

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Transportation

From: Cheryl Kakazu Park, Director

Date: February 11, 2019, 1:15 p.m.
State Capitol, Conference Room 225

Re: Testimony on S.B. No. 1161
Relating to Transportation Network Companies

Thank you for the opportunity to submit testimony on this bill, which would establish regulations and permitting procedures for transportation network companies. The Office of Information Practices (OIP) takes no position on the substance of this bill, but **recommends a technical amendment to a confidentiality clause.**

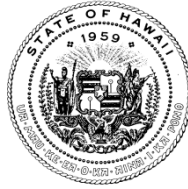
Proposed section ___-12, at bill pages 10-11, authorizes the Department of Transportation to inspect the records that a transportation network company would be required to maintain under this bill, either as an audit or in response to a specific complaint. Proposed subsection ___-12(c), at page 11 lines 6-11, provides that “[a]ny records inspected by the department of transportation **under this chapter** 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.” (Emphasis added.) This confidentiality clause presumably is intended specifically to protect transportation network company records inspected under proposed section ___-12, since it implies that the records at issue originated

from a transportation network company, and no other section of the proposed chapter discusses inspection of records. However, because the confidentiality clause refers to records inspected “**under this chapter,**” it could arguably be applied to records from any source and of any type reviewed by the department in the course of administering the proposed chapter. **To avoid unintended overreach of the confidentiality provision, OIP recommends amending the reference to “this chapter” to instead say “this section,” as follows:**

“Any records inspected by the department of transportation under this section shall be confidential”

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

LATE

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

Monday, February 11, 2019
1:15 p.m.
State Capitol, Room 225

S.B. 1161
RELATING TO TRANSPORTATION NETWORK COMPANIES.

Senate Committee on Transportation

The Department of Transportation (DOT) **supports** S.B. 1161.

The DOT believes transportation options are a good thing for the communities we serve, and that the demand is apparent. The DOT also believes the regulations the bill provides to ensure our public is safe using these options are good.

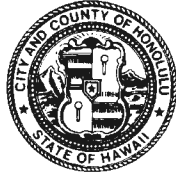
Currently the DOT does not have the staffing, funding or infrastructure to run the program. We do not understand the requirements of the program sufficiently to determine whether the permit fee proposed is sufficient to cover the program.

Thank you for the opportunity to provide testimony.

DEPARTMENT OF CUSTOMER SERVICES
CITY AND COUNTY OF HONOLULU

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MAYOR



SHERI T. KAJIWARA
DIRECTOR

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DEPUTY DIRECTOR

TESTIMONY OF ABUL HASSAN, LICENSING ADMINISTRATOR
CITY AND COUNTY OF HONOLULU, DEPARTMENT OF CUSTOMER SERVICES
Monday, February 11, 2019, 1:15 p.m., Conference Room 225

SENATE BILL 1161, "Relating to Transportation Network Companies"

TO: The Honorable Lorraine R. Inouye, Chair
The Honorable Breene Harimoto, Vice Chair
And Members of the Committee on Transportation

The City and County of Honolulu would like to **comment** on S.B. No. 1161 that establishes rules, regulations, and permitting procedures for transportation network companies operating in the State.

The Division of Motor Vehicle, Licensing and Permits is the entity that oversees the Motor Vehicle Control section which has the specific duties associated with providing oversight and accountability over Transportation Network Companies (TNC) on the Island of Oahu. Our agency and said section is effectively the first line of oversight ensuring safe operability and standard assurance to the public from the effects of TNC operations.

We therefore suggest the following changes:

Page 4 line 13: Referencing annual permit fee of \$5,000

We do not believe that \$5,000 sufficiently accounts for the labor resources required to provide governmental oversight of TNCs. As such, we propose a per volume approach. If the TNC has less than 15 independent contractors and/or employees, the annual fee should be \$15,000; if between 15 but less than 50 independent contractors and/or employees, the fee should be \$50,000; and if greater than 50 but less than 75 independent contractors and/or employees the fee should be \$150,000 per year. For all TNCs with an employee and/or independent contractor count of greater than 75 the annual fee per year shall be \$500,000.

The employee and/or independent contractor count shall be the total registered number with the vendor and not defined as off-peak or part-time.

The Honorable Lorraine R. Inouye, Chair
The Honorable Breene Harimoto, Vice Chair
And Members of the Committee on Transportation
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All proceeds associated with the collection of the annual fees shall be utilized by the Director of Finance for the sole and explicit purpose of creating better enforcement mechanisms over TNCs through automation, better record keeping and additional hiring.

Our logic here is simply this; it takes far more than two government employees averaging \$100,000 in salary in order to provide enforcement. The legislation is effectively asking multi-billion dollar TNCs to furnish the city \$5,000 annually with an expectation that the \$5,000 will serve what purpose? Full enforcement? Compensation of traffic mitigation? Mitigation of ridership impact to Public Transportation?

We would ask that HB 1093 enable the County providing oversight to properly charge and subsequently be funded for its effort for such.

Page 7 Line 17: Referencing moving violations

Our agency is in agreement with this intent. However, we would be remiss not to mention that the State of Hawai'i is the only State within the U.S. that does not have a centralized Motor Vehicle agency. How this impacts moving violation(s) is that the driver licensing record does not indicate the number of moving violation(s) as assessed by the Division of Traffic Safety and the State Judiciary. This lack of a centralized communicative system creates a loop hole in which the proverbial wolf guards the hen-house. We would request contemplation on how the loophole can be mitigated as the lapse in oversight created by the loop hole has major safety ramifications for the general public.

Page 10 Line 3: Audit Procedures

Our comments herein are generated by hands-on experience and given to you by subject matter expert(s) that interact with TNCs on audit procedures. We therefore disagree with the approach of limiting the oversight to 'samples,' by the TNC when requesting records. TNCs should be able to fully disclose the total number of driver(s) registered with their company at any given time, to include, driver's license numbers, license plate numbers of the vehicles registered by independent contractors or employees and associated vehicle identification numbers for random verification at any and all times as required by the governing agency.

The information provided to us should not omit information critical to identifying specific drivers. We feel that to do so defeats the entire purpose of oversight, creates a lapse in oversight, and generally render(s) this entire bill into a cosmetic oversight instead of what it should be; a fiduciary obligation to protect the public and the independent contractors.

The Honorable Henry J. C. Aquino, Chair
And Members of the Committee on Transportation
Page 3

Page 10 Line 17: The Department of Transportation shall be authorized to inspect
We request clarification on this issue. Until recently, this responsibility was given to the
Public Utilities Commission and handed over to the local jurisdiction (in this case the
County).

We would therefore recommend that the language be changed to “The County shall be
authorized to inspect on behalf of the Department of Transportation or relevant State
agency.”

Finally, we would greatly appreciate consideration of amending this measure to
include an additional impact fee with revenues directed to the counties to mitigate
additional costs that may be experienced by jurisdictional agencies providing oversight
over TNCs.

In conclusion, our agency desires the ability to provide practical oversight over
TNCs. We believe that the annual fees contained in this measure are inadequate in
light of the oversight required. We also want to ensure that this measure gives the local
jurisdiction appropriate tools to identify who, what, where, when and why as it relates to
TNC operations.

Thank you for the opportunity to comment on S.B. No. 1161.

TESTIMONY OF MICHAEL TANOUE

COMMITTEE ON TRANSPORTATION
Senator Lorraine R. Inouye, Chair
Senator Breene Harimoto, Vice Chair

Monday, February 11, 2019
1:15 p.m.

SB 1161

Chair Inouye, Vice Chair Harimoto, and members of the Committee on Transportation, my name is Michael Tanoue, counsel for Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

The Hawaii Insurers Council takes no position on SB 1161, except that it **opposes** proposed § -11 of the bill (starting on page 9, line 14) because it is inconsistent with, and shortens, existing recordkeeping requirements set forth in section 431:10C-704. Section 431:10C-704(a)(1) requires a transportation network company to maintain records for prearranged rides for at least ~~five years~~ from the date of each prearranged ride, and section 431:10C-704(a)(2) requires a transportation network company to maintain driver records at least until the ~~five-year~~ anniversary of the date on which the driver's activation on the service has ended. Proposed § -11 of the bill would shorten those recordkeeping timeframes from five years to one year, to the detriment of consumers and insurers.

Therefore, the Hawaii Insurers Council requests that this Committee delete proposed § -11 in its entirety.

Thank you for the opportunity to testify.



Testimony of Tabatha Chow, on behalf of Uber Technologies, Inc., in support of SB1161

February 11, 2019

To: Chair Inouye, Vice Chair Harimoto, and members of the Committee on Transportation:

My name is Tabatha Chow and I am the Senior Operations Manager for Uber Technologies, Inc. ("Uber") in Hawaii. I am submitting this testimony on behalf of Uber in support of SB1161 relating to Transportation Network Companies.

The Uber app facilitates Transportation Network Company (TNC) services. This provides flexible work opportunities for thousands of small business owners across Oahu, Maui, Big Island, and Kauai. Our technology platform connects local, independent drivers, with Hawaii residents and visitors. These independent drivers complete millions of trips every year throughout Hawaii, via the Uber platform.

SB1161 would provide uniform regulations for TNC operations throughout all of Hawaii. **TNC driver screening and other operating requirements are currently only mandated for Honolulu county**, under ROH Chapter 12. TNC insurance regulations are mandated by HRS 431:10C-703 and TNC airport operations are subject to HAR Title 19, Chapter 20.1. HB1093 would ensure TNC driver screening and other operating requirements are mandated for all islands throughout Hawaii, not just Honolulu County.

The provisions of SB1161 are very similar to the current requirements of Honolulu ROH Chapter 12 and mandate background screenings for all drivers. These screenings include

criminal background checks on all potential drivers. These checks must search federal, state, and local databases as well as the Sex Offender Public Registry Website. Driver Motor Vehicle Record (MVR) checks are also included. Various other TNC operating requirements are also addressed, including: operating permits, fare transparency, driver and vehicle identification, receipt requirements, non-discrimination and accessibility policies, record retention, and audit provisions.

We thank the Committee for the opportunity to provide this testimony and look forward to working together.

Respectfully,

A handwritten signature in black ink, appearing to read 'Tabatha Chow', with a stylized, cursive flourish.

Tabatha Chow
Senior Operations Manager
Uber Hawaii

LATE

**SB 1161: WRITTEN TESTIMONY OF TRACI LEE OF LYFT
SENATE TRANSPORTATION COMMITTEE
FEBRUARY 11, 2019**

Chair Inouye and Committee Members,

My name is Traci Lee, and I am a Senior Public Policy Manager for Lyft, responsible for Lyft's policy and government relations in Hawai'i. This testimony is to express Lyft's support for Senate Bill 1161, which creates a statewide regulatory structure for ridesharing that will allow Lyft to expand throughout Hawai'i.

Lyft was founded in 2012 to improve people's lives with the world's best transportation and make our cities more livable. Lyft is an online ride-sharing application that connects people with efficient, friendly and safe drivers in their community. At a basic level, Lyft was created as an alternative to personal car ownership, and we make it easier for people to offer their neighbors a ride and help people carpool more efficiently.

In Hawai'i, Lyft has been a transportation option on Oahu since June 2014, and available on Big Island, Maui, and Kauai since March 2017. Lyft service enhances transportation options for locals and tourists alike while also acting as a complement to existing transportation infrastructure investments. In addition to providing safe rides home for those who want to responsibly enjoy a night on the town, we have partnered with different transportation agencies and municipalities throughout the U.S. to make it easier for people to use public transit by serving as first-mile and last-mile connectors, or by being a guaranteed ride home from work thereby incentivizing carpooling and use of public transit in at least one direction.

More than anything, Lyft is about giving people choices. As of this year, 45 states across the country have passed statewide legislation, like SB 1161, that regulates Lyft in a safe and comprehensive manner. We hope that Hawai'i can join that effort and allow consumers to have the ability of choosing Lyft in cities across this great state.

We think it is valuable that students at UH Manoa or Kapiolani Community College, or any of the many universities on the islands can get safe rides home, that seniors can continue to have the freedom that they once had when they were able to drive themselves around, with the same level of service and regulatory requirements from Honolulu to Kapolei, from Hilo to Kona, or any of the more than 350 major cities across the nation where they can open the app and request a ride. Lyft provides a transportation option for communities that are traditionally underserved by other forms of transit, as demonstrated by the fact that 56% of rides in Hawai'i start in low-income areas. People like the service because they know are going to get seamless, affordable, and reliable transportation. They use it millions of times a day across the nation because it is consistent and it safe.

In fact, at Lyft, safety is our top priority. Our goal is to make every ride safe, comfortable, and reliable. Our riders use Lyft because they feel safe with our drivers, which is a product of this commitment.

Before drivers can accept rides on the Lyft platform they must undergo a mandatory local, state, and national background check conducted by Checkr, which is the leading provider of background checks across the country. Checkr is also accredited by the National Association of Professional Background Screeners, which requires a rigorous audit of its procedures and policies by an independent auditor appointed by the Background Screen Credentialing Council (BSCC).

Lyft also contributes to safer streets by significantly reducing the instances of impaired driving. In Hawai'i, 76% of Lyft passengers are less likely to drive substance impaired to the availability of Lyft.

But what really distinguishes Lyft is how we utilize technology to provide consumers with accountability features in addition to our robust background checks.

Every Lyft ride is tracked via GPS, and all rides are cashless. Passengers receive their driver's picture and license plate before they enter the vehicle, and riders can also send their real time GPS and ETA to family and friends. In short, no ride is ever anonymous. After the ride, both the driver and passenger rate each other. The rating system is an important tool for safety. Rides with low ratings and concerning feedback are automatically flagged for our Trust & Safety team to investigate and take action, which

may include instant removal from the platform if appropriate. And if a safety-related complaint is lodged following the ride, we deactivate the driver so that he or she is not able to give any further rides until after we've investigated the complaint. This process, which provides a new level of responsiveness, accountability and transparency that has never previously existed in the transportation industry, has been reviewed and approved by the City of Honolulu, and in 45 states.

We are proud that Lyft is more than just a ridesharing application-- it is also a unique and flexible economic opportunity that turns anyone with a car into an entrepreneur who can set a schedule according to their terms. In fact, 95% percent of Lyft drivers in Hawai'i drive less than 20 hours per week. The Lyft driver community is made up of retirees, single parents, students, folks trying to get around, and families simply trying to make ends meet. In Hawai'i, Lyft drivers span a diverse cross-section of the community-- 25% of drivers are veterans, 26% are over the age of 50, and 30% are female.

Along with these community and economic benefits, we believe that Lyft is contributing to a more sustainable Hawai'i. Indeed, over 80% of cars on the road have only one occupant. 27% of Lyft users do not own or lease a personal vehicle, and 66% of non-car owners say that Lyft has impacted their decision not to own or lease a personal vehicle. By getting a Lyft instead of driving their cars, Hawaiians are not just saving time, they are reducing congestion, freeing up parking, making more efficient use of existing roads, and with this bill, supporting sustainable transportation infrastructure.

Since last spring, all Lyft rides have been carbon neutral, and Lyft is now a fully carbon neutral company. Last year, we made a multi-million dollar investment to create a program to offset over 1 million metric tons of carbon. We've purchased enough renewable energy to cover the electricity consumption of every Lyft office space, driver hub, and electric vehicle mile on our platform. We are now one of the top 10 voluntary purchasers of carbon offsets on the planet, and every ride now contributes to fighting climate change.

Statewide legislation is a path towards providing consumers, drivers and visitors a consistent experience with Lyft. We urge this committee to support establishing a clear, workable regulatory framework that can be applied to all ridesharing companies regardless of size and cities of

operation to ensure that safe, reliable and affordable rides are available for all in Hawai'i.

Thank you for your consideration of Lyft's testimony in support of SB 1161.