
A BILL FOR AN ACT

RELATING TO INSURANCE.

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

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

12 Accordingly, the purpose of this Act is to close the
13 insurance gaps associated with transportation network companies
14 by establishing motor vehicle insurance requirements for
15 transportation network companies and transportation network
16 company drivers.



1 SECTION 2. Chapter 431, article 10C, Hawaii Revised
2 Statutes, is amended by adding a new part to be appropriately
3 designated and to read as follows:

4 "PART . TRANSPORTATION NETWORK COMPANIES

5 §431:10C-A Definitions. As used in this part:

6 "Personal vehicle" means a vehicle that is:

- 7 (1) Used by a transportation network company driver to
- 8 provide a prearranged ride;
- 9 (2) Owned, leased, or otherwise authorized for use by the
- 10 transportation network company driver; and
- 11 (3) Not a taxicab, limousine, or other for-hire vehicle.

12 "Prearranged ride" means the provision of transportation by
13 a transportation network company driver to a passenger,
14 beginning when a driver accepts a passenger's request for a ride
15 through a digital network or software application service
16 controlled by a transportation network company, continuing while
17 the transportation network company driver transports the
18 requesting passenger, and ending when the requesting passenger,
19 or the last passenger from the requesting passenger's party,
20 departs from the personal vehicle. A prearranged ride shall not
21 include transportation provided through a ridesharing



1 arrangement, as defined in section 279G-1; use of a taxicab,
2 limousine, or other for-hire vehicle; or a regional
3 transportation provider.

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

8 (1) Does not own, control, operate, or manage the personal
9 vehicles used by transportation network company
10 drivers; and

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

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

17 (1) Owned, leased, or otherwise authorized for use by the
18 individual;

19 (2) Not a taxicab or for-hire vehicle; and

20 (3) Used to provide prearranged rides to passengers.



1 §431:10C-B Relation to other laws. Neither a
 2 transportation network company nor a transportation network
 3 company driver shall be deemed to be a common carrier by motor
 4 vehicle, a contract carrier by motor vehicle, a motor carrier as
 5 defined in section 271-4, a taxicab, or a for-hire vehicle
 6 service.

7 §431:10C-C Transportation network company and
 8 transportation network company driver; disclosure; limitations;
 9 insurance requirements. (a) A transportation network company
 10 shall disclose in writing to transportation network company
 11 drivers, as part of the transportation network company's
 12 agreement with those drivers:

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

17 (2) That the transportation network company driver's
 18 personal motor vehicle insurance policy might not
 19 provide any required or optional coverage because the
 20 transportation network company driver uses a personal
 21 vehicle while engaged in a prearranged ride.



1 (b) On or before July 1, 2016, and thereafter, a
2 transportation network company driver or transportation network
3 company on the transportation network company driver's behalf
4 shall maintain primary motor vehicle insurance that recognizes
5 that the transportation network company driver is a
6 transportation network company driver or otherwise uses a
7 personal vehicle to transport passengers for compensation and
8 covers the transportation network company driver:

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

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

14 (c) The following motor vehicle insurance requirements
15 shall apply while a participating transportation network company
16 driver is logged onto the transportation network company's
17 digital network or software application service and is available
18 to receive transportation requests but is not engaged in a
19 prearranged ride:

20 (1) Primary motor vehicle liability insurance in the
21 amount of at least \$50,000 for death and bodily injury



1 per person, \$100,000 for death and bodily injury per
2 incident, and \$25,000 for property damage;

3 (2) Personal injury protection coverage that meets the
4 minimum coverage amount where required by section
5 431:10C-103.5; and

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

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

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

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

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

16 (1) Primary motor vehicle liability insurance that
17 provides at least \$1,000,000 for death, bodily injury,
18 and property damage;

19 (2) Personal injury protection coverage that meets the
20 minimum coverage amount where required by section
21 431:10C-103.5; and



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

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

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

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

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

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

19 (1) Uninsured and underinsured motorist coverages for the
20 transportation network company driver and passengers,
21 as provided in section 431:10C-301, which shall be



1 equal to the primary liability limits specified in
2 subsections (c) and (d); provided that uninsured and
3 underinsured motorist coverage offers shall also
4 provide for written rejection of the coverages as
5 provided in section 431:10C-301;

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

8 (3) An offer of required optional insurance coverages as
9 provided in section 431:10C-302.

10 (g) Coverage under an insurance policy maintained by the
11 transportation network company shall not be dependent on a
12 personal motor vehicle insurer first denying a claim nor shall a
13 personal motor vehicle insurance policy be required to first
14 deny a claim.

15 (h) Insurance required by this section may be placed with
16 an insurer licensed under section 431:3-203 or with a surplus
17 lines insurer eligible under section 431:8-301 that has a credit
18 rating of no less than A minus from A.M. Best or A from Demotech
19 or similar rating from another rating agency recognized by the
20 insurance division.



1 (i) Insurance satisfying the requirements of this section
2 shall be deemed to satisfy the financial responsibility
3 requirement for a motor vehicle under chapter 287, the motor
4 vehicle safety responsibility act.

5 (j) A transportation network company driver shall carry
6 proof of coverage that meets the requirements of subsection (c)
7 or (d) at all times during the transportation network company
8 driver's use of a personal vehicle in connection with a
9 transportation network company's digital network or software
10 application service. In the event of an accident, a
11 transportation network company driver shall provide this
12 insurance coverage information to the directly interested
13 parties, motor vehicle insurers, and investigating police
14 officers, upon request. Upon such request, a transportation
15 network company driver shall also disclose to directly
16 interested parties, motor vehicle insurers, and investigating
17 police officers, whether the driver was logged on to the
18 transportation network company's digital network or software
19 application service or engaged in a prearranged ride at the time
20 of the accident.



1 (k) Nothing in this section shall be construed to require
2 a personal motor vehicle insurance policy maintained by a
3 transportation network company driver to provide primary or
4 excess coverage while the transportation network company driver
5 is engaged in a prearranged ride. While the transportation
6 network company driver is engaged in a prearranged ride, and
7 notwithstanding any other law to the contrary, the following
8 shall apply:

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

19 (2) The transportation network company driver's or the
20 vehicle owner's personal motor vehicle insurance
21 policy shall not be required to provide a duty to



1 defend or indemnify the driver's activities in
2 connection with the transportation network company,
3 unless the policy expressly provides otherwise while
4 the driver is engaged in a prearranged ride, with or
5 without a separate charge, or the policy contains an
6 amendment or endorsement to provide coverage while the
7 driver is engaged in a prearranged ride, for which a
8 separately stated premium may be charged.

9 (1) Notwithstanding any other law to the contrary, a
10 personal motor vehicle insurer may, at its discretion, offer a
11 motor vehicle liability insurance policy, or an amendment or
12 endorsement to an existing policy that covers a private
13 passenger vehicle, station wagon type vehicle, sport utility
14 vehicle, or similar type of vehicle with a passenger capacity of
15 eight persons or less, including the driver, while the driver is
16 engaged in a prearranged ride, if the policy expressly provides
17 for the coverage of prearranged rides, with or without a
18 separate charge, or the policy contains an amendment or an
19 endorsement to provide coverage while the driver is engaged in a
20 prearranged ride, for which a separately stated premium may be
21 charged.



1 (m) Notwithstanding any other law affecting whether one or
2 more policies of insurance that may apply with respect to an
3 occurrence is primary or excess, this section shall determine
4 the obligations under insurance policies issued to
5 transportation network companies and, if applicable,
6 transportation network company drivers using a personal vehicle
7 to provide a prearranged ride.

8 §431:10C-D Records. (a) A transportation network company
9 shall maintain:

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

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

20 (b) Records maintained under this section shall be made
21 readily available for purposes of an accident investigation



1 pursuant to section 431:10C-C(i) or resolving any other dispute
2 related to transportation network company drivers engaged in a
3 prearranged ride no later than ten days after receipt of a
4 written request for such record.

5 §431:10C-E Disclaimers, waiver of liability, and indemnity
6 agreements invalid. None of the following agreements between a
7 transportation network company or transportation network company
8 driver and a passenger shall be valid or enforceable in this
9 State:

- 10 (1) A disclaimer of liability of a transportation network
11 company or transportation network company driver;
- 12 (2) A waiver, before the occurrence of an accident, of any
13 claim or right to file a lawsuit by a passenger
14 against a transportation network company or
15 transportation network company driver; or
- 16 (3) An agreement by the passenger to defend, indemnify, or
17 hold harmless a transportation network company or
18 transportation network company driver."

19 SECTION 3. In codifying the new sections added by section
20 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.

