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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Transportation and Culture and the Arts
Thursday, February 9, 2023
3:00 p.m.**

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

Chair Lee 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.

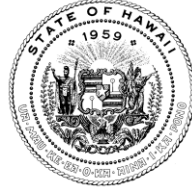
The purposes of this bill are to (1) create a new category of peer-to-peer car sharing operators, (2) exempt this new category of peer-to-peer car sharing operators from current insurance requirements for peer-to-peer car sharing operators, and (3) create dramatically reduced insurance requirements for the new category of peer-to-peer car sharing operators.

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 four 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 1, lines 12-14 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 9, 2023
3:00 p.m.
State Capitol, Conference Room 224 and via Videoconference**

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

Chair Lee 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 offers comments on 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.

2022 Haw. Sess. Laws Act 56 (Act 56), which enacted the provisions amended by 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.

Thank you for the opportunity to testify.

TESTIMONY OF ALISON UEOKA

COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS
Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair

Thursday, February 9, 2023
3:00 p.m.

SB 1502

Chair Lee, Vice Chair Inouye, and members of the Committee on Transportation and Culture and the Arts, 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.

This bill virtually guts the law enacted last year, stripping out many consumer protections regarding primacy of insurance, coverage, offers of additional insurance and disclosures to users of P2P vehicles. This bill does not provide adequate insurance protection for those who may be injured by 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.

OPPOSE SB1502 February 9, 2023

Aloha e Chair Lee, Vice Chair Inouye, and other Members of the Committee,

On behalf of Turo, I respectfully offer the following written testimony in opposition to SB1502, which attempts to create a new category of “hourly peer-to-peer car sharing operators” and amends the liability insurance coverage requirements for only 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. Several bills introduced this year seek to restructure this insurance amount, and we support that overall effort. 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.

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, a shared car, or their own personal vehicle. 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. In fact, peer-to-peer marketplaces have operated nationally for years without any evidence of such risk, including in Hawaii.

Unfortunately, unlike the other measures introduced this session, SB1502 does not address this issue holistically, and instead creates a framework that only partially attempts to solve this broad policy issue for a small subset of the peer-to-peer car sharing industry. What this creates is a disparity not only in the cost of doing business for comparable industries, but also in coverage provided for individuals in nearly identical situations. For example, two individuals could be driving the exact same make,

model, and year of a vehicle for the exact same amount of time, but be covered by vastly different insurance policies.

This measure, in contrast to SB1224 and SB1225, seeks to solve this policy dilemma by carving out a specific category of hourly peer-to-peer operators, and requiring an arbitrary amount of four times the state minimums for only those hourly circumstances, noting that "hourly" means in increments of one hour, up to twenty-four hours, and that further, "Hourly" shall not be constrained to a calendar day. Peer-to-peer car sharing trips not categorized as "hourly" would still be required to ensure coverage of \$750,000.

Should this law pass, it would allow certain peer-to-peer companies to arbitrarily have a competitive advantage over other peer-to-peer companies. This could result in a scenario where an identical make and model car shared for the exact same amount of time, in the exact same location, with all conditions being equal, would nonetheless have vastly different insurance coverage minimums based solely on which peer-to-peer company is being utilized to share the vehicle. This unfortunate disparity already exists between the traditional rental car industry and peer-to-peer car sharing. Instead of providing clarity based in fact, this legislation would create an even more confusing and complex insurance framework that favors one entity over another.

We urge the committee to defer this measure, and extend a warm mahalo to the committee for its consideration of our testimony.

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

Date: Thursday February 9, 2023

Time: 3:00 p.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 - 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 reduces consumer protection for peer-to-peer users and Hawaii residents. SB 1502 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 at four times the minimum amounts for: 1) personal injury protection benefit; and 2) the basic liability coverage required under HRS Section 431:10C-103.5. These reduced amounts do not reflect the risks associated with peer-to-peer usage.

It is concerning that SB 1502 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 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. Four times 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, **HAIJ 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.



Written Testimony
Senate Transportation and Culture and the Arts Committee

February 9, 2023
From
Soledad Roybal, Regional Head of Public Policy, Getaround

Re: **Hawaii State Senate Bill 1502**

Getaround supports **Senate Bill 1502** and the goals of the state of Hawaii to increase equitable and sustainable transportation options for kamaaina, employees, and visitors. This bill helps ensure that hourly peer-to-peer carsharing services remain affordable and accessible to all in Hawaii by reducing the insurance requirements from more than 15X the state minimum, as it is currently, to 4X the state minimum.

Getaround offers cars for everyone's daily needs. Using patented technology, we offer a fully digital carsharing experience, which provides convenience, affordability, and safety to those who use it. Our platform allows guests to book a wide variety of vehicles directly from our app without ever having to meet in person, carry an access card, wait in line at a rental car counter, or coordinate picking up keys.

Getaround supports both an insurance framework for peer-to-peer car sharing and a fair regulatory framework designed to ensure that everyone is protected in ANY motor vehicle accident. We applaud the committee's work to support these efforts and appreciate Sen. Lee's recognition that the current peer-to-peer insurance requirement is excessive, particularly considering that there is no data indicating that peer-to-peer drivers pose a greater risk than traditional rental car drivers.

Getaround is eager to work with the committee to help everyone understand the unique business model of peer-to-peer car sharing, its benefits to your constituents, and find an equitable solution that will ensure appropriate levels of protection for everyone who calls Hawaii home - while allowing for the safe growth of carsharing in the Islands.

Mahalo, for your consideration of our 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

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.”





hours booked have been in low-density transportation deserts (which we define as neighborhoods with less than 10,000 people per square mile).

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.

