m.  
Via Videoconference**

**On the following measure:  
H.B. 1971, H.D. 2, S.D. 1, RELATING TO PEER-TO-PEER CAR SHARING**

Chair Rhoads, Chair Dela Cruz, and Members of the Committees:

My name is Michael Moriyama, and I am an Enforcement Attorney at the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection. The Department opposes this bill and instead continues its support of H.B. 333, H.D. 3, S.D. 2 that has increased and appropriate protections for shared car owners, drivers, Hawaii residents and innocent bystanders.

The purposes of H.B. 1971, H.D. 2, S.D. 1 are to: (1) authorize and regulate peer-to-peer car-sharing programs; (2) impose the general excise tax and rental motor vehicle surcharge tax on peer-to-peer car-sharing programs; and (3) require those persons engaging or continuing in a peer-to-peer car-sharing program to register with the Department of Taxation.

The Department has several concerns with this bill. First, H.B. 1971, H.D. 2, S.D. 1 endangers shared car drivers, Hawaii residents and innocent bystanders because it does not allow for the termination of a shared car agreement when a shared car becomes unsafe to operate or subject to a safety recall. H.B. 333, H.D. 3, S.D. 2 provides safeguards when such situations occur by allowing a shared car agreement to be terminated when a shared car becomes a risk to the driver and others and the driver notifies the peer-to-peer platform of the location of the car (HB 333, p. 3, lines 8–20).

Second, H.B. 1971, H.D. 2, S.D. 1 inconsistently holds that a shared car is not a rental car (HB 1971, p. 2, lines 2–4; p. 3, lines 6–9, lines 12-14, lines 17-19; p. 4, lines 1-2, lines 6-7; *p. 13, lines 10-11*) while H.B. 1971, H.D. 2, S.D. 1 confusingly also claims that 49 U.S.C. § 30106, that limits the vicarious liability of rental car companies, also applies to peer-to-peer platforms (H.B. 1971, H.D. 2, S.D. 1, p. 6, lines 9-13). This contradictory provision creates a legal issue that will increase the cost of recovery for injured persons. H.B. 333, H.D. 3, S.D. 2 does not contain any such improper reference.

Third, HB 1971, H.D. 2, S.D. 1 does not adequately protect shared car drivers from unwarranted charges by a peer-to-peer platform for equipment damage. H.B. 1971, H.D. 2, S.D. 1 makes a shared car driver liable for “any” damage to platform equipment, whether the driver is at fault or not (H.B. 1971, H.D. 2, S.D. 1, p. 11, lines 11-14). H.B. 333, H.D. 3, S.D. 2 protects a shared car driver from unilateral charges made against the driver’s credit card or bank account by the platform *after* a shared car is returned, after the shared car driver returns to his/her home state or country and it becomes difficult for the driver to dispute the charges (HB 333, p. 15, lines 19-20, p. 16, lines 1-5). In analogous circumstances, OCP has received numerous complaints of rental car companies charging consumers’ credit card or bank accounts for unjustified claims of damages to rental cars *after* consumers returned to their home state or country. HRS §§ 437D-12 and 15 together provide a defense against such claims.

H.B. 333, H.D. 3, S.D. 2 also protects a shared car owner from liability caused by equipment installed by the platform (HB 333, p. 16, lines 6-11). H.B. 333, H.D. 3, S.D. 2’s provision protects a Hawaii shared car owner from damage to his/her shared car as

well as injury to Hawaii residents and innocent bystanders caused by platform equipment malfunction.

Fourth, H.B. 1971, H.D. 2, S.D. 1 does not adequately protect shared car drivers from unwarranted charges for shared car damage. H.B. 333, H.D. 3, S.D. 2, again similar to HRS §§ 437D-12 and 15, provides a defense for a shared car driver against improper charges made to the driver's credit card or bank account *after* returning a shared car and returning to their home state or country (H.B. 333, H.D. 3, S.D. 2, p.16, lines 17-21, p. 17, lines 1-18).

Fifth, H.B. 1971, H.D. 2, S.D. 1 does not adequately protect shared car drivers, Hawaii residents and innocent bystanders from vehicles subject to safety recalls because it requires a peer-to-peer platform to remove a shared car *only* when the platform received notice or is *aware* of a recall (HB 1971, p. 12, lines 6-10). H.B. 333, H.D. 3, S.D. 2 more adequately protects shared car drivers, Hawaii residents and innocent bystanders by placing the responsibility on a platform to verify that each shared car is not subject to a safety recall or that recall repairs have been completed (H.B. 333, H.D. 3, S.D. 2, p. 17, lines 19-20, p. 18, lines 1-6 and 16-18). The National Highway Traffic Safety Administration ("NHTSA") has recall notice and repair information digitally available publicly to any person, including peer-to-peer programs that are large multi-national internet-based companies, some valued at \$1billion or more, with hundreds of thousands of web-based shared car owners and hundreds of thousands, if not millions, of internet-connected shared car drivers and digital platforms that reach into computer networks across the globe.

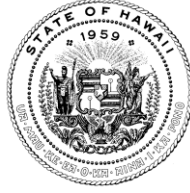
H.B. 333, H.D. 3, S.D. 2 also requires a platform to immediately notify a shared car driver of a safety recall so that the shared car can be appropriately removed from use (H.B. 333, H.D. 3, S.D. 2, p. 18, lines 7-15).

Sixth, H.B. 1971, H.D. 2, S.D. 1 does not provide any incentive for compliance because it does not contain any penalty provisions. If a platform fails to adhere to any safety or recordkeeping provision of H.B. 1971, H.D. 2, S.D. 1, there is no statutory consequence. H.B. 333, H.D. 3, S.D. 2 states that any person that violates or attempts

Testimony of DCCA  
H.B. 1971, H.D. 2, S.D. 1  
Page 4 of 4

to violate peer-to-peer regulation is subject to the penalty provisions of HRS § 480-2  
(H.B. 333, H.D. 3, S.D. 2, p. 21, lines 3-7).

Thank you.



DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

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DEPUTY DIRECTOR

**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Judiciary  
and  
Senate Committee on Ways and Means  
Tuesday, April 5, 2022  
10:05 a.m.  
Conference Room 211 and Via Videoconference**

**On the following measure:  
H.B. 1971, H.D.2, S.D.1, RELATING TO PEER-TO-PEER CAR-SHARING**

**WRITTEN TESTIMONY ONLY**

Chair Rhoads, Chair Dela Cruz, and Members of the Committees:

My name is Colin M. Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department provides comments on this bill and respectfully requests amendments to the definitions section and recordkeeping requirements similar to those provisions contained in H.B. 1619, H.D. 2, S.D. 1.

The purpose of this bill is to authorize peer-to-peer car-sharing and to establish regulations. This bill also imposes the general excise tax and rental motor vehicle surcharge tax on peer-to-peer car-sharing programs, including car-sharing program requirements, and requires those persons engaging or continuing in a peer-to-peer car-sharing program to register with the Department of Taxation.

Additionally, having different definitions may cause confusion. Therefore, for consistency the Department prefers to reference the proposed definitions section of H.B. 1619, H.D. 2, S.D. 1, §431:10C-A.

For this bill's proposed section addressing record keeping we suggest referring to the proposed language and format in H.B. 1619, H.D. 2, S.D.1, §431:10C-D pertaining to record keeping; use of vehicle in peer-to-peer car-sharing.

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

## TESTIMONY OF ALISON UEOKA

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COMMITTEE ON JUDICIARY  
Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair

COMMITTEE ON WAYS AND MEANS  
Senator Donavan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Tuesday, April 5, 2022  
10:05 a.m.

### **HB 1971, HD2, SD1**

Chair Rhoads, Vice Chair Keohokalole, and members of the Committee on Judiciary, and Chair Dela Cruz and Vice Chair Keith-Agaran, and members of the Committee on Ways and Means, my name is Alison Ueoka, President of the Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council submits comments on this bill. In the prior TRS/CPN hearing, the bill was amended to separate the insurance requirements from this bill which now contain the regulatory provisions for P2Ps. The insurance requirements are now in HB 1619, SD1.

We ask for amendments to two sections of the bill, Definitions and Recordkeeping.

We request that definitions contained in this bill in new Section 1 starting on Page 1, line 6 and ending on Page 4, line 7, be amended so each definition will read in the following format:



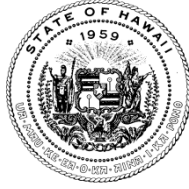
““Car-sharing delivery period” has the same meaning as defined in section 431:10C-A, etc.”

Similarly, we ask that the Recordkeeping section be amended to read as follows:

““Sec. -3 Recordkeeping; use of vehicle in car-sharing. Recordkeeping provisions are contained in section 431:10C-D.”

Thank you for the opportunity to submit our testimony.

DAVID Y. IGE  
GOVERNOR



**TESTIMONY BY:**

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
ROSS M. HIGASHI  
EDUARDO P. MANGLALLAN  
PATRICK H. MCCAIN  
EDWIN H. SNIFFEN

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

April 5, 2022  
10:05 A.M.

State Capitol, Capitol Room 211/Teleconference

**H.B. 1971, H.D. 2, S.D. 1**  
**RELATING TO PEER-TO-PEER CAR-SHARING**

Senate Committee(s) on Judiciary & Ways and Means

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The Department of Transportation **supports** H.B. 1971, H.D. 2, S.D. 1, which authorizes and regulates peer-to-peer car-sharing programs. Imposes the general excise tax and rental motor vehicle surcharge tax on peer-to-peer car-sharing programs. Requires those persons engaging or continuing in a peer-to-peer car-sharing program to register with the Department of Taxation.

We believe this bill will increase public safety by ensuring that peer-to-peer car-sharing programs are regulated.

Thank you for the opportunity to provide testimony.

# TAX FOUNDATION OF HAWAII

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126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

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**SUBJECT:** RENTAL MOTOR VEHICLE, GENERAL EXCISE, Peer-to-Peer Car-sharing Surcharge Tax

**BILL NUMBER:** HB 1971 SD 1

**INTRODUCED BY:** Senate Committees on Transportation and Commerce and Consumer Protection

**EXECUTIVE SUMMARY:** Authorizes peer-to-peer car-sharing and establishes regulations thereof. Imposes the general excise tax and rental motor vehicle surcharge tax on peer-to-peer car-sharing programs, including car-sharing program requirements. Requires those persons engaging or continuing in a peer-to-peer car-sharing program to register with the Department of Taxation. Effective 7/1/2050.

**SYNOPSIS:** Adds a new chapter to the HRS to regulate peer-to-peer car sharing. Section -12 of the new chapter states that the activity of peer-to-peer car sharing shall be subject to general excise tax under chapter 237 and the rental motor vehicle surcharge tax pursuant to section 251-2(a); provided that the peer-to-peer car sharing program shall be responsible for collecting and remitting any taxes and surcharges to the department of taxation.

Amends section 251-3, HRS, in the rental motor vehicle surcharge tax (RVST), to explicitly subject engaging or continuing in a peer-to-peer car sharing program to the RVST.

**EFFECTIVE DATE:** July 1, 2050

**STAFF COMMENTS:** Effective February 9, 2021, the Department adopted temporary rules under the authority of section 231-10.7, HRS, interpreting the existing RVST rules to apply to the peer-to-peer car-sharing industry.[1] At a minimum, the proposed measure should be compared against the temporary rules to evaluate secondary consequences of both the rules and this proposed measure.

Digested: 4/3/2022



**SanHi**

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: April 4, 2022

TO: Senator Karl Rhoads  
Chair, Committee on Judiciary

Senator Donovan Dela Cruz  
Chair, Committee on Ways and Means

FROM: Matthew Tsujimura

RE: **H.B. 1971, HD2, SD1 Relating to Peer-to-Peer Car-Sharing**  
**Hearing Date: April 5, 2022 at 10:05 a.m.**  
**Conference Room 016 & Videoconference**

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Dear Chair Rhoads, Chair Dela Cruz, and members of the Joint Committees:

We submit this testimony on behalf of Enterprise Holdings, which includes Enterprise Rent-A-Car, Alamo Rent-A-Car, National Car Rental, and Enterprise Commute (Van Pool).

Enterprise **supports** H.B. 1971, HD2, SD1 which authorizes and regulates peer-to-peer car-sharing in the State. H.B. 1971, HD2, SD1 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. 1971, HD2, SD1 is a comprehensive bill that includes language regarding consumer safety and applicable taxes and fees.

HRS 261-7(a) authorizes DOT-A to contract with any person seeking to use property at State airports. Enterprise suggests including language in the committee report that clarifies that peer-to-peer car-sharing programs must contract with the Department of Transportation – Airports Division (DOT-A) in order to operate at the Airport. The proposed language is attached below.

We strongly support the passage of H.B. 1971, HD2, SD1.

Thank you for the opportunity to testify.

**Proposed Committee Report Language:**

"Your Committee notes that existing law empowers the department of transportation airports division to establish policies and rules governing use and access to the airports' premises. Peer-to-peer car-sharing programs will be subject to such rules when operating at the airport."



Testimony of  
Tami Bui – Senior Government Affairs Manager  
Turo Inc., San Francisco, CA  
**Comments to HB 1971 HD 2 SD 1** April 5, 2022

Chairs Rhoads and Dela Cruz, Vice Chairs Keohokalole and Keith-Agaran, and Members of the Senate Committees on Judiciary and Ways and Means, I respectfully submit comments to **HB 1971 HD 2 SD 1** on behalf of Turo.

Thank you for your leadership to establish a fair regulatory framework for peer-to-peer car sharing. We look forward to working collaboratively toward a result that is fair and provides an option to residents who are in need of a car as well as those who share their car as a way to help them become financially stable.

Our comments and attached redlines focus on safety recall language and definitional language.

### **Safety Recall**

The language in this bill provides for protections for drivers if there is an open safety recall on a vehicle. We are requesting an amendment to the language to require the platform to check for a safety recall *no more than forty-eight hours* prior to when a shared vehicle is made available to a driver. Additionally, there is language that also provides for the protections consistent with federal recall statutes.

Currently, there are no vehicle recall regulations for peer-to-peer car sharing, or other mobility services, in the state of Hawaii.

### **Definitions**

The current language in HB 1971 HD 2 SD 1 on p. 2, line 10 refers to the “Car-sharing termination time means the *latest* of the following events...”

We request reverting back to the original “earliest” requirement. This was done previously in related SB 2444 SD 2 after the hearing on 2/23/22.

In conclusion there are two amendments Turo is requesting: (1) safety recalls requiring the platform check for a safety recall *no more than forty-eight hours* and (2) “earliest” to “latest” for the car sharing termination time.

We thank you for the opportunity to provide comments.





1 driver that govern the use of a shared car through a  
2 peer-to-peer car-sharing program. "Car-sharing program  
3 agreement" does not include a rental agreement as defined in  
4 section 437D-3.

5 "Car-sharing start time" means the time when the shared car  
6 becomes subject to the control of the shared car driver at or  
7 after the time the reservation of a shared car is scheduled to  
8 begin as documented in the records of a peer-to-peer car-sharing  
9 program.

10 "Car-sharing termination time" means the ~~latest~~ earliest  
11 of the following events:

- 12 (1) The expiration of the agreed upon period of time  
13 established for the use of a shared car according to  
14 the terms of the car-sharing program agreement, if the  
15 shared car is delivered to the location agreed upon in  
16 the car-sharing program agreement;
- 17 (2) When the shared car is returned to a location as  
18 alternatively agreed upon by the shared car owner and  
19 shared car driver as communicated through a  
20 peer-to-peer car-sharing program; or



1           (3) When the shared car owner or the shared car owner's  
2           authorized designee takes possession and control of  
3           the shared car.

4           "Peer-to-peer car-sharing" means the authorized use of a  
5           vehicle by an individual other than the vehicle's owner through  
6           a peer-to-peer car-sharing program. "Peer-to-peer car-sharing"  
7           does not include the business of providing rental motor vehicles  
8           to the public as that phrase is used in section 251-3 or the  
9           business of a lessor as defined in section 437D-3.

10          "Peer-to-peer car-sharing program" means a business  
11          platform that connects vehicle owners with drivers to enable the  
12          sharing of vehicles for financial consideration. "Peer-to-peer  
13          car-sharing program" does not mean a lessor as defined in  
14          section 437D-3. "Peer-to-peer car-sharing program" does not  
15          include a car-sharing organization as defined in section 251-1.

16          "Shared car" means a vehicle that is available for sharing  
17          through a peer-to-peer car-sharing program. "Shared car" does  
18          not include a rental motor vehicle or vehicle as those terms are  
19          defined in section 437D-3.

20          "Shared car driver" means an individual who has been  
21          authorized to drive the shared car by the shared car owner under



1 a car-sharing program agreement. "Shared car driver" does not  
2 include a lessee as defined in section 437D-3.

3 "Shared car owner" means the registered owner, or a person  
4 or entity designated by the registered owner, of a vehicle made  
5 available for sharing to shared car drivers through a  
6 peer-to-peer car-sharing program. "Shared car owner" does not  
7 include a lessor as defined in section 437D-3.

8 § -2 Notification of implications of lien. When a car  
9 owner registers as a shared car owner on a peer-to-peer  
10 car-sharing program and prior to when the shared car owner makes  
11 a shared car available for peer-to-peer car-sharing on the peer-  
12 to-peer car-sharing program, the peer-to-peer car-sharing  
13 program shall notify the shared car owner that, if the shared  
14 car has a lien against it, the use of the shared car through a  
15 peer-to-peer car-sharing program, including use without physical  
16 damage coverage, may violate the terms of the contract with the  
17 lienholder.

18 § -3 Recordkeeping; use of vehicle in car-sharing. A  
19 peer-to-peer car-sharing program shall collect and verify  
20 records pertaining to the use of a shared car for each car-  
21 sharing program agreement, including:



- 1           (1) Dates and times of the car-sharing start time and  
2           car-sharing termination time in the car-sharing  
3           program agreement;
- 4           (2) Dates and times of the car-sharing start time and  
5           car-sharing termination time;
- 6           (3) Itemized descriptions and amounts of all fees and  
7           costs charged to the shared car driver;
- 8           (4) Itemized descriptions and amounts of all fees and  
9           costs paid by the shared car driver;
- 10          (5) Itemized descriptions and amounts of all fees and  
11          costs paid to the shared car owner;
- 12          (6) The name and contact information of the shared car  
13          owner and the shared car driver; and
- 14          (7) The insurance policy number, effective date,  
15          coverage, and coverage amounts of each insurance  
16          policy that identifies the peer-to-peer car-sharing  
17          program, shared car owner, or shared car driver as  
18          the insured.

19           The peer-to-peer car-sharing program shall retain the  
20 records for a time period of no less than six years. Upon  
21 request, the peer-to-peer car-sharing program shall provide



1 the information required by this section and any information  
2 relating to the car-sharing program agreement in its  
3 possession and control to the shared car owner, shared car  
4 owner's insurer, shared car driver, shared car driver's  
5 insurer, persons who have sustained injury or property damage  
6 involving a shared car, and police and other governmental  
7 entities to facilitate accident or claim coverage  
8 investigation.

9       **§ -4 Exemption; vicarious liability.** Consistent with  
10 title 49 United States Code section 30106, a peer-to-peer  
11 car-sharing program and shared car owner shall be exempt from  
12 vicarious liability under any state or local law that imposes  
13 liability solely based upon motor vehicle ownership.

14       **§ -5 Required disclosures and notices.** For each  
15 shared car participating in a car-sharing program agreement,  
16 a peer-to-peer car-sharing program shall:

17       (1) Provide, prior to the execution of a car-sharing  
18             program agreement, the shared car owner and shared  
19             car driver with the terms and conditions of the car-  
20             sharing program agreement;



1 (2) Disclose to the shared car driver, prior to the  
2 execution of a car-sharing program agreement, all  
3 costs or fees that are charged to the shared car  
4 driver under the car-sharing program agreement,  
5 including all costs or fees for mandatory insurance  
6 coverage charged by the peer-to-peer car-sharing  
7 program;

8 (3) Disclose to the shared car owner, prior to the  
9 execution of a car-sharing program agreement, all  
10 costs or fees that are charged to the shared car  
11 owner under the car-sharing program agreement,  
12 including fees or costs for mandatory insurance  
13 coverage charged by the peer-to-peer car-sharing  
14 program;

15 (4) Provide a twenty-four hour emergency telephone  
16 number for a person capable of facilitating roadside  
17 assistance for the shared car driver;

18 (5) Disclose any right of the peer-to-peer car-sharing  
19 program to seek indemnification from the shared car  
20 owner or shared car driver for economic loss  
21 sustained by the peer-to-peer car-sharing program



1           caused by a breach of the car-sharing program  
2           agreement; provided that the peer-to-peer car-  
3           sharing program shall require the shared car owner  
4           and shared car driver to specifically and separately  
5           acknowledge notice of the disclosure prior to  
6           execution of a car-sharing program agreement;

7           (6) Disclose that a motor vehicle insurance policy  
8           issued to the shared car owner for the shared car or  
9           to the shared car driver may not provide a defense  
10          or indemnification for any claim asserted by the  
11          peer-to-peer car-sharing program; provided that the  
12          peer-to-peer car-sharing program shall require the  
13          shared car owner and shared car driver to  
14          specifically and separately acknowledge notice of  
15          the disclosure prior to execution of a car-sharing  
16          program agreement;

17          (7) Disclose that the peer-to-peer car-sharing program's  
18          insurance coverage on the shared car owner and  
19          shared car driver is in effect only during each car-  
20          sharing period and that the shared car may not have  
21          insurance coverage for use of the shared car by the



1 shared car driver after the car-sharing termination  
2 time; provided that the peer-to-peer car-sharing  
3 program shall require the shared car owner and  
4 shared car driver to specifically and separately  
5 acknowledge notice of the disclosure prior to the  
6 execution of a car-sharing program agreement;

7 (8) Disclose any insurance or protection package costs  
8 that are charged to the shared car owner or shared  
9 car driver; provided that the peer-to-peer car-  
10 sharing program shall require the shared car owner  
11 and shared car driver to specifically and separately  
12 acknowledge notice of the disclosure prior to the  
13 execution of a car-sharing program agreement;

14 (9) Disclose to the shared car driver any conditions in  
15 which the shared car driver is required to maintain  
16 a motor vehicle insurance policy as the primary  
17 coverage for the shared car; and

18 (10) Disclose that a shared car owner shall be permitted  
19 to obtain insurance that provides coverage for loss  
20 of use of a shared car.





1           §   -6 Driver's license verification and data retention.

2   (a) A peer-to-peer car-sharing program shall not enter into a  
3 car-sharing program agreement with a shared car driver unless  
4 the shared car driver:

5           (1) Holds a driver's license issued under section 286-102  
6               that authorizes the shared car driver to operate  
7               vehicles of the class of the shared car;

8           (2) Is a nonresident who:

9               (A) Has a driver's license issued by the state or  
10               country of the driver's residence that authorizes  
11               the shared car driver in that state or country to  
12               drive vehicles of the class of the shared car;  
13               and

14               (B) Is at least the same age as that required of a  
15               resident to drive; or

16           (3) Otherwise is specifically authorized to drive vehicles  
17               of the class of the shared car.

18   (b) A peer-to-peer car-sharing program shall record:

19           (1) The name and address of the shared car driver; and



1           (2) The place of issuance and number of the driver's  
2           license of the shared car driver and each other  
3           person, if any, who will operate the shared car.

4           § -7 **Responsibility for equipment.** A peer-to-peer  
5 car-sharing program shall have sole responsibility for any  
6 equipment, such as a global positioning system or other special  
7 equipment, that is put in or on the shared car to monitor or  
8 facilitate the car-sharing transaction, and shall agree to  
9 indemnify and hold harmless the shared car owner for any damage  
10 to or theft of the equipment during the car-sharing period not  
11 caused by the shared car owner. The peer-to-peer car-sharing  
12 program shall have the right to seek indemnification from the  
13 shared car driver for any loss or damage to the equipment that  
14 occurs during the car-sharing period.

15           § -8 **Motor vehicle safety recalls.** (a) At the time  
16 when a vehicle owner registers as a shared car owner on a  
17 peer-to-peer car-sharing program, prior to the time when the  
18 shared car owner makes a shared car available for peer-to-peer  
19 car-sharing on the peer-to-peer car-sharing program, and no  
20 more than 48 hours before ~~at~~ the car-sharing start time, the  
21 peer-to-peer car-sharing program shall:



- 1           (1) Verify that no safety recalls exist for the make and
- 2                   model of the shared car for which repairs have not
- 3                   been made;
- 4           (2) Notify the shared car owner of the requirements under
- 5                   subsection (b); and
- 6           (3) Not make the shared car available for use through a
- 7                   peer-to-peer car-sharing program if the shared car
- 8                   owner or peer-to-peer car-sharing program has received
- 9                   notice or is aware of a safety recall on the shared
- 10                  car, until the safety repair has been made.
- 11          (b) A shared car owner shall:
- 12           (1) Remove any shared car listed for use through a
- 13                   peer-to-peer car-sharing program upon receipt of a
- 14                   notice of a safety recall as soon as practicably
- 15                   possible but no longer than seventy-two hours after
- 16                   receipt of notice of a safety recall; and
- 17           (2) Notify the peer-to-peer car-sharing program of a
- 18                   safety recall when the shared car is in the possession
- 19                   of a shared car driver so that the peer-to-peer
- 20                   car-sharing program may notify the shared car driver
- 21                   and the shared car may be removed from use until the



1 shared car owner effects the necessary safety recall  
2 repair.

3 c) Nothing in this Act shall create any legal duty upon the  
4 peer-to-peer car-sharing program or the shared vehicle owner related  
5 to the accuracy, errors, or omissions in any notification upon which  
6 the peer-to-peer car sharing program or shared vehicle owner relies  
7 to carry out its obligations under this Section.

8 d) Notwithstanding any other provision of this Act,  
9 consistent with title 49 of the United States Code section 30120, if a  
10 recall notification received by a shared vehicle owner indicates that  
11 the remedy for the recall is not immediately available and specifies  
12 actions to temporarily repair the vehicle in a manner to eliminate the  
13 safety risk that prompted the recall, the shared vehicle owner, after  
14 having the repairs completed, may share the shared vehicle via a peer-  
15 to-peer car-sharing program. Once the remedy for the shared vehicle  
16 becomes available to the shared vehicle owner, the shared vehicle  
17 owner may not list the shared vehicle until the shared vehicle has been  
18 remedied.

19  
20  
21



1 shared car owner effects the necessary safety recall  
2 repair.

3 § -9 General excise tax; rental motor vehicle surcharge  
4 tax; collection. The activity of peer-to-peer car-sharing shall  
5 be subject to general excise tax under chapter 237 and the  
6 rental motor vehicle surcharge tax pursuant to section 251-2(a);  
7 provided that the peer-to-peer car-sharing program shall be  
8 responsible for collecting and remitting any taxes and  
9 surcharges to the department of taxation.

10 § -10 Relation to other laws. Chapter 437D shall not  
11 apply to peer-to-peer car-sharing."

12 SECTION 2. Section 251-3, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) Each person as a condition precedent to engaging or  
15 continuing in the business of providing rental motor vehicles to  
16 the public, engaging or continuing in the tour vehicle operator  
17 business, [~~or~~] engaging or continuing in a car-sharing  
18 organization business, or engaging or continuing in a  
19 peer-to-peer car-sharing program as defined in section -1  
20 shall register with the director. A person required to so  
21 register shall make a one-time payment of \$20, upon receipt of



1 which the director shall issue a certificate of registration in  
2 such form as the director determines, attesting that the  
3 registration has been made. The registration shall not be  
4 transferable and shall be valid only for the person in whose  
5 name it is issued and for the transaction of business at the  
6 place designated therein. The registration, or in lieu thereof  
7 a notice stating where the registration may be inspected and  
8 examined, shall at all times be conspicuously displayed at the  
9 place for which it is issued."

10 SECTION 3. Section 251-2, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) There is levied and shall be assessed and collected  
13 each month a rental motor vehicle surcharge tax of \$5 a day, or  
14 any portion of a day that a rental motor vehicle is rented or  
15 leased. Beginning January 1, 2022, and each subsequent year on  
16 January 1 until December 31, 2027, the rental motor vehicle  
17 surcharge tax shall increase by \$0.50. The rental motor vehicle  
18 surcharge tax shall be levied upon the lessor; provided that the  
19 tax shall not be levied on the lessor if:

20 (1) The lessor is renting the vehicle to replace a vehicle  
21 of the lessee that:



- 1 (A) Is being repaired; or
- 2 (B) Has been stolen and is unrecovered or will not be
- 3 repaired due to a total loss of the vehicle; and
- 4 (2) A record of the repair order, the stolen vehicle
- 5 record, or total loss vehicle claim for the vehicle is
- 6 retained either by the lessor for two years for
- 7 verification purposes or by a motor vehicle repair
- 8 dealer for two years as provided in section 437B-16.

9 In addition to the requirements imposed by section 251-4, a  
 10 lessor shall disclose, to the department, the portion of the  
 11 remittance attributed to the county in which the motor vehicle  
 12 was operated under rental or lease. A peer-to-peer car-sharing  
 13 program, as defined in chapter , shall be subject to the tax  
 14 imposed by this subsection and be subject to the other  
 15 requirements of this chapter."

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

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



**Report Title:**

Department of Taxation; Peer-to-Peer Car-Sharing; GET; Rental Motor Vehicle Surcharge Tax; State Highway Fund

**Description:**

Authorizes and regulates peer-to-peer car-sharing programs. Imposes the general excise tax and rental motor vehicle surcharge tax on peer-to-peer car-sharing programs. Requires those persons engaging or continuing in a peer-to-peer car-sharing program to register with the Department of Taxation. Effective 7/1/2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*







April 5, 2022

The Honorable Chair Rhoads  
Chair, The Senate Committee on Judiciary

The Honorable Dela Cruz  
Chair, The Senate Committee on Ways and Means

Regarding: Testimony by Soledad Roybal, Public Policy Manager,  
Getaround; offering **Comments on HB 1971**.

Aloha Chair Rhoads and Dela Cruz, Vice Chairs Keohokalole and Keith-Agaran, and Members of the Senate Committees on Judiciary and Ways and Means. Mahalo for the opportunity to submit written testimony for your consideration on House Bill 1971.

Getaround supports a fair regulatory framework designed to ensure that everyone is safe and protected on Hawaii's roads, whether it be a Getaround guest, a traditional rental car user, or the average Hawaiian driver.

Getaround is concerned with the **definition of "car-sharing termination time"**(HB 1971 HD 2 SD 1 on p. 2, line 10). We request changing "latest" to "earliest," which would correct an error that was corrected in related SB 2444 SD 2 after the hearing on 2/23/22. Without that correction, the duration of the booking – and the requirement to hold insurance during that

booking – would be longer -- potentially much longer – than we understand the supporters of House Bill 1971 intend.

**Safety recalls** on cars are an issue the Getaround takes seriously. When a car is placed on the Getaround platform, a safety recall check is conducted before being available for use, and cars with outstanding recalls are not allowed on the platform until the recall is resolved. We continue to stay on top of recalls using data from National Highway Traffic Safety Administration (NHTSA). We respectfully request that you consider an amendment to the current language requiring the platform to check for safety recalls no more than forty-eight hours before a shared vehicle is made available to a driver. As a service that enables members to book a car by the hour 24/7 on-demand, without having to pick up keys or wait in line, many guests book a car on Getaround only hours or even minutes before they pick up their car. It would be unreasonable to require Getaround to run recall checks prior to every booking.

Another concern with the bill is the **language that impacts customer privacy**. We are committed to working with the police, insurance companies, and other official entities about law enforcement concerns and insurance claims. However, requiring platforms to provide a customer's

personal information to “persons who have sustained injury or property damage” could lead to compromising and potentially dangerous circumstances for our customers. See “Recordkeeping” (HB 1971 HD 2 SD 1 p. 6, line 5).

Mahalo for this opportunity to submit testimony, and I am available if the committee has any questions on these comments.

**LATE**

**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII  
ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT OF H.B.  
1971 HD2**

Date: Tuesday, April 5, 2022

Time: 10:05 a.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in **SUPPORT** of H.B. 1971 HD2 SD1, Relating to Peer-to-Peer Car Sharing. HAJ supports the intent of measure.

Peer-to Peer Car Sharing is one of the fastest growing industries across the United States resulting in a wave of legislative efforts and lobbying. This trend has an impact on the insurance industry, the rent-a-car industry, state tax collectors, and of course the companies deriving revenue from Peer-to-Peer transactions. Most importantly, the rise of Peer-to-Peer impacts drivers, passengers and pedestrians on Hawaii's roadways. Accordingly, HAJ supports the establishment of a regulatory system in Hawaii which identifies the parameters for the Peer-to Peer Car Sharing.

HAJ appreciates the amendments that have been made to H.B. 1971. Primarily, we support amendments made to the definition of "Car-sharing termination time" making it the latest of the enumerated events. The current version of the definition closes an unintended gap in coverage as previously drafted.

In addition, HAJ supports the current record keeping requirements as enumerated in Section -3. Proper recordkeeping is vital to holding Peer-to-Peer car sharing companies accountable while conducting business in Hawaii. The current record keeping requirements in the measure will be crucial when determining assumption of liability and insurance coverage for

Peer-to-Peer Car Sharing in Hawaii. This allows our residents to hold the responsible party for an injury they have caused accountable.

Further, HAJ strongly supports the required minimum amount of insurance coverage for car sharing on Peer-to-Peer car-sharing platforms to be no less than \$1,000,000 as provided in HB 1619. The insurance requirements in conjunction with the proposed regulatory system ensures our local residents will be properly protected as this Peer-to-Peer car sharing industry continues to grow in Hawaii.

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