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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Transportation and Culture and the Arts
Tuesday, February 14, 2023
3:15 p.m.
State Capitol, Conference Room Conference Room 224 Via Videoconference

On the following measure:
S.B. 1225, RELATING TO INSURANCE

Chair Lee and Members of the Committee:

My name is Gordon Ito, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to clarify when the termination of peer-to-peer car-sharing occurs for purposes of motor vehicle insurance; clarify the application of the peer-to-peer car-sharing insurance laws as to other entities that make available rental vehicles under state law; amends the minimum motor vehicle insurance coverage for shared cars to be consistent with the existing minimum coverage for personal vehicles; clarify when the requirements for motor vehicle insurance coverage are satisfied; and repeal the sunset of the peer-to-peer car-sharing insurance requirements.

2022 Haw. Sess. Laws Act 56 (Act 56), which enacted the provisions amended by this bill, only became effective on January 1, 2023, less than three weeks before the start of the current session of the Legislature. These laws have not been in effect long enough to determine whether they warrant amendment. Moreover, Act 56 already includes a sunset date June 30, 2025.

Thank you for the opportunity to testify.

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Before the
Senate Committee on Transportation and Culture and the Arts
Tuesday, February 14, 2023
3:15 p.m.

On the following measure:
S.B. 1225, RELATING TO INSURANCE

Chair Lee and Members of the Committee:

My name is Mana Moriarty, and I am the Executive Director for the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection. The Department opposes this bill.

The purposes of this bill are (1) to reduce the amount of the motor vehicle insurance policy coverage that a peer-to-peer car-sharing program must ensure applies to a shared car from $750,000 to the minimum amount of insurance coverage required by law, (2) to allow a peer-to-peer car-sharing program to satisfy the requirements for insurance coverages through insurance maintained by a shared car owner, a shared car driver, a car-sharing program, or any combination of a shared car owner, a shared car driver, and a car-sharing program, (3) to eliminate the requirement that a car-sharing program obtain a written acknowledgment from the car-sharing driver that the car-sharing program has disclosed coverages in writing and that all optional coverages may not have been purchased, (4) to eliminate three ways that a shared car driver may terminate the car-sharing time, (5) to narrow the definition of "peer-to-peer car-sharing" by requiring that the operation, use, or control of a motor vehicle by an individual other than the motor vehicle's owner through a car-sharing program be "authorized," and (6) to make permanent the changes effectuated by this bill by deleting the June 30, 2025 sunset date in Act 56, Session Laws of Hawaii 2022.

This bill re-writes the State's policy choices for motor vehicle insurance coverages provided by peer-to-peer car-sharing programs, which were enacted pursuant to Act 56, Session Laws of Hawaii 2022. Act 56 took effect on January 1, 2023. As of this writing, Act 56 has been in effect for less than fifty days. Fifty days is not enough time to conceive an approach to insurance coverage by car-sharing programs that will provide benefits to consumers equal to or greater than those provided in Act 56.

Effective upon approval, this bill would reduce required coverage levels from $750,000 for death, bodily injury, and property damage per accident, to the minimum amount of insurance coverage required by law. Current insurance coverage required under HRS § 431:10C-301 are $40,000 per accident for all damages arising out of accidental harm, and $10,000 for all damages arising out of damage to or destruction of property.

This bill would also allow a car-sharing program to meet the minimum coverage requirement without purchasing any motor vehicle insurance policy. Instead, the car-sharing program could satisfy the coverage requirement through insurance maintained by the shared car driver or the shared car owner.

These changes, and others in this bill, would render it less likely that insurance coverage would be available to consumers who pay money for peer-to-peer car-sharing.

Thank you for the opportunity to testify on this bill.

HAWAII INSURERS COUNCIL
A trade association of property and casualty insurance companies

1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877

Alison H. Ueoka
President

TESTIMONY OF ALISON UEOKA

COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS
Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair

Tuesday, February 14, 2023
3:15 p.m.

SB 1225

Chair Lee, Vice Chair Inouye, and members of the Committee on Transportation and Culture and the Arts, my name is Alison Ueoka, President 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.

Hawaii Insurers Council **opposes** this bill. The issue of insurance required for P2P entities was debated for at least four years at the Legislature before a bill passed in 2022. After much discussion, insurance requirements were agreed to for the protection of residents and visitors in Hawaii who may be injured or killed by a driver using a P2P vehicle. The insurance commissioner, the consumer protector and the Hawaii Association of Justice all testified asking for even higher liability limits of $1 million. What passed was a lower amount of $750,000. The law just took effect on January 1, 2023, and there has been very little experience and time to see the effects of the law. At least three years of data should be collected and analyzed to determine whether the law needs to be changed.

This bill changes the definition of “car-sharing termination time”, decreases liability limits, deletes the primacy of P2P coverage and eliminates an existing disclosure requirement. These changes are pre-mature because the law took effect only about six weeks ago.

We ask that this bill be held. Thank you for the opportunity to testify.

Testimony of
Davin Aoyagi - Senior Government Relations Manager
Turo Inc.
SUPPORTING SB1225 12/14/23

Aloha e Chair Lee, Vice Chair Inouye, and other Members of the Senate Committee on Transportation and Culture and the Arts,

On behalf of Turo and our vibrant community of peer-to-peer car sharing hosts and guests in Hawaii, I respectfully offer the following written testimony in support of SB1225, which seeks to amend the statutory framework for the peer-to-peer industry set in place under Act 56. Specifically, this legislation addresses the current disparity in coverage requirements between peer-to-peer car sharing and comparable industries by aligning mandatory coverage requirements with state minimums along with additional clarifying amendments.

Peer-to-peer car sharing is a growing industry in which personal vehicle owners (“hosts”) share their vehicle with someone looking for a car for temporary use (“guests”) via a marketplace like Turo. Hosts are able to earn extra income by sharing an asset that may otherwise sit idle and guests enjoy the unique selection and experience offered by sharing the vehicle of an individual owner.

Last year the legislature established a statutory framework to regulate this industry, which included a variety of insurance provisions, consumer protection provisions, recordkeeping requirements, and taxation. SB1224 focuses on amending the insurance portion of this framework set forth by HRS§431:10C-802:a(1) which states that “a peer-to-peer car-sharing program shall ensure that during each car-sharing period, the shared car shall be insured under a motor vehicle insurance policy in amounts not less than $750,000.”

This $750,000 requirement is significantly higher than the current state minimums (20/40/10) which are imposed on every individual vehicle driver in the state as well as those driving a traditional rental car. Since insurance coverage requirements are predicated on an assessment of risk, it is important to note that there is no difference in risk between an individual driving a rental car, a shared car, or their own personal vehicle. Despite this fact, current law requires the peer-to-peer car sharing industry to ensure coverage that is 18.75 times higher than what is required of others on the road, despite there being no policy basis for the assertion that peer-to-peer car-sharing involves any greater risk. In fact, peer-to-peer marketplaces have operated nationally for years without any evidence of such risk, including in Hawaii. What this creates is a disparity not only in the cost of doing business for comparable industries (the cost of insurance is the greatest cost of doing business), but also in coverage provided for individuals in nearly identical situations. For example, two individuals could be driving the exact same make, model, and year of a vehicle for the exact same amount of time, but be covered by vastly different insurance policies.

Comparisons have been made over the years between peer-to-peer car sharing and transportation network companies (TNC") like Uber and Lyft, who are also newer to the transportation space, but provide a distinctly different service. The $750,00 motor vehicle insurance policy applied to peer-to-peer car sharing seems to be linked to 431:10C-703d(1), which covers insurance minimums for TNCs, without taking into consideration the vast differences between the industries.

A TNC transaction involves a vehicle-for-hire service whereby a paid driver provides a ride to a paying passenger. Conversely, peer-to-peer car sharing simply provides access to a self-driven vehicle as is the case in personal car ownership or the traditional rental car industry. In essence, TNC's provide the service of a ride, whereby the TNC driver operates and controls the vehicle, rather than providing a licensed driver the opportunity to operate a vehicle themselves.

Commercial operators like Uber/Lyft drivers have greater tort liability to paying passengers that are injured in the course of a commercial ride. This is because commercial operators owe a higher duty of care to passengers they transport as part of a business. This is a different category of tort liability altogether from what actions an injured party has when hit by a self-driven passenger vehicle.

This distinction is already reflected in the structure of the existing TNC requirements. HRS 431:10C-703 only imposes the $1 million requirement when a TNC driver has accepted a ride or is engaged in transporting a passenger. While a driver is simply logged-in to the TNC application but has not accepted a ride, the statute imposes a vastly lower insurance requirement of $100,000 for death and bodily injury per accident.

By comparison, Turo hosts do not carry passengers for commercial rides. Since no ride is being provided, they are not subject to the same exposure that a commercial operator has when carrying customers as passengers. The experience that Turo guests encounter is, instead, more in line with a rental car company not a TNC like Uber or Lyft. For this reason, we support this effort to align insurance coverage requirements for peer-to-peer car sharing with more analogous circumstances.

We are also supportive of the additional clarifying amendments in this bill, which, among other things, seek to address the definition of Car Sharing Termination time, amend other definitions for consistency across the statute, and clarify optional coverage requirements. These amendments continue to be part of the dialogue around the insurance framework that was passed in Act 56 (2022), which has a sunset of June 30, 2025.

Mahalo again for the opportunity to provide testimony on this measure.

TESTIMONY OF MICHAEL IOSUA ON BEHALF OF THEHAWAII ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT OF SB 1225

Date: Tuesday February 14, 2023

Time: 3:15 p.m.

My name is Michael Iosua, and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in **OPPOSITION** to SB 1225 - Relating to Peer-to-Peer Car Sharing Insurance Requirements. HAJ opposes this which measure creates hourly peer-to-peer insurance minimum and reduce the required minimum amount of insurance coverage for car sharing on Peer-to-Peer car-sharing platforms during the car sharing period.

SB 1225 attempts to clarify the termination period of peer-to-peer char -sharing occurs for the purpose of motor vehicle insurance. Further the measure also seeks to reduce the newly implemented $750,000 in coverage to the current motor vehicle insurance minimums at $20,000. This substantial reduction in insurance coverage does not reflect the risks associated with peer-to-peer usage.

First, it is concerning that SB 1225 attempts to circumvent the consumer protections for peer-to-peer car sharing programs which were recently implemented. The current $750,000 insurance minimums for peer-to-peer car-sharing programs were implemented last year during the 2022 legislative session. Since the legislation's implementation, the risk to consumers has not changed. It seems unreasonable to amend the insurance minimums immediately after carefully passing legislation which properly balanced the need for consumer protection with allowing peer-to-peer programs to operate safely here in Hawaii.

Moreover, the gap in insurance coverage remains as driver's personal auto insurance policy still excludes peer-to-peer programs. Many personal automobile insurance companies are denying coverage for accidents and injuries related to the use of a privately owned vehicle as a private Peer-to-Peer car sharing. An unintended consequence of this coverage denial is that a vehicle may be treated by an insurance company as uninsured, if there is no insurance provided by the Peer-to-Peer company. The $750,000 protects both the users of the Peer-to-Peer car sharing program, and the innocent victims of negligent drivers.

Furthermore, the proposed reduced minimum insurance amounts are inadequate. The minimum insurance amounts in HRS 431:10C-703 take into account not only the anticipated loss in a covered situation, but also the ability of Hawaii residents to pay the insurance premiums for the minimum amount of coverage. Financial ability should not be a factor considered to the same extent for commercial enterprises. The $750,000 minimum is not likely a financial burden on Peer-to-Peer Car Share companies which can pass on costs of insurance to consumers. Such inconsequential costs resulting from the current insurance minimums will not deter Peer-to-Peer Car Share companies from conducting business in Hawaii.

Additionally, $750,000 in coverage was deemed by the legislature to properly reflect the need for protection of Hawaii residents. It is unclear as to why it would now be necessary to reduce protection of pedestrians and other third parties injured in Hawaii. Local residents will be disadvantaged if Peer-to-Peer Car Share companies are allowed to provide less coverage due to the amount of time a vehicle is in use when the same risks are still present.

Second, the langauge clarifying when the termination period of peer-to-peer char -sharing occurs is vague and unclear. Primarily, the measure amends Section 431:10C-801 which was implemented recently to specify when car sharing duration of time would terminate. The measure removes detailed statements which clearly indicated when car sharing was terminated and adds vague langauge, "which alternatively agreed upon location shall be incorporated into the car-sharing program agreement." This new langauge does not provide any actual clarity as to when the car sharing is terminated. Accordingly, this measure would create gaps in coverage, for instance if a car was returned late or improperly to a location. Such a lack of clarity may result in confusion as to when a peer-to-peer insurance is applicable, and therefore, put our residents at risk.

Furthermore, under the definition of "peer-to-peer car-sharing" the measure includes the use of "authorized" creating potential confusion. This is clearly an attempt to limit liability without providing any form of clarity as to what would qualify as an "authorized" operation. Consequently, this definition may create gaps in insurance coverage where a driver may be under the impression that he or she is operating in an authorized manner but due to the lack of clarity may be actually uncovered. In turn, this proposed langauge jeopardizes Hawaii residents and may leave them without adequate recourse.

Also, other internet platform companies like UBER/LYFT have already agreed to the $1,000,000 minimum coverage in HRS § 431. Peer-to-Peer Car Share Companies remain akin to other internet platform companies because they have no vehicles of their own, they pass on all financial and legal expenses of vehicle ownership and operation to private individuals, including vehicle purchase or lease price, maintenance costs, registration and vehicle taxes, garage/parking space, inspections, cleaning between rentals, and arranging for pick-up and drop-off of vehicles. Thus, Peer-to-Peer Car Share companies are able to make profits without bearing the risks or expenses of vehicle ownership. Therefore, $750,000 is the appropriate level of insurance for peer-to-peer car sharing regardless of duration in time.

Ultimately, Peer-to Peer Car Sharing is still one of the fastest growing industries across the United States resulting in a wave of legislative efforts and lobbying. This trend has an impact on the insurance industry, the rent-a-car industry, state tax collectors, and of course the companies' deriving revenue from Peer-to-Peer transactions. Most importantly, the rise of Peer-to-Peer impacts drivers, passengers and pedestrians injured in motor vehicle accidents on Hawaii’s roadways.

Accordingly, **HAJ recommends this measure be deferred** and the $750,000 be maintained for all peer-to-peer car sharing programs to protect Hawaii residents. Thank you for allowing us to testify regarding this measure. Please feel free to contact us should you have any questions or desire additional information.

getaround

LATE

Written Testimony

Senate Transportation and Culture and the Arts Committee

February 14, 2023

From

Soledad Roybal, Regional Head of Public Policy, Getaround

Re: **Hawaii State Senate Bill 1225**

Getaround supports **Senate Bill 1225.** This bill aims to correct errors in last year's peer-to-peer carsharing law. The corrections and clarifications will help ensure the appropriate start and stop times to protect hosts and guests using shared car services like Getaround. It will also reduce the insurance burden imposed on peer-to-peer companies, which presently are more than 17X the state minimums, to levels required of traditional rental car companies and other hourly fleet-based companies.

Getaround believes in the goals of the state of Hawaii to increase equitable and sustainable transportation options for kamaaina, employees, and visitors. This bill will help return peer-to-peer carsharing services to an affordable and accessible option for residents of Hawaii. Like other places in the world, no data indicate any increased risk on peer-to-peer carsharing platforms in Hawaii.

Getaround supports an insurance framework for peer-to-peer car sharing and a fair regulatory framework designed to ensure that everyone is similarly protected in ANY motor vehicle accident regardless of who owns the car. We applaud the committee's work to support these efforts.

Getaround is eager to work with the committee to help everyone understand the unique business model of peer-to-peer car sharing, its benefits to your constituents, and find an equitable solution that will ensure appropriate levels of protection for everyone who calls Hawaii home - while allowing for the safe growth of carsharing in the Islands.

Mahalo, for your consideration of our written testimony.

Soledad Roybal
Regional Head of Public Policy (U.S. South & West)

getaround

Carshare Users Reduce Greenhouse Gas Emissions, Among Many Environmental Benefits

Dr. Susan Shaheen, a civil and environmental engineering professor at the University of California-Berkeley, led a 2014 study of three U.S. carsharing operators, including Getaround, which found that 20% of all survey respondents reduced driving (i.e., VMT) due to carsharing. Also from Shaheen, "A number of academic and industry studies of shared mobility have documented the impacts of carsharing.[1] [2] [3] [4] [5] These studies collectively show the following common outcomes of carsharing: 1) sold vehicles or delayed or foregone vehicle purchases; 2) increased use of some alternative modes of transportation (e.g., walking, biking); 3) reduced vehicle miles traveled (VMT); 4) increased access and mobility for formerly carless households; 5) reduced fuel consumption and greenhouse gas emissions; and 6) greater environmental awareness.

Carshare Reduces VMT and Car Ownership

A user survey, in conjunction with San Francisco Municipal Transportation Agency on the impact of their on-street carshare parking program, showed one out of ten Getaround guests sold or donated a car since joining, and over nine out of ten Getaround guests report using their personal car or rideshare the same or less since joining.[6] Another study also found that carsharing members (not specific to Getaround) reduced their average annual greenhouse gas emissions per household by 0.58 metric tons for the observed impact (based on vehicles sold) and 0.84 metric tons for the full impact (based on vehicles sold and postponed purchases combined)[7]. Fewer cars mean less pollution, less congestion, fewer accidents, and more available parking in Hawaii.

Getaround Has a Disproportionately Positive Effect on Lower-Income Consumers

According to a survey from the Bureau of Labor Statistics (BLS), transportation is Americans' second biggest expense after housing, costing roughly 10% of annual income on average, while lower-income households spend 30% (the average cost of new vehicle ownership annually is $9,282). We believe Getaround's digital carsharing marketplace provides increased vehicle access to underrepresented and less fortunate socioeconomic populations. According to our data, 55% of the transactions on our platform have been made on a debit card by users with little or no credit as of June 30, 2022. In addition, as of December 31, 2021, 51% of hours booked have been in less affluent neighborhoods (which we define as neighborhoods having an average annual household income below $70,000), and 34% of

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[1] Martin, Elliot, and Susan Shaheen. 2016. Impacts of car2go on Vehicle Ownership, Modal Shift, Vehicle Miles Traveled, and Greenhouse Gas Emissions: An Analysis of Five North American Cities. Berkeley, CA: Transportation Sustainability Research Center.

[2] Martin, Elliot, and Susan Shaheen. 2011. "The Impact of Carsharing on Public Transit and Non-Motorized Travel: An Exploration of North American Carsharing Survey Data." Energies 4: 2094–2114.

[3] Cervero, Robert. 2003. "City CarShare: First-Year Travel Demand Impacts." Transportation Research Record 1839: 159–166.

[4] Cervero, Robert, Aaron Golub, and Brendan Nee. 2007. "City Carshare: Longer-Term Travel Demand and Car Ownership Impact." Transportation Research Record 1992: 70–80.

[5] "The Impact of Carsharing on Public Transit and Non-Motorized Travel: An Exploration of North American Carsharing Survey Data." Energies 4: 2094–2114.

[6] 2018 study of carshare users in San Francisco

[7] Martin, Elliot and Susan Shaheen. 2011. "Greenhouse Gas Emission Impacts of Carsharing in North America."

hours booked have been in low-density transportation deserts (which we define as neighborhoods with less than 10,000 people per square mile).

After studying Getaround data, an NYU Stern research report concluded that peer-to-peer marketplaces disproportionately positively affect lower-income consumers by offering them access to economic opportunity and a higher standard of living.

Carsharing is part of the solution to reduce vehicular congestion, VMT, and emissions and, therefore, should not be met with extra burdens that could limit accessibility for already financially burdened populations. This bill would positively impact small businesses and community members who need services like carsharing to live and work.