

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KA 'OIHANA PILI KĀLEPA
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Thursday, March 16, 2023
2:30 PM
Conference Room 329 and Videoconference**

**On the following measure:
S.B. 1502, S.D. 2, RELATING TO TRANSPORTATION**

Chair Nakashima and Members of the Committee:

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

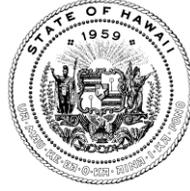
The purposes of this bill are to: (1) require hourly peer-to-peer car sharing operators to insure the shared car with personal injury protection benefit and basic liability coverage; (2) authorize the Department of Transportation to regulate peer-to-peer car share parking at state airports; and (3) authorize the counties to regulate peer-to-peer parking on county streets.

The Department is concerned that this bill rolls back insurance requirements for peer-to-peer car sharing operators and would result in less insurance available to consumers of peer-to-peer car sharing services if an accident occurs. Act 56, Session Laws of Hawaii 2022, requires peer-to-peer car sharing programs to ensure that during each car-sharing period, a shared car is insured under a policy that provides primary

insurance coverage in amounts not less than \$750,000 for death, bodily injury, and property damage per accident, and costs of defense outside the limits. This bill would reduce required coverage levels to a to-be-determined times the minimum coverage levels required by law. Current coverage levels under HRS § 431:10C-301 are \$20,000 per person, with an aggregate limit of \$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. Current coverage levels under HRS § 431:10C-103.5 are subject to an aggregate limit of \$10,000 per person.

The Department is also concerned that this bill will incentivize peer-to-peer car sharing operators that are subject to Act 56's coverage requirements to claim that they should be subject to the lower coverage limits afforded to "hourly" peer-to-peer car sharing operators. The overbroad "definition" of "hourly" at page 2, lines 3-5 of this bill could provide peer-to-peer car sharing operators a basis to seek re-classification as "hourly" peer-to-peer car sharing operators. Re-classification as "hourly" peer-to-peer car sharing operators would enable them to escape the insurance requirements of Act 56. Not only would this circumvent Act 56's requirements, but it would also harm consumers of peer-to-peer car sharing services by reducing the availability of insurance coverage in an accident without providing any benefits to consumers.

Thank you for the opportunity to testify on this bill.



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

KA 'OIHANA PILI KĀLEPA
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Consumer Protection and Commerce
Thursday, March 16, 2023
2:30 p.m.
State Capitol, Conference Room 329 and via Videoconference

On the following measure:
S.B. 1502, S.D. 2, RELATING TO TRANSPORTATION

Chair Nakashima 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 require hourly peer-to-peer car sharing operators to insure the shared car with personal injury protection benefit and basic liability coverage and authorize the Department of Transportation to regulate peer-to-peer car share parking at state airports; and authorize the counties to regulate peer-to-peer parking on county streets

2022 Haw. Sess. Laws Act 56 (Act 56), which enacted the provisions amended by section 2 of 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 an amendment to carve

out a subset of peer-to-peer car sharing subject to alternative regulations. Moreover, Act 56 already includes a sunset date, June 30, 2025.

We take no position on section 1 of this bill.

Thank you for the opportunity to testify.

**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION OF SB 1502 SD2**

Date: Thursday March 16, 2023

Time: 10:00 a.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in **OPPOSITION** SB 1502 SD2 - 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.

This measure unnecessarily seeks to reduce consumer protection for peer-to-peer users and Hawaii residents. SB 1502 SD2 attempts to distinguish hourly usage of peer-to-peer car sharing and create coverage minimums for hourly peer-to-peer sharing operators during the car-sharing period for: 1) personal injury protection benefit; and 2) the basic liability coverage required under HRS Section 431:10C-103.5. A reduction in minimum required amounts do not reflect the risks associated with peer-to-peer usage.

It is concerning that SB 1502 SD1 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.

SB 1502 SD1 is concerning as appears to distinguish hourly usage of peer-to-peer programs in order to obtain lower insurance minimums. The proposed reductions in insurance coverage are unconscionable as the amount of time is irrelevant when determining the proper amount of insurance coverage for peer-to-peer usage. Renting a vehicle for less than 24 hours presents the same risks as renting a vehicle for more than a day.

Moreover, a gap in insurance coverage remains as driver's personal auto insurance policy still excludes peer-to-peer programs whether the vehicles are used for 1 hour or 2 days. 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 Accordingly, the \$750,000 in minimum insurance should be applicable regardless of the time period.

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 minimums should not be utilized as a reference point for a profitable commercial corporation. 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.

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.

This measure also remains unclear in its applicability. The language refers to a "car sharing operator" which is not defined in statute leading to exactly who will be accountable for obtaining and maintaining the required minimum insurance. This lack of clarity would lead to disputes between the driver and owner of the vehicle, which in turn, could result in a potential gap in coverage leading to either party becoming personally liable for injuries to accident victims.

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, **HAIJ 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.



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

Alison H. Ueoka
President

TESTIMONY OF ALISON UEOKA

COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair

Thursday, March 16, 2023
2:00 p.m.

SB 1502, SD2

Chair Nakashima, Vice Chair Sayama, and members of the Committee on Consumer Protection & Commerce, 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** Section 2 of this bill. Peer-to-Peer (P2P) insurance requirements were debated for several years before the 2022 Legislature enacted a bill which took effect very recently, on January 1, 2023. The current law requiring insurance and disclosures to P2P drivers are important consumer protection measures. The law clearly states that the P2P policies are primary in relation to any other insurance policies, liability limits are required at \$750,000 which gives victims fair coverage, and disclosures are required to the P2P driver so that they understand the law.

SB 1502, SD2 sidesteps this law by creating separate and lower requirements for P2P entities that rent "hourly." We believe the risk is actually greater for an entity whose focus is on hourly rentals rather than a longer period because of the turnover in drivers. Nevertheless, all P2P entities should be governed by the same laws in order to protect consumers in the same manner. We do not believe this bill provides adequate protection for those who may be injured by "hourly" operators of a P2P vehicle. We ask that Section 2 of this bill be deleted.

Thank you for the opportunity to testify.



Testimony of
Davin Aoyagi - Senior Government Relations Manager
Turo Inc.

COMMENTS on SB1502, SD2
March 16, 2023

Aloha e Chair Nakashima, Vice Chair Sayama, and other Members of the Committee,

On behalf of Turo, I respectfully offer the following comments on SB1502, SD2, which creates a new category of “hourly peer-to-peer car sharing operators” and amends the liability insurance coverage requirements for these specific operators.

Last year the legislature established a statutory framework to regulate the peer to peer car sharing industry, in which vehicle owners (“hosts”) share their vehicle with someone looking for a car for temporary use (“guests”) via a marketplace like Turo. The framework included a variety of insurance provisions, consumer protection provisions, recordkeeping requirements, and taxation. These provisions also included language in 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 for both the vehicle and the driver 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. We also respectfully note that the \$750,000 in minimum insurance coverage is an anomaly compared to other states. 41 states and the District of Columbia merely require state minimums, while six other states require ranges from two to three times state minimums. The only states that have comparable insurance minimums to Hawai‘i are New York (which recently legalized peer-to-peer car sharing operations in 2022) and West Virginia, whose legislature just transmitted a bill to the governor’s office to amend the \$750,000 minimum to its state minimums.

As noted in our previous testimony on this issue, there is no known policy justification for the extraordinarily high and cost prohibitive insurance limits set solely for peer-to-peer car sharing. In fact, there were no data points in our own claims information which we’ve provided to the Insurance Division of the Hawaii Department of Commerce which demonstrated a justification for these higher insurance limits. Despite this fact, the 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.

Regarding this measure specifically, we continue to oppose the bifurcation of hourly peer-to-peer car sharing operators from other actors in the peer to peer car sharing industry. As currently drafted, this bill creates a framework that only partially attempts to solve this broad policy issue for a small subset of the peer-to-peer car sharing industry. What this creates is a disparity not only in the cost of doing business for comparable industries, 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.

We support a holistic solution about what insurance minimums should be set at for the whole industry, and respectfully request that the committee amend the bill to eliminate any language referencing the hourly peer-to-peer car sharing operators. We are currently in communication with the Insurance Commissioner, and we respectfully request that SB1502, SD2 continue to move forward without the hourly peer-to-peer car sharing bifurcation language as a vehicle that allows us to both meet legislative deadlines and continue dialogue with the Insurance Commissioner's office.

Mahalo to the committee for its consideration of our testimony.