

ACT 57

H.B. NO. 1681

A Bill for an Act Relating to Transportation Network Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

PART I

SECTION 1. The legislature finds that statewide regulation of transportation network companies is needed to ensure the safety, reliability, and cost-effectiveness of rides provided by transportation network company drivers, as well as to preserve and enhance access to important transportation options for residents and visitors of the State.

The purpose of this part is to enact statewide regulation of transportation network companies to provide operational consistency across the State and establish a permitting process within the department of transportation.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
TRANSPORTATION NETWORK COMPANIES**

**§ -1 Definitions.** As used in this chapter:

“Department” means the department of transportation.

“Digital network” means any online-enabled technology application service, website, or system offered or utilized by a transportation network company that enables prearranged rides with transportation network company drivers.

“Director” means the director of transportation.

“Prearranged ride” has the same meaning as defined in section 431:10C-701.

“Transportation network company” has the same meaning as defined in section 431:10C-701.

“Transportation network company driver” has the same meaning as defined in section 431:10C-701.

“Transportation network company rider” or “rider” means a person who uses a transportation network company’s digital network to connect with a transportation network company driver who provides prearranged rides to the rider in a transportation network company vehicle between destination points chosen by the rider.

“Transportation network company vehicle” means a vehicle that is:

- (1) Manufactured with seating accommodations for eight or fewer passengers;
- (2) Not a semitrailer, tractor-semitrailer combination, truck, or truck-tractor, as those terms are defined in section 286-2;
- (3) Used by a transportation network company driver to provide a prearranged ride;
- (4) Owned, leased, or otherwise authorized for use by the transportation network company driver; and
- (5) Not operating as a taxicab, limousine, or other for-hire vehicle.

**§ -2 Relation to other laws; commercial vehicle; for-hire vehicle; registration; exemption.** Neither a transportation network company nor transportation network company driver shall be considered a motor carrier under chapter 271. No transportation network company driver shall be required to register a transportation network company vehicle as a commercial or for-hire vehicle.

**§ -3 Transportation network company; permit required.** (a) No person shall operate a transportation network company in the State without first having obtained a permit from the director. The application shall be in a form and content as prescribed by the director; provided that any transportation network company operating in the State before the effective date of this chapter may continue operating until the director has established a permitting process for existing transportation companies and sets a permitting deadline.

(b) The director shall issue a permit to each applicant that satisfies the requirements for a transportation network company as set forth by the director and shall collect an annual permit fee of up to \$25,000 from the applicant prior to the issuance of a permit. The fees collected pursuant to this subsection shall be deposited into the state highway fund established by section 248-8.

**§ -4 Fare transparency.** A transportation network company's fare structure shall be transparent and visible to a rider before the rider confirms a ride. To satisfy the requirements of this section, a transportation network company shall clearly display:

- (1) The fare for the prearranged ride;
- (2) The option to receive an estimated fare for the prearranged ride; or
- (3) The basis and rate on which the fare is to be calculated, and any additional fees or charges that may apply.

**§ -5 Agent for service of process.** Any transportation network company operating in the State shall maintain an agent for service of process in the State.

**§ -6 Identification of transportation network company drivers and transportation network company vehicles.** During a prearranged ride, a transportation network company's digital network shall display a picture of the transportation network company driver and the license plate number of the transportation network company vehicle.

**§ -7 Electronic receipt.** Following the completion of a prearranged ride, the transportation network company shall transmit an electronic receipt on behalf of the transportation network company driver that includes the following information:

- (1) The origin and destination or destinations of the prearranged ride;
- (2) The total time and distance of the prearranged ride; and
- (3) The total fare paid.

**§ -8 Disclosure; limitations; insurance requirements.** The requirements of section 431:10C-703 shall apply to transportation network companies and transportation network company drivers.

**§ -9 Transportation network company driver requirements.** (a) Prior to allowing an individual to act as a transportation network company driver and accepting a request for a prearranged ride through a transportation network company's digital network:

- (1) The individual shall submit an application to the transportation network company that includes the following information:
  - (A) The individual's address;
  - (B) The individual's age;
  - (C) A copy of the individual's valid driver's license;
  - (D) A copy of the applicable motor vehicle registration;
  - (E) A copy of the applicable motor vehicle insurance; and
  - (F) Any other information deemed necessary by the transportation network company;

- (2) The transportation network company shall conduct national and local criminal background checks for each applicant and each driver on an annual basis. The criminal background check shall include a review of:
  - (A) A multi-state and multi-jurisdictional criminal records locator or other similar commercial nationwide database with validation (primary source search); and
  - (B) The United States Department of Justice National Sex Offender Public Website; and
- (3) The transportation network company shall obtain and review, or have a third-party entity obtain and review, a driving history research report of the individual.
- (b) The transportation network company shall not permit an individual to act as a transportation network company driver on its digital network who:
  - (1) Has more than three moving violations within the prior three years, or one of the following major violations in the prior three years:
    - (A) Driving on a suspended or revoked license;
    - (B) Reckless driving of vehicle;
    - (C) Resisting an order to stop a motor vehicle in the first or second degree; or
    - (D) Resisting arrest;
  - (2) Within the prior seven years has been:
    - (A) Convicted of any felony; or
    - (B) Convicted of any misdemeanor relating to driving, acts of violence, or sexual offenses;
  - (3) Is registered on the United States Department of Justice National Sex Offender Public Website or any publicly accessible state sex offender registry;
  - (4) Does not possess a valid driver's license;
  - (5) Does not possess proof of a current and valid registration for the motor vehicle used to provide prearranged rides;
  - (6) Does not possess proof of valid motor vehicle insurance for the transportation network company vehicle; or
  - (7) Is not at least nineteen years of age.

**§ -10 Non-discrimination; accessibility.** (a) The transportation network company shall adopt a policy of non-discrimination on the basis of destination, race, color, ancestry, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity or expression with respect to riders and potential riders and shall notify transportation network company drivers of the policy.

(b) In addition to any policy established pursuant to subsection (a), transportation network company drivers shall comply with all applicable laws regarding non-discrimination against riders or potential riders on the basis of destination, race, color, ancestry, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity or expression.

(c) Transportation network company drivers shall comply with all applicable laws to accommodate service animals. For purposes of this subsection, "service animal" has the same meaning as defined in section 347-2.5.

(d) A transportation network company shall not impose additional charges for providing services to persons with physical disabilities.

**§ -11 Audit procedures; complaint investigation; confidentiality of records.** (a) No more than annually, the department shall have the right to visually inspect a sample of records maintained by a transportation network

company for the sole purpose of verifying that a transportation network company is in compliance with the requirements of this chapter. The sample shall be chosen randomly by the department in a manner agreeable to both parties. The audit shall take place at a mutually agreed upon location in the State. Any record furnished to the department shall exclude information that could lead to the identification of specific transportation network company drivers or riders.

(b) In response to a specific complaint against any transportation network company driver or transportation network company, the department shall be authorized to inspect records held by the transportation network company that are necessary to investigate and resolve the complaint. The department and transportation network company shall conduct the inspection at a mutually agreed upon location in the State. Any record furnished to the department shall exclude information that could lead to the identification of specific transportation network company drivers or riders, unless the identity of a transportation network company driver or rider is relevant to the complaint.

(c) Any records inspected by the department under this section shall be confidential, shall not be subject to disclosure to a third party by the department without prior written consent of the transportation network company, and shall be exempt from disclosure under chapter 92F. Nothing in this section shall be construed as limiting the applicability of any other exemptions under chapter 92F.

**§ -12 Uniform statewide regulation.** (a) This chapter shall apply uniformly throughout the State and to all political subdivisions of the State.

(b) This chapter shall supersede any ordinance or other regulation adopted by a political subdivision that specifically governs transportation network companies, transportation network company drivers, or transportation network company vehicles, including those adopted before the effective date of this chapter.

**§ -13 Rules.** The department may adopt rules pursuant to chapter 91 necessary for the purposes of this chapter.”

## PART II

**SECTION 3.** The legislature finds that Act 236, Session Laws of Hawaii 2016 (Act 236), was enacted to close the insurance gaps associated with transportation network companies by establishing motor vehicle insurance requirements for transportation network companies and transportation network company drivers. Act 236 was scheduled to repeal on September 1, 2021. Act 132, Session Laws of Hawaii 2021 (Act 132), extended the repeal date to September 1, 2023.

Accordingly, the purpose of this part is to repeal the sunset date of Act 236, as amended by Act 132, and make permanent the motor vehicle insurance requirements for transportation network companies and transportation network company drivers.

**SECTION 4.** Act 236, Session Laws of Hawaii 2016, section 6, as amended by section 2 of Act 132, Session Laws of Hawaii 2021, is amended to read as follows:

“SECTION 6. This Act shall take effect upon its approval; provided that section 2 of this Act shall take effect on September 1, 2016[; provided further that this Act shall be repealed on September 1, 2023].”

**PART III**

SECTION 5. Statutory material to be repealed is bracketed and stricken.

SECTION 6. This Act shall take effect on January 1, 2023.

(Approved June 17, 2022.)