

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this Act is to authorize the  
2 counties to regulate transportation network companies by  
3 establishing rules for their operation.

4           SECTION 2. Section 46-16.5, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a) The legislature finds and declares the following:

- 7           (1) The orderly regulation of vehicular traffic on the  
8 streets and highways of Hawaii is essential to the  
9 welfare of the State and its people;
- 10          (2) Privately-operated public passenger vehicle service  
11 provides vital transportation links within the State.  
12 Public passenger vehicle service operated in the  
13 counties enables the State to provide the benefits of  
14 privately-operated, demand-responsive transportation  
15 services to its people and to persons who travel to  
16 the State for business or tourist purposes;



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- 1           (3) The economic viability and stability of privately-  
2           operated public passenger vehicle service is  
3           consequently a matter of statewide importance;
- 4           (4) The policy of the State is to promote safe and  
5           reliable privately-operated public passenger vehicle  
6           service to provide the benefits of that service. In  
7           furtherance of this policy, the legislature recognizes  
8           and affirms that the regulation of privately-operated  
9           public passenger vehicle service is an essential  
10          governmental function;
- 11          (5) The policy of the State is to require that counties  
12          regulate privately-operated public passenger vehicle  
13          service and not subject a county or its officers to  
14          liability under the federal antitrust laws;
- 15          (6) The policy of the State is to further promote  
16          privately-operated public passenger vehicle service,  
17          including but not limited to, the picking up and  
18          discharge of passengers from various unrelated  
19          locations by taxicabs; [and]
- 20          (7) The policy of the State is to further promote  
21          privately-operated public passenger vehicle service by



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1 requiring jitney services not regulated by the  
2 counties to be under the jurisdiction of the public  
3 utilities commission. For the purposes of this  
4 paragraph, "jitney services" means public  
5 transportation services utilizing motor vehicles that  
6 have seating accommodations for six to twenty-five  
7 passengers, operate along specific routes during  
8 defined service hours, and levy a flat fare  
9 schedule [-]; and

10 (8) The policy of the State is to further promote  
11 privately-operated public passenger vehicle service,  
12 including but not limited to, the picking up and  
13 discharge of passengers from various unrelated  
14 locations by transportation network company services.  
15 For the purposes of this paragraph:

16 "Transportation network company" means an entity  
17 operating in the State that uses a digital network or  
18 software application service to connect passengers to  
19 transportation network company services provided by  
20 transportation network company drivers. A  
21 transportation network company is not deemed to own,



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1 control, operate, or manage the vehicles used by its  
2 drivers, and is not a taxicab association or a for-  
3 hire vehicle owner.

4 "Transportation network company driver" means a  
5 person who operates a motor vehicle that is owned,  
6 leased, or otherwise authorized for use by the person;  
7 not a taxicab or for-hire public passenger vehicle;  
8 and used to provide transportation network company  
9 services.

10 "Transportation network company services" means  
11 transportation of a passenger between points chosen by  
12 the passenger and prearranged with a transportation  
13 network company driver through the use of a  
14 transportation network company digital network or  
15 software application. Transportation network company  
16 services shall begin when a transportation network  
17 company driver accepts a request for transportation  
18 received through the transportation network company's  
19 digital network or software application service,  
20 continue while the transportation network company  
21 driver transports the passenger in the driver's



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1           vehicle, and end when the passenger exits the driver's  
2           vehicle. Transportation network company service is  
3           not a taxicab, for-hire vehicle, or street hail  
4           service."

5           SECTION 3. Section 271-5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "**§271-5 Exemptions, generally.** Notwithstanding any other  
8 provisions of this chapter, its contents shall not apply to:

- 9           (1) Persons transporting their own property where the  
10           transportation is in furtherance of a primary business  
11           purpose or enterprise of that person, except where the  
12           transportation is undertaken by a motor carrier to  
13           evade the regulatory purposes of this chapter;
- 14           (2) Persons operating motor vehicles when engaged in the  
15           transportation of school children and teachers to and  
16           from school, and to and from school functions;  
17           provided that these persons may engage in providing  
18           transportation at special rates for groups of persons  
19           belonging to an eleemosynary or benevolent  
20           organization or association domiciled in this State  
21           where the organization or association sponsors or is



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1           conducting a nonregular excursion; provided that  
2           whenever the persons engage in the transportation of  
3           persons other than those exempted in this paragraph,  
4           that portion of their operation shall not be exempt  
5           from this chapter. Nothing in this paragraph shall be  
6           construed to authorize any person to engage in the  
7           transportation of persons, other than the  
8           transportation of persons exempted by the terms of  
9           this paragraph, without a permit or certificate issued  
10          by the commission authorizing such transportation;  
11          (3) Persons operating taxicabs or other motor vehicles  
12          utilized in performing a bona fide taxicab service.  
13          "Taxicab" includes:  
14          (A) Any motor vehicle used in the movement of  
15                passengers on the public highways under the  
16                following circumstances, namely the passenger  
17                hires the vehicle on call or at a fixed stand,  
18                with or without baggage for transportation, and  
19                controls the vehicle to the passenger's  
20                destination;



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1           (B) Any motor vehicle for hire having seating  
2 accommodations for eight or fewer passengers used  
3 in the movement of passengers on the public  
4 highways that may, as part of a continuous trip,  
5 pick up or discharge passengers from various  
6 unrelated locations; provided that they shall be  
7 regulated by the counties in accordance with  
8 section 46-16.5(c); and provided further that  
9 this subparagraph shall not apply to any  
10 exclusive rights granted by the department of  
11 transportation for taxicab services at facilities  
12 under the department's control; and

13           (C) Any motor vehicle having seating accommodations  
14 for eight or fewer passengers used in the  
15 movement of passengers on the public highways  
16 between a terminal, i.e., a fixed stand, in the  
17 Honolulu district, as defined in section 4-1 and  
18 a terminal in a geographical district outside the  
19 limits of the Honolulu district, and vice versa,  
20 without picking up passengers other than at the  
21 terminals or fixed stands; provided that the



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1 passengers may be picked up by telephone call  
2 from their homes in the rural area or may be  
3 unloaded at any point between the fixed stands or  
4 may be delivered to their homes in the rural  
5 area;

6 (4) Persons operating motor vehicles in the transportation  
7 of persons pursuant to a franchise from the  
8 legislature and whose operations are presently  
9 regulated under chapter 269;

10 (5) Nonprofit agricultural cooperative associations to the  
11 extent that they engage in the transportation of their  
12 own property or the property of their members;

13 (6) Persons operating motor vehicles specially constructed  
14 for the towing of disabled or wrecked vehicles but not  
15 otherwise used in the transportation of property for  
16 compensation or hire;

17 (7) Persons operating motor vehicles in the transportation  
18 of mail, newspapers, periodicals, magazines, messages,  
19 documents, letters, or blueprints;

20 (8) Persons operating funeral cars or ambulances;





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- 1           (9) Persons operating motor vehicles in the transportation  
2           of garbage or refuse;
- 3           (10) Persons operating the type of passenger carrying motor  
4           vehicles known as "sampan buses" within the radius of  
5           twenty miles from the city of Hilo, Hawaii;
- 6           (11) Persons transporting unprocessed pineapple to a  
7           cannery, seed corn to a processing facility, or  
8           returning any containers used in such transportation  
9           to the fields;
- 10          (12) Sugar plantations transporting sugarcane, raw sugar,  
11          molasses, sugar by-products, and farming supplies for  
12          neighboring farmers pursuant to contracts administered  
13          by the United States Department of Agriculture;
- 14          (13) Persons engaged in the ranching or meat or feed  
15          business who transport cattle to slaughterhouses for  
16          hire where such transportation is their sole  
17          transportation for hire and where their earnings from  
18          the transportation constitute less than fifty per cent  
19          of their gross income from their business and the  
20          transportation for hire;



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- 1           (14) Persons transporting unprocessed raw milk to  
2           processing plants and returning any containers used in  
3           such transportation to dairy farms for reloading;
- 4           (15) Persons transporting animal feeds to animal husbandry  
5           farmers and farming supplies directly to animal  
6           husbandry farmers and returning any containers used in  
7           such transportation to these sources of such feeds and  
8           supplies for reloading;
- 9           (16) Persons engaged in transporting not more than fifteen  
10          passengers between their places of abode, or termini  
11          near such places, and their places of employment in a  
12          single daily round trip where the driver is also on  
13          the driver's way to or from the driver's place of  
14          employment;
- 15          (17) Persons transporting passengers without charge in  
16          motor vehicles owned or operated by such person, where  
17          such transportation is provided in conjunction with  
18          and in furtherance of a related primary business  
19          purpose or enterprise of that person, and such  
20          transportation is provided only directly to and from  
21          the place of business of such person, except that this



1 exemption shall not apply to persons making any  
2 contract, agreement, or arrangement to provide,  
3 procure, furnish, or arrange for transportation as a  
4 travel agent or broker or a person engaged in tour or  
5 sightseeing activities, nor shall this exemption apply  
6 where the transportation is undertaken by a person to  
7 evade the regulatory purposes of this chapter; ~~and~~

8 (18) Persons conducting the type of county-regulated  
9 passenger carrying operation known as "jitney  
10 services". For the purposes of this paragraph,  
11 "jitney services" means public transportation services  
12 utilizing motor vehicles that have seating  
13 accommodations for six to twenty-five passengers,  
14 operate along specific routes during defined service  
15 hours, and levy a flat fare schedule[-]; and

16 (19) Persons engaged in transportation network company  
17 services as defined under section 46-16.5; provided  
18 that they shall be regulated by the counties in  
19 accordance with section 46-16.5(c)."

20 SECTION 4. Counties authorizing transportation network  
21 company operations shall establish rules regulating such



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1 operations. These rules shall include but not be limited to  
 2 required national criminal history background checks for  
 3 transportation network company drivers and required automobile  
 4 liability insurance. No transportation network company shall  
 5 operate in any county until after the county has established  
 6 such rules.

7 SECTION 5. Statutory material to be repealed is bracketed  
 8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval.

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**Report Title:**

Transportation Network Companies; Counties; Regulation

**Description:**

Authorizes transportation network companies to operate in the State upon regulation by the counties.

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

