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Testimony of the Public Utilities Commission

To the
House Committee on
Consumer Protection and Commerce

February 11, 2025
2:00 p.m.

Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

Measure: H.B. No. 1301, H.D. 1
Title: RELATING TO TRANSPORTATION.
Position:

The Public Utilities Commission ("Commission") offers the following comments for consideration.

Comments:

The Commission appreciates the intent of this measure to promote parity and to allow for fair competition amongst motor carriers and other similar businesses that transport persons or property over public highways by repealing the Commission's authority to regulate tariffs.

The Commission understands that the current environment for motor carriers has changed much. Regulated motor carriers are competing with each other yet also competing against non-regulated providers who are able to provide more flexible and lower, unregulated rates. In essence this may create an unfair competition environment, and it is minimizing the bulk value of motor carriers, such as bus transportation and tour providers.

The Commission would like to point out that by adding the new definitions to HRS § 271-4, this will drastically increase the number of motor carriers, including ride-share operators, who will be required to file applications for Certificate of Public Convenience and Necessity (CPCN) in order to operate and provide service in the State. They will also be required to obtain minimum levels of commercial and business automobile insurance required under regulation, and subject to annual filings that include vehicle inventory list, insurance, annual fees, and financial reports. This may require new positions and resources for the Commission.

The Commission further notes that the Department of Transportation has recently begun enforcing the Motor Carrier law earlier this month as required by Act 117, Session Laws of Hawaii 2024, that was signed by Governor Green in July 2024. The Commission respectfully defers to the Department of Transportation on whether this measure will have an impact on their ongoing enforcement efforts.

Thank you for the opportunity to testify on this measure.

HB-1301-HD-1
Submitted on: 2/7/2025 5:36:54 PM
Testimony for CPC on 2/11/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
kelvin kohatsu	Hawaii Transportation Association	Oppose	Written Testimony Only

Comments:

Kelvin Kohatsu- Managing Director of the Hawaii Transportation Association (HTA) representing 330+ transportation companies across the State of Hawaii, submitting testimony in opposition to HB1301.

If I recall, last year (2024) a similar deregulation bill was introduced, with overwhelming opposition from the transportation industry and HTA.

The transportation industry in Hawaii is regulated to protect the consumers, and businesses, and not to benefit a select few, or one.

Thank you,

Kelvin Kohatsu

TESTIMONY OF EVAN OUE ON BEHALF OF THEHAWAII ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION OF HB 1301

Date: Tuesday February 11, 2025

Time: 2:00 p.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in **OPPOSITION** to **HB 1301 - Relating to Transportation**. HAJ opposes this measure which repeals the chapter regulating transportation network companies (TNCs). HAJ is concerned that removing HRS 279J regulating TNCs will lead to unintended consequences which include: 1) insufficient insurance coverage; and 2) removal of liability for TNCs which severely impacts public safety for Hawaii residents.

Insufficient Insurance Requirements:

Primarily, the repeal of HRS 279J will eliminate mandatory insurance requirements for TNCs and create unintended insurance gaps. Specifically, HRS 279J-8 imposes insurance requirements under HRS 437:10C-703 for TNCs and TNC drivers.

> " c) The following motor vehicle insurance requirements shall apply while a participating transportation network company driver is logged onto the transportation network company's digital network or software application service and is available to receive transportation requests but is not engaged in a prearranged ride:
>
> (**1) Primary motor vehicle liability insurance in the amount of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per accident, and $25,000 for property damage per accident, costs of defense outside of all such limits;**
>
> **(2) Personal injury protection coverage that meets the minimum coverage amount where required by section 431:10C-103.5; and**
>
> (3) The coverage requirements of this subsection may be satisfied by any of the following:

(A) A motor vehicle insurance policy maintained by the transportation network company driver;

(B) A motor vehicle insurance policy maintained by the transportation network company; or

(C) Any combination of subparagraphs (A) and (B).

(d) The following motor vehicle insurance requirements shall apply while a transportation network company driver is engaged in a prearranged ride:

(1) Primary motor vehicle liability insurance that provides at least $1,000,000 for death, bodily injury, and property damage per accident, costs of defense outside such limits;

(2) Personal injury protection coverage that meets the minimum coverage amount where required by section 431:10C-103.5; and

(3) The coverage requirements of this subsection may be satisfied by any of the following:

(A) A motor vehicle insurance policy maintained by the transportation network company driver;

(B) A motor vehicle insurance policy maintained by the transportation network company; or

(C) Any combination of subparagraphs (A) and (B)."

Without insurance requirements of 297J, consumers will be harmed and unable to recover damages after an accident due to the gaps in insurance coverage for TNCs operating in Hawaii. As a result of removing proper insurance coverage provided by TNCs, drivers will be forced to purchase their own insurance potentially leading to reduced consumer protection, a decrease in drivers, or an increase in unsafe drivers.

Removal of Liability for TNCs

Furthermore, HAJ is concerned that repealing HRS 297J will remove vicarious liability for TNCs and place responsibility on the drivers. In turn, a consumer's ability to recover damages after an accident will be significantly impaired.

As background, Hawaii's TNC regulatory framework was crafted to protect consumers. At baseline, HRS 431:10C-705 prohibits "(1) A disclaimer of liability of a transportation network company or transportation network company driver." The legislative history will show that TNCs understood this to prohibit avoiding liability based on an independent contractor defense. In conjunction, 279J-1 provides that:

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

(1) Manufactured with seating accommodations for eight or fewer passengers;

(2) Not a semitrailer, tractor-semitrailer combination, truck, or truck-tractor, as those terms are defined in section 286-2;

(3) Used by a transportation network company driver to provide a prearranged ride;

(4) Owned, leased, or otherwise authorized for use by the transportation network company driver; and

(5) Not operating as a taxicab, limousine, or other for-hire vehicle."

This language makes clear that the vehicle is a Company vehicle, and therefore, the TNC and not the driver is liable in Hawaii.

However, as currently drafted, HB 1301 will be repeal HRS 279J which includes the definition of "Transportation network company vehicle" (See, section 19, p. 27, lines 18-19) and replace it with "Transportation network company driver" (See, section 18, p. 27 lines 3-10). This would unintentionally place liability on TNC drivers as independent contractors and remove liability for TNCs because it will no longer be a company car.

Moreover, the affirmative act of changing “company” to “driver” may indicate legislative intent to place responsibility on the driver and not the TNC. However, this would contradict legislative history, which clearly indicates that liability should be placed on TNCs as large commercial entities that are to better suited to protect the consumer and absorb the cost of injuries associated with operating in Hawaii. Thus, HRS 279J should remain in place to preserve TNC liability.

Ultimately, if the purpose of HB 1301 is the “promote parity and fair competition amongst similar businesses …” then we should be placing these “similar businesses” under the same statute, rather than taking away consumer protection laws over TNCs.

Accordingly, due to potential unintended consequences, **HAJ recommends this measure be deferred** and the current regulations for TNCs be upheld to maintain proper vicarious liability and sufficient insurance coverage 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.

February 11, 2025
House Committee on Consumer Protection & Commerce
Testimony of Lyft Inc.
Opposition of House Bill 1301
Concerning the Imposition of Common Carrier Duties on Transportation Network Companies

Chairman Matayoshi, Vice Chair Chun and committee members,

Mahalo for the opportunity to provide testimony.

Lyft submits this letter in opposition to HB 1301, a bill that would unnecessarily impose duties and liability on TNCs and will threaten the industry as a whole in the state.

TNCs are technology companies, and designating TNCs as common carriers would completely eliminate the uniform statewide framework that governs the rideshare industry in Hawai'i and has been working well for communities across the state. Courts have acknowledged that TNCs should not be treated like taxis and other common carriers. While a common carrier company may employ a few dozen professional chauffeurs, TNCs connect an enormous network of thousands of riders and independent drivers who control when, where and how often they work. Over 90% of whom drive fewer than 20 hours a week.

Since day one, we've built safety into every part of the Lyft experience – before, during, and after the ride – which is unparalleled in the transportation industry. We've implemented strict policies in compliance with TNC regulations to screen everyone who drives on the Lyft platform by requiring initial and annual background checks, conducting continuous criminal monitoring and driving record checks, and providing community safety education created in partnership with the nation's largest anti-sexual violence organization. We've developed in-ride features that allow riders to share their location with family and friends, connect directly with Lyft Support, and quickly and easily access emergency assistance from the Lyft app. After the ride, our Safety team is available 24/7 so riders can always reach a live person if they have concerns, and so we can take action to help keep our community safe.

These enhanced safety measures did not exist before in the for-hire transportation industry, and even today remain unique to ridesharing. Safety incidents on Lyft are statistically very rare, occuring during 0.15% of rides, with over 99% of all rides occurring without any safety report at all.

Multiple courts have reviewed and upheld the TNC statutes, applying different standards from motor carriers for the same reason that drove the development of these unique TNC regulations.

Those operational costs may be felt the hardest by the people in Hawai'i who rely on access to rideshare to get to work, access medical care, obtain healthy food, and much more. At a time when people are already facing inflation and rising economic pressure, this bill, if passed, would only add to that uncertainty.

Rideshare provides thousands of people in Hawai'i with important earning opportunities and transportation options. People across Hawai'i are driving with rideshare for supplemental income and helping vulnerable communities access essential services. Imposing the additional requirements on TNCs as proposed in this bill will result in increased costs to the consumer and unnecessary as the current TNC rules and liability standards provide ample protection. For these reasons, we oppose this bill and would welcome the opportunity to discuss this issue further with the sponsor and other representatives on the Committee.

Francisco Avalos
Lyft, Inc

Uber

Chair Matayoshi
State Capitol Room
Honolulu, HI

February 11, 2025

Honorable Chair Matayoshi, Vice Chair Chun and Members of the Committee,

I am writing to respectfully oppose House Bill 1301.

The push to classify Transportation Network Companies (TNCs) as common carriers doesn't make sense—it disrupts a regulatory framework that's already working and adds unnecessary costs and complications for drivers, the public, and airports. Uber has been operating in Hawaii for more than 10 years and has been a valuable service to riders. HB1681, which was passed and signed into law a few years ago, already strikes a good balance at regulating TNCs so there's really no need to make these changes.

Unnecessary Legal and Regulatory Changes

29 states have explicitly stated that TNCs are not common carriers, and courts in states like Kentucky, Texas, New York, New Jersey and Utah have ruled that Uber is not a common carrier. The existing regulatory frameworks across the country, including those adopted in Honolulu in 2016, have proven to be effective and well-received by all parties involved, including airports, which are major stakeholders in this issue.

Higher Duty of Care and Legal Liabilities Without Precedent

Classifying TNCs as common carriers would create a lot of unnecessary legal headaches and financial strain on riders and drivers with no compelling policy justification or legal backing. Unlike typical common carriers like taxis or buses, TNCs are technology platforms, not transportation providers. There's no reason to hold TNCs to a higher duty of care because by law they don't own, control, operate, or manage drivers' vehicles.[1] Further, unlike traditional common carriers, TNCs do not serve the general public. Uber operates a marketplace that connects drivers with riders who have agreed to Uber's terms of use. Classifying TNCs as common carriers would lead to more liability and higher insurance costs.

Unintended Consequences on Underserved Communities

This bill could have a direct impact on tens of thousands of riders in Hawaii, especially those who rely on technology platforms like Uber. If TNCs are classified as common carriers, the increased insurance costs would be passed on to riders in the form of higher fares. For many people, particularly in underserved communities or those on fixed incomes, Uber is a lifeline for getting to work, running errands, or even making it to the airport. Higher prices could make it harder for these folks to get where they need to go, hitting them right in the pocketbook when they can least afford it. And that

[1] "Transportation network company" means an entity that "Does not own, control, operate, or manage the personal vehicles used by transportation network company drivers." Haw. Rev. Stat. Ann. § 431:10C-701.

would hurt the thousands of Uber drivers here who depend on the platform for income, since higher prices could mean fewer riders and lower earnings.

Protect Affordable Transportation In Hawaii

Uber already exceeds the insurance requirements of most other vehicles on the road. In Hawaii, for example, ridesharing platforms carry $1 million in uninsured/underinsured motorist (UM/UIM) coverage while a passenger is in the car—that's 10 times the amount required for taxis and 30 times the coverage for personal vehicles. With this level of coverage already in place, there's simply no need for further regulatory changes. The existing framework ensures riders and drivers are protected, making additional regulation unnecessary.

This bill, as it stands, will only introduce unnecessary legal risks, drive up insurance costs, and create a heavy burden on Hawaii's riders—many of whom rely on Uber to get to work, medical appointments, and even essential services. Most concerning, this will drive fares up, making transportation less accessible to those who rely on it the most—and it will hit Hawaii's drivers hard too. Thousands of drivers statewide depend on the Uber platform to support themselves, and higher prices could reduce demand, hurting their earnings as well.

Instead of disrupting something that's already working, we should stick with what we know is effective. The model Honolulu law that was implemented in 2016 is already better than what this bill proposes. They say if it's not broken, don't fix it. Hawaii should follow that conventional wisdom.

Thank you for your consideration,

Zahid Arab, Uber West Policy and Communications

LATE

HB-1301-HD-1
Submitted on: 2/11/2025 8:12:36 AM
Testimony for CPC on 2/11/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marc Rubenstein	Polynesian Adventure Tours, LLC	Oppose	Written Testimony Only

Comments:

RE: Opposition to SB1219 – Regulation of Motor Vehicle Common Carriers

Aloha,

Polynesian Adventure Tours, LLC, a long-standing and fully regulated transportation carrier in the State of Hawaii, respectfully submits this testimony in **strong opposition** to SB1219. This bill proposes to shift regulatory authority over motor vehicle common carriers transporting passengers within counties, significantly altering existing state oversight and potentially imposing undue burdens on our industry.

As a provider of essential transportation services across the islands, we have consistently adhered to the rigorous safety and operational standards established by the Hawaii Public Utilities Commission (PUC) and the U.S. Department of Transportation (DOT). These existing frameworks ensure that all carriers operate under uniform, consistent, and fair regulations, prioritizing safety, reliability, and compliance.

SB1219 introduces several concerns that could have severe consequences for the regulated transportation industry, tourism sector, and local communities:

Fragmentation of Regulatory Oversight

- Transferring regulatory authority to individual counties creates an inconsistent patchwork of rules that complicate compliance and increase administrative burdens on businesses operating statewide. The lack of uniformity could disrupt operations and negatively impact service availability for residents and visitors alike.

Increased Operating Costs and Administrative Burdens

- County-level regulations may impose duplicative or conflicting requirements, leading to increased costs for compliance. These additional expenses would likely be passed on to consumers, reducing accessibility and affordability of transportation services.

Negative Impact on Tourism and Local Economy

- Polynesian Adventure Tours serves thousands of visitors and local residents daily, ensuring safe and efficient transportation to key cultural and historical destinations. Unnecessary regulatory changes could lead to service interruptions, increased costs, and diminished visitor experiences, ultimately harming Hawaii's tourism-driven economy.

Potential Safety and Accountability Gaps

- The current state-regulated framework ensures that carriers meet strict safety, insurance, and operational standards. County control could lead to varied enforcement approaches, potentially creating gaps in oversight and weakening critical safety protocols.

For these reasons, we urge the Legislature to reject SB1219 and maintain a consistent, centralized regulatory framework under the PUC. We remain committed to working collaboratively with policymakers to enhance transportation services without imposing unnecessary and disruptive regulatory changes.

Thank you for your time and consideration. We appreciate the opportunity to provide input on this critical matter and look forward to continuing our role as a trusted transportation provider in the State of Hawaii.

Sincerely,

Marc Rubenstein, SVP/COO

Polynesian Adventure Tours, LLC