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OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 23, 2023
10:00 AM
Conference Room 229 and Videoconference

On the following measure:
S.B. 1502, S.D. 1, RELATING TO TRANSPORTATION

Chair Keohokalole and Members of the Committee:

My name is Mana Moriarty, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection. The Department opposes this bill.

The purposes of this bill are to: (1) require hourly peer-to-peer car sharing operators to insure the shared car with personal injury protection benefit and basic liability coverage; (2) authorize the Department of Transportation to regulate peer-to-peer car share parking at state airports; and (3) authorize the counties to regulate peer-to-peer parking on county streets.

The Department is concerned that this bill rolls back insurance requirements for peer-to-peer car sharing operators and would result in less insurance available to consumers of peer-to-peer car sharing services if an accident occurs. Act 56, Session Laws of Hawaii 2022, requires peer-to-peer car sharing programs to ensure that during each car-sharing period, a shared car is insured under a policy that provides primary

insurance coverage in amounts not less than \$750,000 for death, bodily injury, and property damage per accident, and costs of defense outside the limits. This bill would reduce required coverage levels to a to-be-determined times the minimum coverage levels required by law. Current coverage levels under HRS § 431:10C-301 are \$20,000 per person, with an aggregate limit of \$40,000 per accident for all damages arising out of accidental harm, and \$10,000 for all damages arising out of damage to or destruction of property. Current coverage levels under HRS § 431:10C-103.5 are subject to an aggregate limit of \$10,000 per person.

The Department is also concerned that this bill will incentivize peer-to-peer car sharing operators that are subject to Act 56's coverage requirements to claim that they should be subject to the lower coverage limits afforded to "hourly" peer-to-peer car sharing operators. The overbroad "definition" of "hourly" at page 2, lines 3-5 of this bill could provide peer-to-peer car sharing operators a basis to seek re-classification as "hourly" peer-to-peer car sharing operators. Re-classification as "hourly" peer-to-peer car sharing operators would enable them to escape the insurance requirements of Act 56. Not only would this circumvent Act 56's requirements, but it would also harm consumers of peer-to-peer car sharing services by reducing the availability of insurance coverage in an accident without providing any benefits to consumers.

Thank you for the opportunity to testify on this bill.



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Thursday, February 23, 2023
10:00 a.m.
State Capitol, Conference Room 229 and via Videoconference**

**On the following measure:
S.B. 1502, S.D. 1, RELATING TO TRANSPORTATION**

Written Testimony Only

Chair Keohokalole and Members of the Committee:

My name is Gordon Ito, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department opposes section 2 of this bill.

The purpose of this bill is to require hourly peer-to-peer car sharing operators to insure the shared car at four times the personal injury protection benefit and basic liability coverage; authorize the Department of Transportation to regulate peer-to-peer car share parking at state airports; and authorize the counties to regulate peer-to-peer parking on county streets

2022 Haw. Sess. Laws Act 56 (Act 56), which enacted the provisions amended by section 2 of this bill, only became effective on January 1, 2023, less than three weeks before the start of the current session of the Legislature. These laws have not been in effect long enough to determine whether they warrant an amendment to carve

out a subset of peer-to-peer car sharing subject to alternative regulations. Moreover, Act 56 already includes a sunset date, June 30, 2025.

We take not position on section 1 of this bill.

Thank you for the opportunity to testify.



Written Testimony
Senate Committee on Consumer Protection
Chair Jarrett Keohokalole

February 23, 2023

From

Soledad Roybal, Regional Head of Public Policy, Getaround

Re: **Hawaii State Senate Bill 1502**

Getaround, the world's first connected carsharing marketplace, supports **State Senate Bill 1502**. The committee's efforts to correct and clarify language for peer-to-peer car sharing through this legislation and its work to protect kamaaina using services like Getaround are forward-thinking and important.

Carsharing has unique economic and environmental benefits. Studies conducted by the Transportation Sustainability Research Center at the University of California, Berkeley found that households showed an average 34% – 41% decrease in emissions when they chose to carshare rather than owning a car. Moreover, according to a report published by the Transportation Research Board, each shared car replaces approximately 10 cars on the road. Further, after studying Getaround data, an NYU Stern research report concluded that peer-to-peer marketplaces have a disproportionately positive effect on lower-income consumers by offering them access to economic opportunity and a higher standard of living.

Despite these benefits, Hawaii imposes significant and unique insurance costs on peer-to-peer carsharing platforms like Getaround, making it much more difficult to offer an affordable and accessible choice to a broad range of customers, particularly those in need and/or who cannot afford to own a car or pay for other transportation options.

Hawaii currently requires that peer-to-peer carsharing platforms provide insurance **nearly 18x** the state's minimum for auto liability, i.e., nearly 18x the minimum insurance held by owned fleet-based carsharing companies like Zipcar or Hui, rental car companies, and car owners who are not sharing their cars. There is no data showing that those who drive peer-to-peer shared vehicles are any riskier than those who drive other vehicles, and certainly no data or sound policy why a peer-to-peer shared car would need to be insured at a dramatically higher level than every other car on the road.

Compared to other states in the West, Hawaii's insurance burden is a dramatic outlier. California requires 3x its state insurance minimum per a 2010 law that was the first in the country, enacted (with Getaround's active participation) when peer-to-peer car sharing was a brand new industry. Likewise, Oregon and Colorado are at 3x, while Washington State last





year reduced insurance requirements from 3x to 2x the state minimums, the same level as Nevada. However, most other states, including Arizona, New Mexico, and Texas, only require that peer-to-peer insure each trip at the state minimum levels.

Getaround supports an insurance framework for peer-to-peer carsharing and a fair regulatory framework designed to ensure that everyone is similarly protected in **any** motor vehicle accident regardless of who owns or is driving the car. We also believe in the goals of the state of Hawaii to increase equitable and sustainable transportation options and are closely collaborating with the Department of Transportation Services and other County and State stakeholders to advance those efforts. The passage of these bills will help ensure peer-to-peer carsharing services are an affordable and accessible option for residents of Hawaii.

Mahalo, for your consideration of my written testimony.

Soledad Roybal
Regional Head of Public Policy (U.S. South & West)





Carshare Users Reduce Greenhouse Gas Emissions, Among Many Environmental Benefits

Dr. Susan Shaheen, a civil and environmental engineering professor at the University of California–Berkeley, led a 2014 study of three U.S. carsharing operators, including Getaround, which found that 20% of all survey respondents reduced driving (i.e., VMT) due to carsharing. Also from Shaheen, “A number of academic and industry studies of shared mobility have documented the impacts of carsharing.^{1 2 3 4 5} These studies collectively show the following common outcomes of carsharing: 1) sold vehicles or delayed or foregone vehicle purchases; 2) increased use of some alternative modes of transportation (e.g., walking, biking); 3) reduced vehicle miles traveled (VMT); 4) increased access and mobility for formerly carless households; 5) reduced fuel consumption and greenhouse gas emissions; and 6) greater environmental awareness.

Carshare Reduces VMT and Car Ownership

A user survey, in conjunction with San Francisco Municipal Transportation Agency on the impact of their on-street carshare parking program, showed one out of ten Getaround guests sold or donated a car since joining, and over nine out of ten Getaround guests report using their personal car or rideshare the same or less since joining.⁶ Another study also found that carsharing members (not specific to Getaround) reduced their average annual greenhouse gas emissions per household by 0.58 metric tons for the observed impact (based on vehicles sold) and 0.84 metric tons for the full impact (based on vehicles sold and postponed purchases combined)⁷. Fewer cars mean less pollution, less congestion, fewer accidents, and more available parking in Hawaii.

Getaround Has a Disproportionately Positive Effect on Lower-Income Consumers

According to a survey from the Bureau of Labor Statistics (BLS), transportation is Americans’ second biggest expense after housing, costing roughly 10% of annual income on average, while lower-income households spend 30% (the average cost of new vehicle ownership annually is \$9,282). We believe Getaround’s digital carsharing marketplace provides increased vehicle access to underrepresented and less fortunate socioeconomic populations. According to our data, 55% of the transactions on our platform have been made on a debit card by users with little or no credit as of June 30, 2022. In addition, as of December 31, 2021, 51% of hours booked have been in less affluent neighborhoods (which we define as neighborhoods having an average annual household income below \$70,000), and 34% of hours booked have been in low-density transportation deserts (which we define as neighborhoods with less than 10,000 people per square mile).

¹ Martin, Elliot, and Susan Shaheen. 2016. Impacts of car2go on Vehicle Ownership, Modal Shift, Vehicle Miles Traveled, and Greenhouse Gas Emissions: An Analysis of Five North American Cities. Berkeley, CA: Transportation Sustainability Research Center.

² Martin, Elliot, and Susan Shaheen. 2011. “The Impact of Carsharing on Public Transit and Non-Motorized Travel: An Exploration of North American Carsharing Survey Data.” *Energies* 4: 2094–2114.

³ Cervero, Robert. 2003. “City CarShare: First-Year Travel Demand Impacts.” *Transportation Research Record* 1839: 159–166.

⁴ Cervero, Robert, Aaron Golub, and Brendan Nee. 2007. “City Carshare: Longer-Term Travel Demand and Car Ownership Impact.” *Transportation Research Record* 1992: 70–80.

⁵ “The Impact of Carsharing on Public Transit and Non-Motorized Travel: An Exploration of North American Carsharing Survey Data.” *Energies* 4: 2094–2114.

⁶ 2018 study of carshare users in San Francisco

⁷ Martin, Elliot and Susan Shaheen. 2011. “Greenhouse Gas Emission Impacts of Carsharing in North America.”





After studying Getaround data, an NYU Stern research report concluded that peer-to-peer marketplaces disproportionately positively affect lower-income consumers by offering them access to economic opportunity and a higher standard of living.

Carsharing is part of the solution to reduce vehicular congestion, VMT, and emissions and, therefore, should not be met with extra burdens that could limit accessibility for already financially burdened populations. This bill would positively impact small businesses and community members who need services like carsharing to live and work.



**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION OF SB 1502 SD1**

Date: Thursday February 23, 2023

Time: 10:00 a.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in **OPPOSITION** SB 1502 SD1 - Relating to Peer-to-Peer Car Sharing Insurance Requirements. HAJ opposes this which measure creates hourly peer-to-peer insurance minimum and reduce the required minimum amount of insurance coverage for car sharing on Peer-to-Peer car-sharing platforms during the car sharing period.

This measure unnecessarily seeks to reduce consumer protection for peer-to-peer users and Hawaii residents. SB 1502 SD1 attempts to distinguish hourly usage of peer-to-peer car sharing and create coverage minimums for hourly peer-to-peer sharing operators during the car-sharing period for: 1) personal injury protection benefit; and 2) the basic liability coverage required under HRS Section 431:10C-103.5. A reduction in minimum required amounts do not reflect the risks associated with peer-to-peer usage.

It is concerning that SB 1502 SD1 attempts to circumvent the consumer protections for peer-to-peer car sharing programs which were recently implemented. The current \$750,000 insurance minimums for peer-to-peer car-sharing programs were implemented last year during the 2022 legislative session. Since the legislation's implementation, the risk to consumers has not changed. It seems unreasonable to amend the insurance minimums immediately after carefully passing legislation which properly balanced the need for consumer protection with allowing peer-to-peer programs to operate safely here in Hawaii.

SB 1502 SD1 is concerning as appears to distinguish hourly usage of peer-to-peer programs in order to obtain lower insurance minimums. The proposed reductions in insurance coverage are unconscionable as the amount of time is irrelevant when determining the proper amount of insurance coverage for peer-to-peer usage. Renting a vehicle for less than 24 hours presents the same risks as renting a vehicle for more than a day.

Moreover, a gap in insurance coverage remains as driver's personal auto insurance policy still excludes peer-to-peer programs whether the vehicles are used for 1 hour or 2 days. Many personal automobile insurance companies are denying coverage for accidents and injuries related to the use of a privately owned vehicle as a private Peer-to-Peer car sharing. An unintended consequence of this coverage denial is that a vehicle may be treated by an insurance company as uninsured, if there is no insurance provided by the Peer-to-Peer company. The \$750,000 protects both the users of the Peer-to-Peer car sharing program, and the innocent victims of negligent drivers Accordingly, the \$750,000 in minimum insurance should be applicable regardless of the time period.

Furthermore, the proposed reduced minimum insurance amounts are inadequate. The minimum insurance amounts in HRS 431:10C-703 take into account not only the anticipated loss in a covered situation, but also the ability of Hawaii residents to pay the insurance premiums for the minimum amount of coverage. Financial ability should not be a factor considered to the same extent for commercial enterprises. The minimums should not be utilized as a reference point for a profitable commercial corporation. The \$750,000 minimum is not likely a financial burden on Peer-to-Peer Car Share companies which can pass on costs of insurance to consumers. Such inconsequential costs resulting from the current insurance minimums will not deter Peer-to-Peer Car Share companies from conducting business in Hawaii.

Additionally, \$750,000 in coverage was deemed by the legislature to properly reflect the need for protection of Hawaii residents. It is unclear as to why it would now be necessary to reduce protection of pedestrians and other third parties injured in Hawaii. Local residents will be disadvantaged if Peer-to-Peer Car Share companies are allowed to provide less coverage due to the amount of time a vehicle is in use when the same risks are still present.

Also, other internet platform companies like UBER/LYFT have already agreed to the \$1,000,000 minimum coverage in HRS § 431. Peer-to-Peer Car Share Companies remain akin to other internet platform companies because they have no vehicles of their own, they pass on all financial and legal expenses of vehicle ownership and operation to private individuals, including vehicle purchase or lease price, maintenance costs, registration and vehicle taxes, garage/parking space, inspections, cleaning between rentals, and arranging for pick-up and drop-off of vehicles. Thus, Peer-to-Peer Car Share companies are able to make profits without bearing the risks or expenses of vehicle ownership. Therefore, \$750,000 is the appropriate level of insurance for peer-to-peer car sharing regardless of duration in time.

This measure also remains unclear in its applicability. The language refers to a "car sharing operator" which is not defined in statute leading to exactly who will be accountable for obtaining and maintaining the required minimum insurance. This lack of clarity would lead to disputes between the driver and owner of the vehicle, which in turn, could result in a potential gap in coverage leading to either party becoming personally liable for injuries to accident victims.

Ultimately, Peer-to Peer Car Sharing is still 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 injured in motor vehicle accidents on Hawaii's roadways.

Accordingly, **HAI** recommends this measure be deferred and the \$750,000 be maintained for all peer-to-peer car sharing programs to protect Hawaii residents. 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.

TESTIMONY OF ALISON UEOKA

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

Thursday, February 23, 2023
10:00 a.m.

SB 1502, SD1

Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee on Commerce and Consumer Protection, my name is Alison Ueoka, President for 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 **opposes** this bill. The issue of insurance required for P2P entities was debated for at least four years at the Legislature before a bill passed in 2022. After much discussion, insurance requirements were agreed to for the protection of residents and visitors in Hawaii who may be injured or killed by a driver using a P2P vehicle. The insurance commissioner, the consumer protector and the Hawaii Association of Justice all testified asking for even higher liability limits of \$1 million. What passed was a lower amount of \$750,000. The law just took effect on January 1, 2023, and there has been very little experience and time to see the effects of the law. At least three years of data should be collected and analyzed to determine whether the law needs to be changed.

The proponent of this bill seeks different requirements for themselves versus other P2P companies citing their “hourly” business model. This model however, actually increases their exposure because they could put the same vehicle back into service many times in one day with many different drivers. This bill sidesteps the current law by stripping out many consumer protections regarding primacy of insurance, coverage, offers of additional insurance and disclosures to “hourly” users of P2P vehicles. This bill does not provide

adequate insurance protection for those who may be injured by “hourly” operators of a P2P vehicle. We ask that this bill be held.

Thank you for the opportunity to testify.



Testimony of
Davin Aoyagi - Senior Government Relations Manager
Turo Inc.

COMMENTS on SB1502, SD1
February 23, 2023

Aloha e Chair Keohokalole, Vice Chair Fukunaga, and other Members of the Committee,

On behalf of Turo, I respectfully offer the following comments on SB1502, SD1, which creates a new category of “hourly peer-to-peer car sharing operators” and amends the liability insurance coverage requirements for these specific operators.

Under the statutory framework set under Act 56 (2022), a peer-to-peer car-sharing program shall ensure that during each car-sharing period, the shared car shall be insured under a motor vehicle insurance policy in amounts not less than \$750,000.

As noted in our previous testimony on this issue, there is no known policy justification for the extraordinarily high and cost prohibitive insurance limits set solely for peer-to-peer car sharing. In fact, there were no data points in our own claims information which we’ve provided to the Insurance Division of the Hawaii Department of Commerce which demonstrated a justification for these higher insurance limits.

The current \$750,000 requirement is significantly higher than the Hawaii state minimums (20/40/10) which are imposed on every individual vehicle driver in the state as well as those driving a traditional rental car. Since insurance coverage requirements are predicated on an assessment of risk, it is important to note that there is no difference in risk between an individual driving a rental car or a shared car. Despite this fact, current law requires the peer-to-peer car sharing industry to ensure coverage that is 18.75 times higher than what is required of others on the road, despite there being no policy basis for the assertion that peer-to-peer car-sharing involves any greater risk.

While we continue to oppose the bifurcation of hourly peer-to-peer car sharing operators from other actors in the peer to peer car sharing industry, we support a holistic conversation about what insurance minimums should be set at for the whole industry. This measure presents an opportunity for discussion around that latter point.

Mahalo to the committee for its consideration of our testimony.

SB-1502-SD-1

Submitted on: 2/21/2023 12:14:22 PM

Testimony for CPN on 2/23/2023 10:00:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Eric Rago | Individual | Support | Written Testimony Only |

Comments:

Please support this bill.

SB-1502-SD-1

Submitted on: 2/21/2023 1:58:53 PM

Testimony for CPN on 2/23/2023 10:00:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Adrienne Moretz | Individual | Support | Written Testimony Only |

Comments:

Please support this bill

SB-1502-SD-1

Submitted on: 2/22/2023 7:00:33 AM

Testimony for CPN on 2/23/2023 10:00:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Andrew Byrnes | Individual | Support | Written Testimony Only |

Comments:

I support SB1502 as an important step to create a more sound, sustainable, and fair peer-to-peer carsharing law, allowing Hawaii residents to make extra money sharing idle cars and providing residents and visitors an accessible and affordable transportation option.