A BILL FOR AN ACT

RELATING TO TRANSPORTATION NETWORK COMPANIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that statewide regulation
of transportation network companies is needed to ensure the
safety, reliability, and cost-effectiveness of rides provided by
transportation network company drivers as well as to preserve
and enhance access to important transportation options for
residents and visitors of the State.

The purpose of this Act is to provide statewide regulation
of transportation network companies to provide operational
consistency across the State and to establish a permitting
process within the department of transportation.

SECTION 2. The Hawaii Revised Statutes is amended by
adding a new chapter to be appropriately designated and to read
as follows:

"CHAPTER

TRANSPORTATION NETWORK COMPANIES

§ -1 Definitions. As used in this chapter:
"Digital network" means any online-enabled technology application service, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

"Prearranged ride" has the same meaning as defined in section 431:10C-701.

"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 control, direct, or manage the transportation network company vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract; and

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

"Transportation network company driver" has the same meaning as defined in section 431:10C-701.

"Transportation network company rider" or "rider" means an individual or persons who use a transportation network company's digital network to connect with a transportation network company
driver who provides prearranged rides to the rider in a
transportation network company vehicle between destination
points chosen by the rider.

"Transportation network company 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 operating as a taxicab, limousine, or other for-
hire vehicle.

§ -2 Relation to other laws; commercial vehicle; for-
hire vehicle; registration; exemption. Solely for the purposes
of this chapter, 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. No transportation network
company driver shall be required to register a transportation
network company vehicle as a commercial or for-hire vehicle.
§ -3 Transportation network company; permit; required.

(a) No person shall operate a transportation network company in the State without first having obtained a permit from the director of transportation. The application shall be in a form and content as prescribed by the director of transportation; provided that any transportation network company operating in the State before the effective date of this chapter may continue operating until the director of transportation has established a permitting process and sets a registration deadline.

(b) The director of transportation shall issue a permit to each applicant that satisfies the requirements for a transportation network company as set forth by the director of transportation and shall collect an annual permit fee of $ from the applicant prior to the issuance of a permit.

§ -4 Fare transparency. If a fare is collected from a rider, the transportation network company shall disclose the fare or fare calculation method to the rider on its website or within the online-enabled technology application service before the beginning of the prearranged ride. If the fare is not disclosed to the rider before the beginning of the prearranged ride.
1 ride, the rider shall have the option to receive an estimated
2 fare before the beginning of the prearranged ride.
3 § -5 Agent for service. Any transportation network
4 company in operation in the State shall maintain an agent for
5 service of process in the State.
6 § -6 Identification of transportation network company
7 vehicles and drivers. During a prearranged ride, a
8 transportation network company's digital network shall display a
9 picture of the transportation network company driver and the
10 license plate number of the transportation network company
11 vehicle.
12 § -7 Electronic receipt. Following the completion of a
13 trip, the transportation network company shall transmit an
14 electronic receipt on behalf of the transportation network
15 company driver that shall include the following information:
16 (1) The origin and destination or destinations of the
17 trip;
18 (2) The total time and distance of the trip; and
19 (3) The total fare paid.
20 § -8 Disclosure; limitations; insurance requirements.
21 The requirements of section 431:10C-703 shall apply to
transportation network companies and transportation network company drivers.

§  -9 Transportation network company driver requirements.

(a) Prior to allowing an individual to act as a transportation network company driver and accept a request for a prearranged ride through a transportation network company's digital network:

(1) The individual shall submit an application to the transportation network company and shall include the following information:

(A) The individual's address;

(B) The individual's age;

(C) A copy of the individual's valid driver's license;

(D) A copy of the applicable motor vehicle registration;

(E) A copy of the applicable automobile liability insurance; and

(F) Other information deemed necessary by the transportation network company;

(2) The transportation network company shall conduct, or have a third-party commercial background check company
accredited by the Professional Screeners Association
conduct, a national and local criminal background
check for each applicant and each driver on an annual
basis. The criminal background check shall include a
review of:
(A) A multi-state and multi-jurisdictional criminal
records locator or other similar commercial
nationwide database with validation (primary
source search); and
(B) The United States Department of Justice national
sex offender public website; and
(3) The transportation network company shall obtain and
review, or have a third-party entity obtain and
review, a driving history research report for the
individual.
(b) The transportation network company shall not permit an
individual to act as a transportation network company driver on
its digital network who:
(1) Has more than three moving violations within the prior
three years, or one of the following major violations
in the past three years:
(A) Attempting to evade the police;
(B) Reckless driving; or
(C) Driving on a suspended or revoked license;

(2) Within the past seven years has been:
(A) Convicted of any felony; or
(B) Convicted of any other misdemeanor relating to driving, violent, or sexual offenses;

(3) Is registered on the United States Department of Justice national sex offender public website or any publicly accessible state sex offender registry;

(4) Does not possess a valid driver's license;
(5) Does not possess proof of a current and valid registration for the motor vehicle or vehicles used to provide prearranged rides;
(6) Does not possess proof of valid automobile liability insurance for the transportation network company vehicle; or
(7) Is not at least nineteen years of age.

(c) A transportation network company driver shall be considered an independent contractor, and not an employee of a
transportation network company, if all of the following conditions are met:

(1) The transportation network company does not prescribe the specific hours during which the transportation network company driver is required to be logged into the transportation network company's digital network;

(2) The transportation network company does not impose any restrictions on the transportation network company driver's ability to use other transportation network companies' digital networks;

(3) The transportation network company does not restrict a transportation network company driver from engaging in any other occupation or business; and

(4) The transportation network company and the transportation network company driver agree in writing that the transportation network company driver is an independent contractor.

(d) A transportation network company does not control, direct, or manage the transportation network company vehicles or transportation network company drivers that connect to its
digital network, except where expressly agreed to by written contract.

§ -10 Non-discrimination; accessibility. (a) The transportation network company shall adopt a policy of non-discrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity with respect to riders and potential riders and shall notify the transportation network company drivers of the policy.

(b) In addition to any policy established pursuant to subsection (a), transportation network company drivers shall comply with all applicable laws regarding non-discrimination against riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.

(c) Transportation network company drivers shall comply with all applicable laws to accommodate service animals. For purposes of this subsection, "service animal" shall have the same meaning as that term is defined in section 347-2.5.
(d) A transportation network company shall not impose additional charges for providing services to persons with physical disabilities.

§ -11 Audit procedures; confidentiality of records. (a) No more than annually, the department of transportation shall have the right to visually inspect a sample of records maintained by a transportation network company for the sole purpose of verifying that a transportation network company is in compliance with the requirements of this chapter. The sample shall be chosen randomly by the department of transportation in a manner agreeable to both parties. The audit shall take place at a mutually agreed location in the State. Any record furnished to the department of transportation shall exclude information that would tend to identify specific drivers or riders.

(b) In response to a specific complaint against any transportation network company driver or transportation network company, the department of transportation shall be authorized to inspect records held by the transportation network company that are necessary to investigate and resolve the complaint. The department of transportation and transportation network company
shall conduct the inspection at a mutually agreed upon location in the State. Any record furnished to the department of transportation shall exclude information that would tend to identify specific transportation network company drivers or riders, unless the identity of a transportation network company driver or rider is relevant to the complaint.

(c) Any records inspected by the department of transportation under this section shall be confidential, are not subject to disclosure to a third party by the department of transportation without prior written consent of the transportation network company, and shall be exempt from disclosure under chapter 92F. Nothing in this section shall be construed as limiting the applicability of any other exemptions under chapter 92F.

§ 12 Uniform statewide regulation. (a) This chapter shall apply uniformly throughout the State and in all political subdivisions of the State.

(b) This chapter shall supersede any ordinance or other regulation adopted by a political subdivision that specifically governs transportation network companies, transportation network company drivers, or transportation network company vehicles,
including those adopted before the effective date of this chapter."

SECTION 3. Act 236, Session Laws of Hawaii 2016, is amended by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect upon its approval; provided that section 2 of this Act shall take effect on September 1, 2016[; provided further that this Act shall be repealed on September 1, 2021]."

SECTION 4. Statutory material to be repealed is bracketed and stricken.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY:
Report Title:
Transportation Network Companies; Regulation; Permitting

Description:
Establishes rules, regulations, and permitting procedures for transportation network companies operating in the State. Makes permanent insurance requirements for transportation network companies and transportation network drivers.

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