RELATING TO MOTOR VEHICLE 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 activity, 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.
Additionally, this Act provides express authority to the counties to regulate transportation network companies, transportation network company activity, 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:

"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 vehicles used by transportation network company drivers; and

(2) Is not a taxicab association or a for-hire vehicle owner.

"Transportation network company activity" means the period of time when the transportation network company driver logs onto the transportation network company's digital network or software application service until the moment the transportation network
company driver logs off of the digital network or software application service or until the ride is complete and the passenger exits the transportation network company driver's vehicle, whichever is later.

"Transportation network company driver" means an individual who operates a motor 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 in transportation network company activity.

§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 Duration of fare. A transportation network company fare shall be deemed to:
(1) Commence when a transportation network company driver turns on their software application and prepares to accept a request for transportation received through the transportation network company's digital network or software application service;

(2) Continue while the transportation network company driver accepts and transports the passenger in the transportation network company driver's vehicle; and

(3) Conclude when the passenger exits the transportation network company driver's vehicle; provided that when the transportation network company driver continues to be available for network or application-generated rides, the transportation network company driver shall continue to be covered by the transportation network company's motor vehicle insurance coverage.

§431:10C-D 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 vehicle
during transportation network company activity; 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 vehicle
during transportation network company activity.

(b) A transportation network company and any
transportation network company driver shall maintain a primary
motor vehicle insurance policy that shall be in effect during
transportation network company activity. The primary motor
vehicle insurance required under this section shall include:

(1) Primary liability coverage of not less than $100,000
per person, with an aggregate limit of $200,000 per
accident, for all damages arising out of accidental
harm sustained as a result of any one accident and
arising out of ownership, maintenance, use, loading,
or unloading of a motor vehicle;
(2) Primary liability coverage of not less than $50,000 for all damages arising out of damage to or destruction of property including motor vehicles and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading of the insured vehicle;

(3) 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 paragraph (1). Uninsured and underinsured motorist coverage offers shall also provide for written rejection of the coverages as provided in section 431:10C-301;

(4) Uninsured and underinsured motorist coverage stacking options as provided in section 431:10C-301;

(5) Personal injury protection coverage in an amount that meets the requirements of section 431:10C-103.5; and
(6) An offer of required optional insurance coverages as provided in section 431:10C-302.

(c) The requirements for the coverage specified in subsection (b) may be satisfied by any of the following:

(1) Motor vehicle insurance maintained by a transportation network company driver; provided that the transportation network company verifies that the policy is maintained by the transportation network company driver and is specifically written to cover the transportation network company driver's use of a vehicle in connection with a transportation network company's digital network or software application service;

(2) Motor vehicle insurance maintained by a transportation network company; or

(3) Any combination of paragraphs (1) and (2).

(d) The insurer providing insurance under this section shall have the duty to defend and indemnify the insured.

(e) Coverage under a transportation network company insurance policy shall not be dependent on a personal motor vehicle insurance policy first denying a claim nor shall a
personal motor vehicle insurance policy, including a personal
liability umbrella policy, be required to first deny a claim.

(f) In every instance where motor vehicle insurance
maintained by a transportation network company driver to fulfill
the insurance obligations of this section has lapsed or ceased
to exist, the transportation network company shall provide the
coverage required by this section beginning with the first
dollar of a claim.

(g) 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 during transportation network company activity.
During transportation network company activity, 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 during transportation
network company activity, with or without a separate
charge, or the policy contains an amendment or endorsement to provide coverage for transportation network company activity, for which a separately stated premium is 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 for the driver's activities in connection with the transportation network company, unless the policy expressly provides otherwise for transportation network company activity, with or without a separate charge, or the policy contains an amendment or endorsement to provide coverage for transportation network company activity, for which a separately stated premium is charged.

(h) 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 used in connection with a transportation network company activity if the policy expressly provides for the coverage of transportation network company activity, with or without a separate charge, or the policy contains an amendment or an endorsement to provide coverage for transportation network company activity, for which a separately stated premium may be charged.

(i) In a claims coverage investigation, a transportation network company or its insurer shall cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times at which an accident occurred that involved a transportation network company driver and the precise times that the transportation network company driver logged on and off the transportation network company's digital network or software application service.

(j) A transportation network company driver shall carry proof of insurance coverage as required by this section within the vehicle at all times when the vehicle is being used for transportation network company activity. In the event of an accident, a transportation network company driver shall provide
this insurance coverage information to any other party involved
in the accident, and to a police officer, upon request.

(k) 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 vehicle in
connection with a transportation network company activity. The
transportation network company insurance carrier shall be
licensed to do business as a motor vehicle insurance company in
the State.

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

(1) Global positioning system records and electronic
records of transportation network company activity for
each individual trip provided by a transportation
network company driver for at least five years from
the date each trip 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 a claims coverage
investigation pursuant to section 431:10C-D(i) or resolving any
other dispute related to transportation network company activity
no later than ten days after receipt of a written request for
such record.

§431:10C-F 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
An agreement by the passenger to defend, indemnify, or hold harmless a transportation network company or transportation network company driver.

Section 3. Section 46-16.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Every county is empowered to regulate:

(1) Entry into the business of providing public passenger vehicle service within the jurisdiction of that county.

(2) The rates charged for the provision of public passenger vehicle service.

(3) The establishment of stands to be employed by one or a limited number of providers of public passenger vehicle service."
(4) Transportation network companies, transportation network company activity, and transportation network company drivers.

For the purposes of this subsection, "transportation network company", "transportation network company activity", and "transportation network company driver" shall have the same meaning as defined in section 431:10C-A."

SECTION 4. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2050.
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. Provides express authority for counties to regulate transportation network companies. (SB2684 HD1)

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