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**TESTIMONY BY:**

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

April 1, 2021  
9:40 A.M.  
State Capitol, Teleconference

**H.B. 264, H.D. 1, S.D. 1**  
**RELATING TO TRANSPORTATION NETWORK COMPANIES**

Senate Committee on Consumer Protection and Commerce

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The Department of Transportation (DOT) **supports** H.B. 264, H.D. 1, S.D. 1, which establishes requirements and permitting procedures for transportation network companies operating in the State. The proposed legislation makes permanent insurance requirements for transportation network companies and transportation network drivers.

We believe the permitting program will increase public safety by ensuring the companies and employees are properly regulated. The DOT is requesting that the permit fees go to the Highways Special Fund to support program operations.

Thank you for the opportunity to provide testimony.

## **TESTIMONY OF ALISON UEOKA**

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COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair

Thursday, April 1, 2021  
9:40 a.m.

### **HB 264, HD1, SD1**

Chair Baker, Vice Chair Chang, and members of the Committee on Commerce and Consumer Protection, my name is Alison Ueoka, President of the 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.

Hawaii Insurers Council supports Part II, Sections 4 and 6 of the bill (Page 12, lines 10-15), which makes existing insurance provisions permanent. We take no position on other provisions in this measure.

Thank you for the opportunity to testify.

**Testimony of Bob Toyofuku, on behalf of Uber Technologies, Inc., in support of  
HB 264 HD 1 SD 1, Relating to Transportation Network Companies**

April 1, 2021

To: Chairperson Rosalyn Baker and Members of the Senate Committee on Commerce and Consumer Protection:

My name is Bob Toyofuku and I am the Government Affairs Consultant for Uber Technologies, Inc. (“Uber”) in Hawaii. I am submitting this testimony on behalf of Uber in support of HB 264, HD 1 SD 1, Relating to Transportation Network Companies (TNCs).

The initial HB 264 related only to the insurance coverage for Transportation Network Companies like Uber. However, the SD 1 is now similar to the Senate bill (SB 251) that provides for statewide regulation of TNCs.

The Uber app facilitates TNC services. This provides flexible work opportunities for thousands of small business owners across Oahu, Maui, Big Island, and Kauai. Uber’s technology platform connects local, independent drivers, with Hawaii residents and visitors. Before the pandemic began in early 2020 these independent drivers completed millions of trips every year throughout Hawaii via the Uber platform. This bill would provide uniform regulations for TNC operations throughout all of Hawaii. TNC driver screening and other operating requirements are currently only mandated for the City and County of Honolulu, 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.

HB 264 SD 1 would ensure TNC driver screening and other operating requirements are mandated for all islands throughout Hawaii, not just the City and County of Honolulu. The provisions of this bill 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. This bill also contains some suggested changes which were discussed with key staff persons at the Department of Transportation (DOT). The primary role of the DOT is to issue permits and to do an annual audit and it has said that they are capable of doing so.

Further, the insurance provisions for TNCs which were mandated by the legislature in 2016 are made permanent by this bill and Uber supports this.

Lastly, Uber is of the opinion that a statewide regulatory framework as set forth in this bill will benefit all of our residents and provide uniformity throughout the state.

Thank you for the opportunity to present this testimony and I am available for any questions that you may have.

Testimony of  
**Robert's Hawaii, Inc.**

on

**H.B. NO. 264**

**Relating to Regulating Transportation Network Companies  
Committee on Commerce & Consumer Protection  
Thursday, April 1, 2021, 9:40am, Room 229**

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Roberts Hawaii, Inc.

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Chair Baker, Vice Chair Chang and Members of the Committee on Commerce & Consumer Protection,

My name is Roy Pfund, President and CEO of Robert's Hawaii, Inc., and I am testifying in strong opposition to H.B. No. 264 which proposes to establish a statewide system of regulation of Transportation Network Companies (TNC).

[www.robertshawaii.com](http://www.robertshawaii.com)

For the past few years, the TNC's have introduced bills to establish an independent class of commercial vehicle service that falls outside of the current regulations that cover Public Utility Commission (PUC) vehicles and County Taxis. The true intent of this effort is to create a façade of regulation that will allow the TNC's to bypass all the current rules, regulations and taxes that Hawaii based operators must comply with.

Who are these TNC's? Both are public companies, Uber with a market capitalization of \$100 billion and Lyft with \$15 billion are the two undisputed leaders in the industry. These two TNC companies want to monopolize the taxi and ride sharing transportation and now even the food and package delivery market in Hawaii by promoting legislation that discriminates against locally based regulated transportation companies their workforces.

How does the proposed regulation discriminate against local transportation companies and their workforces?

1. TNC's use their software to connect the customer and the service provider (independent driver under TNC contract) to provide a service of either moving passengers or goods from point A to point B. TNC service is no different from the service provided by PUC regulated companies and taxis. So why the big push to classify TNC's separately? It's because TNC's do not want to comply with the PUC and Taxi rules and regulations that local companies must follow. They want to operate in a discriminatory self-regulated environment, meaning operating under little to no regulations as compared to other regulated transportation providers.

2. How do the TNC's treat our local workforce? Local drivers are "hired" as independent contractors. As independent contractors, do our local residents have the ability to receive medical insurance if they work over 20 hours per week? Do they have a set minimum wage? Are they reimbursed for costs of their vehicle? Are they covered by workers compensation if they get injured while working? The answer is no in all instances.
3. Do the TNC's pay their fair share of state taxes and fees? The answer is no one would know unless the TNC's were regulated by the PUC or Counties, then they would be required to file annual financial reports and pay GET on the gross revenues generated. Additionally, they should be paying Hawaii Income tax on their Hawaii based TNC operations. If the TNC's want a separate regulation, lets make sure that they report and pay GET and income taxes on the hundreds of millions in fare revenue that they take in annually.
4. An additional point that supports the TNC's disregard for paying their fair share of costs to operate in Hawaii is that the bill proposes the Department of Transportation to undertake handling the permit process for an annual fee of up to \$25,000. This is an insignificant amount to manage, audit and follow up on the thousands of independent contractor drivers and their complaints that the TNC's would be generating on an annual basis.

**Recommendation:**

Rather than approving special interest and discriminatory legislation, we should be requiring that all TNC activity be regulated under the existing laws, specifically HRS 271. The Declaration of Policy for chapter 271 calls for the regulation of all transportation within Hawaii, TNC are not exempted as either the TNC is the provider of the service or the independent contractor is the provider of their commercial service. The TNC and their special interest advocates cannot dispute that they are providing a commercial transportation service. Declaration of Policy is exerted below:

**[HRS §271-1 Declaration of policy](#)**. The legislature of this State recognizes and declares that the transportation of persons and of property, for commercial purposes, over the public highways of this State constitutes a business affected with the public interest. It is intended by this chapter to provide for fair and impartial regulation of such transportation in the interest of preserving for the public the full benefit and use of the highways consistent with the public safety and the needs of commerce; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers, to encourage the establishment and maintenance of reasonable rates and charges for transportation and related accessorial service, without unjust discrimination, undue preference or advantage, or unfair or destructive competitive practices. This chapter shall be administered and enforced with a view to carrying out the above declaration of policy. [L 1961, c 121, pt of §2; Supp, §106C-1; HRS §271-1]

If we take into consideration Hawaii's pandemic ravaged economy, it is very bold for the TNC's to be proposing legislation that discriminates against local companies that have been enduring the loss in revenues while maintaining regulatory compliance. Isn't Hawaii's goal to support local business? We should not be supporting multibillion companies headquartered elsewhere that show little concern for Hawaii's workers and for paying their fair share to operate in and support Hawaii's economy. Thank you for allowing me to submit testimony on this proposed legislation.

**HB-264-SD-1**

Submitted on: 3/29/2021 10:57:34 AM

Testimony for CPN on 4/1/2021 9:40:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John D. Smith	Individual	Support	No

Comments:

I support.



April 1, 2021

**TESTIMONY BEFORE THE SENATE COMMITTEE ON  
COMMERCE & CONSUMER PROTECTION  
ON HB 264 HD1 SD1 RELATING TO TRANSPORTATION NETWORK COMPANIES**

Aloha Chair Baker, and committee members. I am Gareth Sakakida Managing Director of the Hawaii Transportation Association (HTA) with over 375 members involved with the commercial ground transportation industry.

HTA opposes this bill. Although the concept of uniform regulations can be appealing, the regulations provided for in this bill are seriously inadequate for the commercial transportation of passengers.

Long established and well thought out regulations already exist for the transportation of passengers for the safety and security of those passengers, and for the general public. There is no need to re-invent a regulatory structure for a single type of operation.

No matter the label or methodology the action performed is still transporting passengers. Even an autonomous vehicle scenario is transporting passengers and should comply with the same regulations as other passenger transportation operations.

TNCs do not wish to be considered common carriers or motor carriers, yet their functions fall exactly within the definition of the PUC's "common carrier," and could fall within the definition of the Federal and State DOT's "motor carrier."

Existing regulations already cover critical areas, including, but not limited to, the following.

Certificate or Permit required, may be suspended or revoked

The Public Utilities Commission (PUC) requires that no person shall engage in the transportation of persons or property, for compensation or hire, by motor vehicle, over any public highway of this State unless there is in force with respect to the person a certificate or permit issued by the public utilities commission authorizing the transportation. The commission, upon complaint or upon its own initiative, after notice and hearing, may suspend or revoke any certificate or permit, in part or in whole, if the holder thereof is found to be in violation of any of the provisions of this chapter.

**This bill as no suspension or revocation requirement in the case of a violation of the law for TNCs.**



Furthermore the PUC requires any officer, agent, employee, or representative thereof, who fails or refuses to comply with any provision of this chapter, or any rule, requirement, or order, may be assessed a civil penalty payable to the State in a sum:

- (1) Up to \$1,000 for each offense; and
- (2) In the case of a continuing violation, not less than \$50 and not more than \$500 for each additional day during which the failure or refusal continues.

**This bill has no provision for citations for violating a law.**

#### Enforcement inspections

The PUC and the Hawaii Department Of Transportation (HDOT) execute compliance audits to ensure adherence to regulations. All invoices, receipts, driver and vehicle files are subject to inspection at any time.

**In no enforcement scenario does the entity being enforced dictate the terms of enforcement. Limiting inspections to “no more than annually” or limiting an inspection to “a sample” of records is ludicrous. Furthermore, no enforcement agency is limited in their function “in a manner agreeable to both parties.”**

#### Driver Qualification

Driving commercially is a serious business and HDOT requires drivers to be continually medically certified. They also require drivers’ performances to be evaluated annually.

**This bill contains no medical related requirements to ensure the ability to safely operate a vehicle transporting passengers for hire. Visual acuity, functionality of limbs, heart conditions, and a myriad other health conditions that affect safe operation is left to chance.**

#### Rates

PUC requires just and reasonable rates to prevent predatory pricing and gouging of consumers. They are flexible with a zone of reasonableness permitting rates of 10% higher or lower of approved rates. These rates must be filed with the Commission and a tariff available to all. Higher or lower rates can be applied for, but must be justified and approved.

#### Vehicle Marking

PUC and HDOT require the registration of each company’s vehicles, and require them to be marked with their company name or logo on vehicles so they can be readily identified by enforcement personnel and the general public, all in the interest of transparency.

**There are no exterior vehicle markings required for TNCs making it impossible for enforcement personnel or general public to identify in the case of mis-doings.**

Placing TNC operations under Chapter 271 would require proper reporting of revenue and payment of applicable taxes and fees. Chapter 271 provides a proven structure for the all round enforcement of passenger transportation. It does, in fact, have a declaration of policy in the interest of the public:

HRS §271-1 Declaration of policy. The legislature of this State recognizes and declares that the transportation of persons and of property, for commercial purposes, over the public highways of this State constitutes a business affected with the public interest. It is intended by this chapter to provide for fair and impartial regulation of such transportation in the interest of preserving for the public the full benefit and use of the highways consistent with the public safety and the needs of commerce; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers, to encourage the establishment and maintenance of reasonable rates and charges for transportation and related accessorial service, without unjust discrimination, undue preference or advantage, or unfair or destructive competitive practices. This chapter shall be administered and enforced with a view to carrying out the above declaration of policy.

These and many more regulations exemplify how serious a function the transportation of passengers is. These regulations must apply to all drivers and transportation companies.

Mahalo.

