A BILL FOR AN ACT

RELATING TO INSURANCE.

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

SECTION 1. The legislature finds that transportation network companies are entities that use a digital network or software application service to connect passengers with transportation network company drivers. The legislature further finds that concerns have been raised about potential gaps in motor vehicle insurance coverage associated with transportation network companies. In response, by the end of 2015, twenty-nine states had enacted legislation to establish insurance requirements covering transportation network company drivers engaged in prearranged rides, thereby protecting transportation network company drivers, their passengers, and the public.

Accordingly, the purpose of this Act is to close the insurance gaps associated with transportation network companies by establishing motor vehicle insurance requirements for transportation network companies and transportation network company drivers.
SECTION 2. Chapter 431, article 10C, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . TRANSPORTATION NETWORK COMPANIES

§431:10C-A Definitions. As used in this part:

"Personal vehicle" means a vehicle that is:

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

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

(3) Not a taxicab, limousine, or other for-hire vehicle.

"Prearranged ride" means the provision of transportation by a transportation network company driver to a passenger, beginning when a driver accepts a passenger's request for a ride through a digital network or software application service controlled by a transportation network company, continuing while the transportation network company driver transports the requesting passenger, and ending when the requesting passenger, or the last passenger from the requesting passenger's party, departs from the personal vehicle. A prearranged ride shall not include transportation provided through a ridesharing
arrangement, as defined in section 279G-1; use of a taxicab, limousine, or other for-hire vehicle; or a regional transportation provider.

"Transportation network company" means an entity that uses a digital network or software application service to connect passengers to transportation network company drivers; provided that the entity:

1. Does not own, control, operate, or manage the personal vehicles used by transportation network company drivers; and
2. Is not a taxicab association or a for-hire vehicle owner.

"Transportation network company driver" means an individual who operates a personal vehicle used to transport a passenger between points chosen by the passenger and prearranged through a transportation network company and that is:

1. Owned, leased, or otherwise authorized for use by the individual;
2. Not a taxicab or for-hire vehicle; and
3. Used to provide prearranged rides to passengers.
§431:10C-B Relation to other laws. Neither a transportation network company nor a transportation network company driver shall be deemed to be a common carrier by motor vehicle, a contract carrier by motor vehicle, a motor carrier as defined in section 271-4, a taxicab, or a for-hire vehicle service.

§431:10C-C Transportation network company and transportation network company driver; disclosure; limitations; insurance requirements. (a) A transportation network company shall disclose in writing to transportation network company drivers, as part of the transportation network company's agreement with those drivers:

(1) The insurance coverage and limits of liability that the transportation network company provides while the transportation network company driver uses a personal vehicle while engaged in a prearranged ride; and

(2) That the transportation network company driver's personal motor vehicle insurance policy might not provide any required or optional coverage because the transportation network company driver uses a personal vehicle while engaged in a prearranged ride.
(b) On or before July 1, 2016, and thereafter, a transportation network company driver or transportation network company on the transportation network company driver's behalf shall maintain primary motor vehicle insurance that recognizes that the transportation network company driver is a transportation network company driver or otherwise uses a personal vehicle to transport passengers for compensation and covers the transportation network company driver:

(1) While the transportation network company driver is logged onto the transportation network company's digital network or software application service; or

(2) While the transportation network company driver is engaged in a prearranged ride.

(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
incident, and $25,000 for property damage;

(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) Motor vehicle insurance maintained by the
transportation network company driver;

(B) Motor vehicle insurance 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;

(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) Motor vehicle insurance maintained by the transportation network company driver;

(B) Motor vehicle insurance maintained by the transportation network company; or

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

(e) If insurance maintained by a transportation network company driver pursuant to subsection (c) or (d) has lapsed or does not provide the required coverage, motor vehicle insurance maintained by a transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim and shall have the duty to defend the claim.

(f) Motor vehicle insurance policies issued pursuant to this section shall offer the following optional coverages, which a transportation network company driver or transportation network company on the transportation network company driver's behalf may elect to purchase:

(1) Uninsured and underinsured motorist coverages for the transportation network company driver and passengers, as provided in section 431:10C-301, which shall be
equal to the primary liability limits specified in
subsections (c) and (d); provided that uninsured and
underinsured motorist coverage offers shall also
provide for written rejection of the coverages as
provided in section 431:10C-301;
(2) Uninsured and underinsured motorist coverage stacking
options as provided in section 431:10C-301; and
(3) An offer of required optional insurance coverages as
provided in section 431:10C-302.
(g) Coverage under an insurance policy maintained by the
transportation network company shall not be dependent on a
personal motor vehicle insurer first denying a claim nor shall a
personal motor vehicle insurance policy be required to first
deny a claim.
(h) Insurance required by this section may be placed with
an insurer licensed under section 431:3-203 or with a surplus
lines insurer eligible under section 431:8-301 that has a credit
rating of no less than A minus from A.M. Best or A from Demotech
or similar rating from another rating agency recognized by the
insurance division.
(i) Insurance satisfying the requirements of this section shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under chapter 287, the motor vehicle safety responsibility act.

(j) A transportation network company driver shall carry proof of coverage that meets the requirements of subsection (c) or (d) at all times during the transportation network company driver's use of a personal vehicle in connection with a transportation network company's digital network or software application service. In the event of an accident, a transportation network company driver shall provide this insurance coverage information to the directly interested parties, motor vehicle insurers, and investigating police officers, upon request. Upon such request, a transportation network company driver shall also disclose to directly interested parties, motor vehicle insurers, and investigating police officers, whether the driver was logged on to the transportation network company's digital network or software application service or engaged in a prearranged ride at the time of the accident.
(k) Nothing in this section shall be construed to require a personal motor vehicle insurance policy maintained by a transportation network company driver to provide primary or excess coverage while the transportation network company driver is engaged in a prearranged ride. While the transportation network company driver is engaged in a prearranged ride, and notwithstanding any other law to the contrary, the following shall apply:

(1) The transportation network company driver's or the vehicle owner's personal motor vehicle insurance policy shall not be required to provide any coverage to any person or entity unless the policy expressly provides for that coverage while the driver is engaged in a prearranged ride, with or without a separate charge, or the policy contains an amendment or endorsement to provide coverage while the driver is engaged in a prearranged ride, for which a separately stated premium may be charged; and

(2) The transportation network company driver's or the vehicle owner's personal motor vehicle insurance policy shall not be required to provide a duty to
defend or indemnify the driver's activities in connection with the transportation network company, unless the policy expressly provides otherwise while the driver is engaged in a prearranged ride, with or without a separate charge, or the policy contains an amendment or endorsement to provide coverage while the driver is engaged in a prearranged ride, for which a separately stated premium may be charged.

(1) Notwithstanding any other law to the contrary, a personal motor vehicle insurer may, at its discretion, offer a motor vehicle liability insurance policy, or an amendment or endorsement to an existing policy that covers a private passenger vehicle, station wagon type vehicle, sport utility vehicle, or similar type of vehicle with a passenger capacity of eight persons or less, including the driver, while the driver is engaged in a prearranged ride, if the policy expressly provides for the coverage of prearranged rides, with or without a separate charge, or the policy contains an amendment or an endorsement to provide coverage while the driver is engaged in a prearranged ride, for which a separately stated premium may be charged.
(m) Notwithstanding any other law affecting whether one or more policies of insurance that may apply with respect to an occurrence is primary or excess, this section shall determine the obligations under insurance policies issued to transportation network companies and, if applicable, transportation network company drivers using a personal vehicle to provide a prearranged ride.

§431:10C-D Records. (a) A transportation network company shall maintain:

(1) Global positioning system records and electronic records for each prearranged ride provided by a transportation network company driver for at least five years from the date each prearranged ride was provided; and

(2) Transportation network company driver records at least until the five year anniversary of the date on which a transportation network company driver's activation on the transportation network company digital network or software application service has ended.

(b) Records maintained under this section shall be made readily available for purposes of an accident investigation.
pursuant to section 431:10C-C(1) or resolving any other dispute related to transportation network company drivers engaged in a prearranged ride no later than ten days after receipt of a written request for such record.

§431:10C-E Disclaimers, waiver of liability, and indemnity agreements invalid. None of the following agreements between a transportation network company or transportation network company driver and a passenger shall be valid or enforceable in this State:

(1) A disclaimer of liability of a transportation network company or transportation network company driver;

(2) A waiver, before the occurrence of an accident, of any claim or right to file a lawsuit by a passenger against a transportation network company or transportation network company driver; or

(3) An agreement by the passenger to defend, indemnify, or hold harmless a transportation network company or transportation network company driver."

SECTION 3. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute
1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.
3 SECTION 4. This Act shall take effect on July 1, 2016.
Report Title:
Motor Vehicle Insurance; Transportation Network Companies; Transportation Network Company Drivers; Insurance Requirements

Description:
Establishes motor vehicle insurance requirements for transportation network companies and transportation network company drivers. (SD1)

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