DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce, Consumer Protection, and Health
and
Senate Committee on Transportation

Friday, February 7, 2020
12:00 p.m.
State Capitol, Conference Room 225

On the following measure:
S.B. 2232, RELATING TO PEER-TO-PEER VEHICLE SHARING

Chair Inouye and Chair Baker and Members of the Committees:

My name is Colin M. Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments only with respect to section 2 of this bill.

The purpose of this bill is to establish a statutory framework for regulating peer-to-peer vehicle sharing in the State. Section 2 establishes a new part in Hawaii Revised Statutes (HRS) chapter 431, article 10C, addressing insurance coverages of peer-to-peer motor vehicles during peer-to-peer periods.

Page 13, lines 1 to 10 requires a peer-to-peer program to be liable for "any bodily injury (BI) or property damage (PD) to third parties, uninsured (UM) and underinsured (UIM) motorist benefits, and personal injury protection (PIP) losses during the peer-to-peer period and which amount may not be less than those set forth in section 431:10C-

301." While this section establishes minimum coverage limits for PIP, BI, and PD, it does not set forth any coverage limits for UM and UIM. Section HRS 431:10C-301(d)(2) establishes only a maximum coverage limit for UM and UIM (i.e., not more than a BI coverage policy limit). Thus, this bill makes unclear the UM and UIM coverage requirements for a peer-to-peer program. In addition, the Department is unsure whether the bill intends to apply the required proposed BI and PD coverages only to third parties, as BI and PD liability coverages can sometimes apply to second parties.

Page 13, lines 17 to 21 exempts a peer-to-peer program from liability when a peer-to-peer owner makes a material, intentional, or fraudulent misrepresentation or omission to a peer-to-peer program prior to a "loss." The proposed exclusion reads: "Notwithstanding the definition of 'termination time' as set forth in section 431:10C-A, a peer-to-peer program shall not be liable when . . . ." This language may cause confusion when read in conjunction with the previously discussed required coverages (page 13, lines 1 to 10), which mandate that "[n]otwithstanding any other law to the contrary, or any provision to a motor vehicle policy, in the event of a loss or injury, that occurs during a peer-to-peer period, a peer-to-peer program shall: be liable for any bodily injury or property damage to third parties, uninsured and underinsured motorist benefits, and personal injury protection losses[.]"

Page 14, line 4 to page 16, line 17 uses the term "financial responsibility" when requiring peer-to-peer programs to ensure that vehicles have proper insurance coverages. However, this term is not defined in HRS chapter 431, article 10C, and in practice, this term generally is associated with an SR-22 certification that is required to be filed with the State. This certification is usually associated with high-risk drivers who have been convicted of traffic violations, and SR-22 certificates of financial responsibility verify that the named individuals are carrying at least the mandated amounts of auto insurance. It is not clear if this bill intends to associate the term "financial responsibility" with an SR22 certification for peer-to-peer programs.

Page 17, line 6 to page 18, line 2 permits insurers to exclude coverages in a peer-to-peer owner's motor vehicle insurance policy. As these exclusions are placed in a new part titled "Peer-to-Peer Motor Vehicle Industry," it is not clear if the policy referred to is the peer-to-peer owner's personal policy or the policy offering coverage during the peer-to-peer period. The exclusion language may be interpreted to only apply to peer-to-peer policies and not the peer-to-peer owner's personal policy.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Transportation
and
Senate Committee on Commerce, Consumer Protection, and Health

Friday, February 7, 2020
12:00 p.m.
State Capitol, Conference Room 225

On the following measure:
S.B. 2232, RELATING TO PEER-TO-PEER VEHICLE SHARING

Chair Inouye, and Chair Baker, and Members of the Committees:

My name is Stephen Levins, and I am the Executive Director of the Department of Commerce and Consumer Affairs' Office of Consumer Protection (OCP). The OCP appreciates the intent of and offers comments on this bill.

The purpose of this bill is to prohibit vehicle owners from making a vehicle subject to a manufacturer's recall available as a shared car on a peer-to-peer car sharing program, until the vehicle has undergone safety recall repairs, defines terms relating to peer-to-peer car sharing, sets out unfair deceptive trade practices, and establishes insurance coverage requirements during the car-sharing period.

The business model of peer-to-peer car rental differs markedly from that of the existing traditional car rental, which Hawaii Revised Statutes chapter 437D currently regulates. Consequently, the OCP believes that the creation of a new chapter governing peer-to-peer car sharing in Hawaii is a sensible legal adaptation to address this new business model. The OCP also believes that to ensure that consumers are adequately protected, the new chapter should require consumer disclosures, such as clear and conspicuous disclosures to consumers of the terms and conditions associated with the car sharing agreement, all required taxes and fees, and the total price to rent the vehicle.

Since it is axiomatic that consumer safety is of paramount importance in renting a vehicle to a consumer, the prohibition on shared vehicle owners allowing a vehicle under a manufacturer's recall to be available for vehicle-sharing, until necessary safety recall repairs have been made, is a critical component of this bill and should be required in any comprehensive law regulating the industry. The recall provision will help to protect consumers who rent vehicles from a peer-to-peer car-sharing program by removing potentially unsafe vehicles from the road, such as those with defective Takata airbags.

Lastly, the OCP is concerned that the unfair trade practices provision in paragraph (4) on page 10, lines 5 to 7 is problematic, since it appears to validate a legal claim that may not exist—namely, the ability of the peer-to-peer program to be compensated for the loss of income for a vehicle the program does not own. Unlike a traditional car rental model in which the vehicles used in a rental operation are either owned or controlled by the car rental company, the peer-to-peer program relies upon others to provide their vehicles to the platform. Since the peer-to-peer company has no ownership interest in the vehicles rented, the right of the peer-to-peer program to recover directly from a consumer is extremely tenuous. Accordingly, the OCP recommends deleting the per se violation of HRS section 480-2.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR

RONA M. SUZUKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Rosalyn H. Baker, Chair;
The Honorable Stanley Chang, Vice Chair;
and Members of the Senate Committee on Commerce, Consumer Protection, and Health

The Honorable Lorraine R. Inouye, Chair;
The Honorable Breene Harimoto, Vice Chair;
and Members of the Senate Committee on Transportation

From: Rona M. Suzuki, Director
Department of Taxation

Re: S.B. 2232, Relating to Peer-to-Peer Vehicle Sharing
Date: Friday, February 7, 2020
Time: 12:00 P.M.
Place: Conference Room 225, State Capitol

The Department of Taxation (Department) appreciates the intent of the tax provisions in S.B. 2232 and provides the following comments.

S.B. 2232 is effective January 1, 2021 and Section 3 amends the RVST by:

- Adding new definitions for "peer-to-peer motor vehicle," "peer-to-peer program," and "peer-to-peer sharing";
- Adding a new section levying a peer-to-peer motor vehicle sharing surcharge tax of $5 per day on any day or portion of a day a peer-to-peer vehicle is shared and specifying that the tax shall be collected and paid over by the peer-to-peer program; and
- Requiring peer-to-peer programs to register with the Department and receive an RVST license.

The Department appreciates the intent of this measure because it believes this is the most efficient way to collect RVST. Collection of tax from one source is more efficient than collecting from each of the underlying taxpayers. The most well-known example of this is income tax withholding by employers.

As currently written, S.B. 2232 (1) imposes the RVST on peer-to-peer rental motor vehicle transactions twice and (2) requires both peer-to-peer programs and peer-to-peer vehicle owners to register for RVST licenses. Peer-to-peer motor vehicle owners are already subject to the RVST under current law. To correct this, peer-to-peer owners engaging in peer-to-peer rental transactions would need be specifically exempted from the RVST and the owners would need to be exempted from the requirement to register for an RVST license if they are engaging exclusively in peer-to-peer rental transactions.

Instead, the Department offers the approach taken in S.B. 2924, our Administration bill to address the imposition of RVST. The renting of cars by individuals is substantively no different than the renting of cars by a company. As such, the Department does not believe that a separate imposition as proposed by this measure is appropriate. S.B. 2924 takes the same approach as Act 2, Session Laws of Hawaii 2019 (Act 2).

Finally, the Department is able to administer the tax provisions of this measure with its current effective date.

Thank you for the opportunity to provide comments.

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

Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877

Alison H. Ueoka
President

TESTIMONY OF MICHAEL TANOUE

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

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

Friday, February 7, 2020
12:00 p.m.

SB 2232

Chair Inouye, Vice Chair Harimoto, and members of the Committee on Transportation, and Chair Baker, Vice Chair Chang, and members of the Committee on Commerce, Consumer Protection, and Health, 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.

Hawaii Insurers Council submits the following comment on the bill. This bill calls for regulation of peer-to-peer sharing of vehicles and some of its provisions pertain to insurance in general and motor vehicle insurance specifically.

We ask for amendment in Section 431:10C-H, Insurable Interest, to delete subsection (b) which reads, "(b) Nothing in this section shall impose liability on a peer-to-peer program to maintain the coverage mandated by section 431:10C-B." We believe this subsection could be construed to negate the mandatory insurance requirements of that section.

Thank you for the opportunity to testify.

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 6, 2020

TO: Senator Rosalyn H. Baker
Chair, Committee on Commerce, Consumer Protection, and Health

Senator Lorraine R. Inouye
Chair, Committee on Transportation
Submitted Via Capitol Website

FROM: Matthew Tsujimura

RE: **S.B. 2232 Relating to Peer-to-Peer Vehicle Sharing**
Hearing Date: Friday, February 7, 2020 at 12:00pm
Conference Room: 225

Dear Chair Baker and Chair Inouye:

We submit this request on behalf of Enterprise Holdings, which includes Enterprise Rent-A-Car, Alamo Rent-A-Car, National Car Rental, Enterprise CarShare and Enterprise Commute (Van Pool).

Enterprise **supports** S.B. 2232 which creates a new chapter in the Hawaii Revised Statutes regulating peer-to-peer vehicle sharing in Hawaii.

The evolution of the rental car industry has created new and innovative ways to rent a car. Enterprise supports the evolution of the industry so long as consumer safety and accountability remain the priority.

S.B. 2232 creates a new chapter in the Hawaii Revised Statutes to regulate peer-to-peer vehicle sharing in Hawaii. Currently, peer-to-peer companies are operating in the state unregulated. This bill codifies regulatory standards, insurance requirements, and applicable fees and taxes.

The insurance language and most of the regulatory language is based off the National Council of Insurance Legislators model language with a few notable exceptions to ensure conformity and continuity with the Hawaii Revised Statutes.

The notable additions include: (1) stricter motor vehicle language, based on legislation passed in California; (2) requirements that peer-to-peer organizations contract with the Department of Transportation in order to operate at state airports; (3) additional language codifying unfair and deceptive practices; and (4) creating a peer-to-peer motor vehicle surcharge tax.

Enterprise strongly supports the passage of S.B. 2232 which ensures consumer safety while simultaneously providing a fair and competitive market.

Thank you for the opportunity to testify on this measure.

First Hawaiian Center
999 Bishop Street, Suite 1400
Honolulu, HI 96813
T 808-539-0400
F 808-533-4945

TECHNET
THE VOICE OF THE INNOVATION ECONOMY

TechNet Southwest | Telephone 916.600.3551
915 L Street, Suite 1270, Sacramento, CA 95814
www.technet.org | @TechNetUpdate

February 6, 2020

Senator Inouye
415 South Beretania St
Honolulu, HI 96813

RE: OPPOSE SB 2232

Dear Senator Inouye,

On behalf of TechNet, I am writing today in opposition to SB 2232, related to Peer-to-Peer Car Sharing. TechNet is the national, bipartisan network of innovation economy CEOs and senior executives. Our diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over three million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

Unfortunately, SB 2232 would negatively impact the availability of peer-to-peer car sharing in Hawaii.

Peer-to-peer car sharing companies host a platform that connects vehicle owners with people who need access to a car, including Hawaii residents. It provides users with more choice and allows car owning Hawaii residents to create passive income opportunities. They are innovative and have a fundamentally different business model from traditional rental car companies which purchase large swaths of vehicles and rent them to consumers in a more static and less environmentally friendly manner. SB 2232 places ill-suited requirements on peer-to-peer car sharing and limits dynamism in the marketplace, forcing consumers into a one-size-fits all economic choice.

SB 2232 takes the peer-to-peer car sharing model bill, which is supported by TechNet and was approved in Colorado and by the National Conference of Insurance Legislators (NCOIL), and makes significant changes by treating peer-to-peer car sharing platforms like a rental car under existing Chapter 251 and includes multiple attempts to place burdensome responsibilities on peer-to-peer car sharing not otherwise required of traditional car rental. SB 2232 would treat peer-to-peer car sharing the same as rental cars without any of the benefits car rental companies are currently afforded in Hawaii. Hawaii policymakers have always recognized what makes the sharing economy unique and have worked hard to create regulations that foster innovation while protecting the public. This legislation would be a step in the opposite direction, away from the progress made towards making Hawaii a haven of innovation.

SB 2232 also introduces a new surcharge or fee on peer-to-peer car sharing and changes the existing vehicle rental surcharge law to impact additional industries. The fee proposed would apply a flat per day surcharge tax for each day a peer-to-peer car is shared or any portion of the day. This contradicts existing statute (251-2.5) that allows car-sharing programs to charge a prorated amount if a vehicle is rented by a car-sharing organization. A flat per day fee does not reflect the peer-to-peer car sharing model and this fee was established exclusively for motor vehicle rentals and should not apply to a new and different mobility model like peer-to-peer car sharing.

Under the model bill peer-to-peer car sharing companies have to verify that every shared vehicle on the platform is free of active safety recalls. SB 2232 would introduce a new overburdensome requirement that peer-to-peer car sharing platforms would have to re-verify the status of safety recalls every 72 hours, even when a car is not being shared. In the peer-to-peer car sharing model, individual Hawaiians are sharing their personal vehicles on the platform and, consequently, are already meeting the safety and emissions inspection standards mandated by Hawaii law. Even traditional car rental companies are not required to verify any safety recalls every 72 hours.

SB 2232 also makes changes to the insurance language that are inconsistent with the model bill, language that was reviewed and approved by Insurance Legislators from throughout the country. SB 2232 allows peer-to-peer car owners, platforms, and drivers to voluntarily maintain financial responsibility, which creates a significant safety gap in financial responsibility and insurance coverage for a shared car.

Finally, SB 2232 includes language that limits and restricts the operation of peer-to-peer car sharing at an airport. This would significantly limit the ability of a car owner in Hawaii to share their car on a platform and potentially take advantage of a passive income option.

Peer-to-peer car sharing has become an incredibly convenient way of connecting people wishing to utilize internet-based platforms to safely and securely share their personal vehicle with drivers seeking affordable, convenient, accessible and locally sourced mobility options. We urge you to **OPPOSE SB 2232** which TechNet believes will remove the ability of every day Hawaii residents to use their vehicle to create passive income for themselves and their families and request that the Committee substitute the contents of SB 2232 with the contents of HB 1833 HD1.

If you have any questions regarding TechNet's opposition to SB 2232, please do not hesitate to contact Courtney Jensen, Executive Director, at 916-600-3551 or cjensen@technet.org.

Thank you,

Courtney Jensen
Executive Director, Southwest
TechNet

LATE

getaround

February 6, 2020

Senator Lorraine Inouye
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: Opposition to Senate Bill 2232

Dear Senator Inouye,

Thank you for the opportunity to submit testimony in opposition to Senate Bill 2232 related to Peer-to-Peer Car Sharing.

Getaround is a peer-to-peer carsharing marketplace platform that empowers members to safely share their vehicles with others by the hour and the day. Getaround operates in over three hundred cities globally, and while not currently in Hawaii, we certainly would like to be in the future. Our proprietary connected car technology helps users find, book and unlock nearby vehicles on-demand using their smartphones. Getaround's platform connects people whose cars are sitting unused with people who need to use a car -- giving people access to a pool of shared vehicles and thus reducing the need for additional vehicles and consequent increased greenhouse gas emissions and gridlock. It's the modern equivalent of borrowing a friend or family member's car.

Carsharing -- and Getaround's carsharing platform -- makes car ownership more affordable. Carsharing offsets the substantial costs of owning a car by allowing owners to share the car when it would otherwise be sitting idle. That extra money, which in states where Getaround operates can amount to $300 to $600 per month, means a lot to lower and middle-income residents.

And it's not just car owners who benefit. Carsharing provides convenient and affordable on-demand access to vehicles for those who do not own cars or for whom car ownership is cost prohibitive. Low and middle-income residents in particular benefit tremendously from convenient access to affordable transportation— transportation that helps them go to job interviews, run errands, take their children to school, or go away for the weekend with family.

As one of the nation's leading carsharing platforms, while Getaround has its own requirements and standards, we support consumer-friendly protections and laws that provide certainty around liability and insurance. Where the law is unclear, we want certainty so that we can orient our business accordingly and make sure that everyone -- from our owners, to our users, to third parties who encounter cars on the road -- is protected.

SB 2232 takes the the Peer-to-Peer Car Sharing Program Model Act which was developed by the National Council of Insurance Legislators (NCOIL) with substantial stakeholder participation, and makes significant changes by treating peer-to-peer car sharing platforms like rental car companies under existing Chapter 251 and attempting to place several burdensome responsibilities on peer-to-peer car sharing without any of the benefits car rental companies are currently afforded in Hawaii. For example, rental car companies have numerous legal benefits not available to carsharing programs, including the ability to purchase cars at wholesale, wholesale rate application of the GET, and the ability to pass vehicle license fees or the motor vehicle rental surcharge onto customers, among others.

Moreover, SB 2232 introduces a flat per day surcharge tax whereas existing law allows carsharing programs (many of which, like Getaround, allow booking by the hour) to charge a prorated amount where the booking is for part of a day. A flat per day fee does not reflect the peer-to-peer car sharing model and this fee was established exclusively for motor vehicle rentals and should not apply to a new and different mobility model like peer-to-peer car sharing. As another example, SB2232 imposes unique obligations on carsharing programs to re-verify the status of safety recalls every 72 hours even when a car is not being shared, an obligation not borne by rental car companies.

As the growth of carsharing nationwide shows, consumers want to add carsharing to their transportation options. But it is still a young and emerging industry and a series of regulations that is unbalanced, inflexible, or misaligned with the established carsharing model may do far more harm that good. Getaround supports the adoption of a robust regulatory framework in Hawaii that addresses the issues unique to our industry and thus we support HB 1833 HD1, which accomplishes this. We appreciate the legislature's interest in this issue and we request that the Committees substitute the contents of SB 2232 with the contents of HB 1833 HD1.

Best regards,

Andrew Byrnes
Deputy General Counsel and Global Head of Public Policy
Getaround, Inc.
andrew.byrnes@getaround.com

LATE

TURO

Testimony of
Charles Melton – Senior Public Policy Manager
Turo Inc., San Francisco, CA

In Opposition of Senate Bill 2232

February 7, 2020

Chair Baker, Chair Inouye and members of the Senate Committee on Commerce, Consumer Protection and Health, and the Senate Committee on Transportation, I respectfully submit the written testimony of Turo, an internet-based, peer-to-peer car sharing platform. Thank you for the opportunity to express our **opposition** to SB 2232.

Turo is a peer-to-peer car sharing platform that connects personal car owners with those in need of a mobility solution. Through the Turo online marketplace, anyone with the need of a mobility option can obtain the freedom a vehicle can provide. In Hawai`i, our community of car owners share their vehicle with mothers, fathers, neighbors and community members while earning a little extra income to help recover the cost of car ownership.

SB 2232 takes existing statues for the motor vehicle rental industry and places these statues onto the completely different peer-to-peer car sharing community. This legislation creates a regulatory structure that is inequitable, and, as a consequence, places additional burdens on Hawai`i residents who share their personal vehicle. Essentially, this legislation would treat peer-to-peer car sharing the same as a motor vehicle rental car company without providing, or giving any consideration to, the myriad of benefits and economic advantages received by the motor vehicle rental car industry. This legislation goes further to alter insurance protection language, change supported vehicle recall provisions, eliminate key words and references from definitions, and add in additional language regarding airports and the application of the motor vehicle rental surcharge to Hawai`i peer-to-peer car sharers, all of which have not been agreed to or supported by stakeholders or the peer-to-peer car sharing community.

Turo supports sensible regulations that ensures the safety and protection of the community of peer-to-peer car sharing in Hawai`i. This is why the peer-to-peer car sharing community has put forward HB 1833 HD1, which mirrors the Peer-to-Peer Car Sharing Program Model Act, which was recently enacted in Colorado and Indiana. The Model Act is supported by the National Council of Insurance Legislators and the Council of State Governments and was agreed upon through extensive stakeholder participation to ensure there are robust measures for consumer safety, transparent pricing, vehicle recall provisions and insurance coverage, among other provisions, for every peer-to-peer car sharing user.

While SB 2232 may appear, on the surface, to be similar to the Peer-to-Peer Car Sharing Program Model Act, its contents are different and contrary to the Model Act. This legislation, if adopted would hinder the peer-to-peer car sharing community and place regulations created for the rental car industry onto Hawai`i residents, and would obstruct different transportation options from being made available to the residents of Hawai`i.

Turo and our community of Hawai`i peer-to-peer car sharing residents are appreciative of this legislature's interest in protecting consumers and establishing a comprehensive regulatory framework for peer-to-peer car sharing. We strongly believe that HB 1833, HD1 is the appropriate legislative vehicle that includes clear regulations and protections for consumers, while holding peer-to-peer car sharing platforms accountable. Thank you for the opportunity – and privilege – to provide this written testimony. For the reasons stated, we encourage this committee to substitute the contents of SB 2232 with the contents of HB 1833, HD1.

TESTIMONY OF NAHELANI WEBSTER FOR THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN OPOSITION TO S.B. 2232

Friday February 7, 2020
12:00 PM
Room 225

LATE

To: Chairs Baker and Inouye, and Members of the Senate Committees on Commerce, Consumer Protection, and Health, and Transportation:

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition to S.B. 2232, Relating to Peer-to-Peer Vehicle Sharing.

We appreciate the Committee's efforts to legislate in this important area. The rise of Peer-to-Peer Vehicle Sharing in our state presents risks for Hawaii residents and visitors that must be addressed. Owners who make their vehicles available through Peer-to-Peer sites may not be aware that motor vehicle insurance policies commonly exclude coverage for cars furnished in exchange for payment. If an accident were to occur, the victim, driver, and the car owner, could find themselves without coverage for the loss.

S.B. 2232 does not provide adequate security and protection for motor vehicle accidents. It provides far less insurance protection than has been provided under Peer-to-Peer legislation enacted in California, Colorado, Maine, Oregon and Washington, which provide coverage at three times the state's minimum requirements. Hawaii's statutory minimum coverage reflects a compromise between the needs of accident victims and the financial difficulties faced by cash-strapped families. There is no reason for companies deriving substantial profit to be subject to the same modest requirement. For these national companies the low rates of insurance coverage required in S.B. 2232 amounts to a windfall at the expense of residents and visitors who sustain injury.

We also oppose S.B. 2232 to the extent that it does not require Peer-to-Peer Vehicle Sharing Companies to provide a policy of insurance covering the operator. In other states, the Company is required to provide coverage on the vehicle during the car share. This requirement is important because it ensures that a policy provides the necessary protections available to persons who may be injured during a car share. Under S.B. 2232, a Vehicle Sharing Company is not required to provide coverage if it confirms the driver carries a policy with limits up to the statutory minimum. Individuals who are badly injured could find themselves having to pursue an out of state driver with an out of state policy that contains limitations and exclusions that preclude coverage. S.B. 2232 only requires the car sharing company to ensure a policy is available that meets the statutory minimum and does not exclude car sharing. That is certainly no guarantee of coverage to persons that may be injured.

This legislation is similar to that enacted for Transportation Network Companies. Therefore, we propose the committee to adopt similar necessary insurance provisions including the following requirement that the Company maintain adequate coverage:

"In addition to any other insurance coverage required by this chapter, a peer-to-peer vehicle sharing program shall maintain insurance in an amount of at least one million dollars that provides coverage for the program's liability for an act or omission of the program that is the proximate cause of death, bodily injury, or property damage to any person in any one accident because of the operation of a shared vehicle through the program."

Adequate insurance coverage for residents and visitors is in the best public interest and supports the tourism and other industries in the state. S.B. 2232 in its present form does not provide that.

Thank you for allowing me to testify in opposition to this measure. Please feel free to contact me should you have any questions or desire additional information.

SB2232

RELATING TO PEER-TO-PEER VEHICLE SHARING.

Creates a new chapter in the Hawaii Revised Statutes regulating peer-to-peer vehicle sharing in Hawaii.

Michael Ferreira,
Chair, Transportation Committee
Kapolei / Honokai Hale
Neighborhood Board #34
92-7049 Elele St.
Kapolei, HI. 96707
808-861-7115
MickFerreirais@gmail.com

I am submitting testimony in support of creating a new chapter regulating peer-to-peer vehicle sharing in Hawaii. I recently rented a car in this manner and suffered a broken windshield. I would like to see that my insurance company would be forced to cover me no matter if I am driving a rental car or a peer to peer service. My Geico policy had a ***specific exclusion*** against covering my loss and I think any verbiage in the Bill should be revised that a person's private policy should protect them and the it shall be illegal for insurance companies to reject a claim just because it was a peer to peeer automobile that their covered driver had in place at the time of the loss. Thank you.

Michael Ferreira
Chair, Transportation Committee
Kapolei / Honokai Hale
Neighborhood Board #34
808-861-7115

SB-2232
Submitted on: 2/4/2020 7:03:14 PM
Testimony for CPH on 2/7/2020 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerard Silva	Individual	Oppose	No

Comments:

February 6, 2020

LATE

Chair Lorraine Inouye
Senate Committee on Transportation
Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

Re: Oppose S.B. 2232 – Peer-to-Peer Car Sharing

Aloha Chair Inouye:

Avail is a peer-to-peer car sharing company that is backed by Allstate. It allows car-owners to share their cars with drivers in need of convenient, affordable transit options. Peer-to-peer car sharing is a way for individual car owners to earn extra income and for individuals to access a new transit option. Car sharing gives Hawaii residents a new solution to longstanding mobility needs, including offering transportation where public transit is not an option and consumer friendly alternatives to traditional car rental companies. By using existing personal vehicles, car sharing has been shown to reduce traffic congestion as well.

We respectfully write to you today to discuss S.B. 2232 on peer-to-peer car sharing, which is set to be heard by the Senate Committee on Transportation. We are appreciative of your interest in this pro-consumer and innovate business platform. However, the legislation as currently drafted ignores some key differences between car sharing and traditional rental car companies while also creating confusion by diverging from nationally adopted definitions, consumer protections and standards for our industry. To best address our concerns outlined below we respectively request that the committee substitutes the contents of S.B. 2232 with the contents of H.B. 1833 HD1 which would apply an appropriate regulatory structure to the peer-to-peer car sharing industry.

<u>Consumers Protections</u>

Peer-to-peer car sharing programs prioritize consumer protections, which is why they are a central part of the recently adopted NCOIL model bill. This model bill, which has been endorsed by the insurance industry, car sharing community and rental car companies, protects consumers with appropriate record-keeping standards, consistent definitions, and liability standards without placing unnecessary and unworkable requirements on parties involved. An example of an unworkable requirement in this bill is the section relating to safety recalls which would require platforms like Avail to check our entire inventory for active recall notices every seventy-two hours. We are committed to ensuring all shared vehicles are safe, but this requirement is nearly impossible to comply with given the number of vehicles we would have to check every three days and the fact that the NHTSA database on recalls requires inputting each vehicle separately – a task that is overly cumbersome and time consuming. We recommend following the appropriate recall standards set forth by the model law.

Unlike rental companies, the car sharing industry has agreed to assume primary liability because we understand how important it is to protect consumers. As currently drafted the bill would create confusion related to liability coverage by allowing “other acceptable means of demonstrating financial responsibility.” Clear and appropriate liability protections, such as those established in the NCOIL model, should be the prevailing structure for the car sharing industry.

Definitions

Clear and consistent definitions are the foundation to enacting reasonable and appropriate regulation of the car sharing industry. Unfortunately, the bill would diverge from consensus definitions and therefore create confusion and potentially harmful provisions that undermine our business model and harm consumers. The current definition of a peer-to-peer car owner, which states who can share their car, does not provide for anyone other than the registered owner to place a car on the sharing platform. We often see spouses and college students, who are not the registered owner of the vehicle, placing their car on the platform while they are out of town for work or during school breaks. This definition would prevent those individuals from sharing. To address this issue, we recommended allowing for a designee to be allowed to share the vehicle to truly open this sharing economy to everyone.

The definition of a peer-to-peer program also creates potentially problematic practices by including "any person in the business of operating a business platform that connects" owners and drivers. To best protect consumers, we do not believe legislation should allow for one-person advertising online or in the paper to share their car as it could lead to fraudulent activity and unregulated sharing practices. Instead we again would ask that you consider following the NCOIL model which clearly defines a sharing program as a business platform, not an individual, connecting owners and drivers. It should also be noted that car sharing is already defined in Title XIV-Section 251 of Hawaii statue which further complicates the issue.

Taxes

Peer-to-peer car sharing is a three-party transaction and completely different than traditional rentals. Thus, these activities should not be taxed in the same manner. Rental car companies enjoy enormous tax benefits such as being exempt from the General Excise Tax on the purchase of their vehicles as well as being allowed to negotiate their licensing fees with local jurisdictions which are then passed onto the consumer. Everyday Hawaii residents sharing their cars on our platform have already paid the General Excise Tax on their cars, in addition to their registration, licensing and titles fees which are set by the state. This disparity alone advantages the rental car companies. Adding to this unfairness, the bill would apply a sharing surcharge tax of $5 for each day, or portion of a day, a vehicle is shared. Our industry welcomes the opportunity to further discuss the appropriate tax structure for car sharing that recognizes the diametrically different business model in which we operate and the current tax obligations of individual vehicle owners.

We thank you again for your interest in peer-to-peer car sharing and welcome the opportunity to further discuss the issue and how we could work together as the legislation evolves.

Mahalo,

Danielle Lenth

Danielle Lenth
Director of External Relations
Avail/Allstate