

REPORT OF THE COMMITTEE ON BUDGET

Voting Members:

Ann H. Kobayashi, Chair; Joey Manahan, Vice Chair;
Carol Fukunaga, Trevor Ozawa, Kymberly Marcos Pine

Committee Meeting Held
May 18, 2016

Honorable Ernest Y. Martin
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Budget, which considered Bill 36 (2016) entitled:

"A BILL FOR AN ORDINANCE RELATING TO PRIVATE TRANSPORTATION
SERVICES AND DRIVERS,"

which passed first reading at the May 4, 2016 Council meeting, reports as follows:

The purpose of the Bill is to establish regulations applicable to private transportation services drivers, including creation of a central database of information pertaining to drivers of private transportation services (including both taxicab companies and transportation network companies), to ensure the health and well-being of their passengers and that the drivers operate in a safe manner.

The Director of Customer Services offered comments on the Bill noting that the Department will support the provisions of the Bill and concurs with the Council's intention to ensure the health and safety of the public. The Director also offered your Committee a list of amendments for consideration by your Committee.

Your Committee received testimony from five individuals in support and one individual in opposition of the Bill.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON

JUN 01 2016

COMMITTEE REPORT NO.

171

REPORT OF THE COMMITTEE ON BUDGET

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Testimony was received from the following institutions, organizations, and governmental agencies:

- Uber Technologies Inc. (oppose)
- TheCAB (support)
- EcoCab (support)
- Hawaii Taxicab Drivers Union (support)
- Lyft (oppose)

Your Committee considered and approved a posted proposed CD1 version of the Bill that makes the following amendments:

- A. Amends the following definitions: "Personal vehicle," "Prearranged ride," and "Transportation network company." Except for technical, nonsubstantive changes, the definitions are the same as those found in H.B. No. 260, H.D. 1, S.D. 1, C.D. 1, which was passed by the 2016 State Legislature and transmitted to the Governor on May 5, 2016. The amended definitions read as follows:

"Personal vehicle" means a motor vehicle that is:

- (1) Used by a transportation network company driver to provide a prearranged ride;
- (2) Owned, leased, or otherwise authorized for use by the transportation network company driver; and
- (3) Not a taxicab, limousine, or other for-hire vehicle.

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON _____

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"Prearranged ride" means the provision of transportation by a transportation network company driver to a passenger, beginning when a transportation network company driver accepts a passenger's request for a ride through a digital network or software application service controlled by a transportation network company, continuing while the transportation network company driver transports the requesting passenger, and ending when the requesting passenger, or the last passenger from the requesting passenger's party, departs from the personal vehicle. A prearranged ride shall not include transportation provided through a ridesharing arrangement, as defined in HRS section 279G-1; use of a taxicab, limousine, or other for-hire vehicle; or a regional transportation provider.

"Transportation network company" means an entity that uses a digital network or software application service to connect passengers to transportation network company drivers; provided that the entity:

- (1) Does not own, control, operate, or manage the personal vehicles used by transportation network company drivers; and
 - (2) Is not a taxicab association or a for-hire vehicle owner.
- B. Amends Sec. 12-__3(c)(8) by changing the insurance compliance citation to read as follows: "Submitted proof of motor vehicle insurance as required by state or city law;".
- C. Deletes Section 12-__5 ("Insurance requirements") of the bill and renumbers subsequent sections.
- D. Makes miscellaneous technical and nonsubstantive amendments.

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CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

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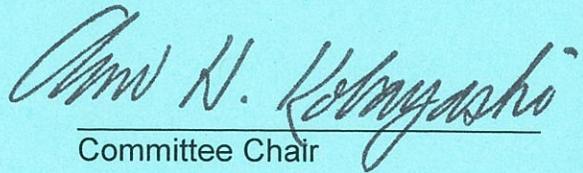
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Your Committee on Budget is in accord with the intent and purpose of Bill 36 (2016), as amended herein, and recommends that it pass second reading, be scheduled for a public hearing, and be referred back to Committee in the form attached hereto as Bill 36 (2016), CD1. (Ayes: Kobayashi, Fukunaga, Manahan, Ozawa, Pine – 5; Noes: None.)

Respectfully submitted,


Committee Chair

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CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON JUN 01 2016

COMMITTEE REPORT NO. 171

SUMMARY OF PROPOSED COMMITTEE DRAFT:

Bill 36 (2016)

RELATING TO PRIVATE TRANSPORTATION SERVICES AND DRIVERS

PROPOSED CD1 makes the following amendments:

- A. Amends the following definitions: "Personal vehicle," "Prearranged ride," and "Transportation network company." Except for technical, nonsubstantive changes, the definitions are the same as those found in H.B. No. 260, H.D. 1, S.D. 1, C.D. 1, which was passed by the 2016 State Legislature and transmitted to the Governor on May 5, 2016. The amended definitions read as follows:

"Personal vehicle" means a motor vehicle that is:

- (1) Used by a transportation network company driver to provide a prearranged ride;
- (2) Owned, leased, or otherwise authorized for use by the transportation network company driver; and
- (3) Not a taxicab, limousine, or other for-hire vehicle.

"Prearranged ride" means the provision of transportation by a transportation network company driver to a passenger, beginning when a transportation network company driver accepts a passenger's request for a ride through a digital network or software application service controlled by a transportation network company, continuing while the transportation network company driver transports the requesting passenger, and ending when the requesting passenger, or the last passenger from the requesting passenger's party, departs from the personal vehicle. A prearranged ride shall not include transportation provided through a ridesharing arrangement, as defined in HRS section 279G-1; use of a taxicab, limousine, or other for-hire vehicle; or a regional transportation provider.

"Transportation network company" means an entity that uses a digital network or software application service to connect passengers to transportation network company drivers; provided that the entity:

- (1) Does not own, control, operate, or manage the personal vehicles used by transportation network company drivers; and
- (2) Is not a taxicab association or a for-hire vehicle owner.

- B. Amends Sec. 12-__3(c)(8) by changing the insurance compliance citation to read as follows: "Submitted proof of motor vehicle insurance as required by state or city law;"
- C. Deletes Section 12-__5 ("Insurance requirements") of the bill and renumbers subsequent sections.
- D. Makes miscellaneous technical and nonsubstantive amendments.

#####



A BILL FOR AN ORDINANCE

RELATING TO PRIVATE TRANSPORTATION SERVICES AND DRIVERS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of the Bill is to establish regulations applicable to private transportation services drivers, including creation of a central database of information pertaining to drivers of private transportation services (including both taxicab companies and transportation network companies), to ensure the health and well-being of their passengers and that the drivers operate in a safe manner. The Council is aware of evolving private transportation technologies and, as a result of the new technologies, the Council recognizes the necessity of adopting measures to ensure the safety of all passengers and drivers.

SECTION 2. Chapter 12, Revised Ordinances of Honolulu 1990, is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

"Article __. Private Transportation Services and Drivers

Sec. 12-__1 Definitions.

As used in this article:

"Department" means the department of customer services.

"Digital network" means any online-enabled application, software, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

"Director" means the director of customer services of the city, or the director's duly authorized subordinates.

"Personal vehicle" means a motor vehicle that is:

- (1) Used by a transportation network company driver to provide a prearranged ride;
- (2) Owned, leased, or otherwise authorized for use by the transportation network company driver; and
- (3) Not a taxicab, limousine, or other for-hire vehicle.



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"Prearranged ride" means the provision of transportation by a transportation network company driver to a passenger, beginning when a transportation network company driver accepts a passenger's request for a ride through a digital network or software application service controlled by a transportation network company, continuing while the transportation network company driver transports the requesting passenger, and ending when the requesting passenger, or the last passenger from the requesting passenger's party, departs from the personal vehicle. A prearranged ride shall not include transportation provided through a ridesharing arrangement, as defined in HRS section 279G-1; use of a taxicab, limousine, or other for-hire vehicle; or a regional transportation provider.

"Road taxi stand" means a space set aside on a public street or city-controlled facility by the council for the exclusive use of taxicabs.

"Taxicab company" means the same as defined in Section 12-1.1.

"Transportation network company" means an entity that uses a digital network or software application service to connect passengers to transportation network company drivers; provided that the entity:

- (1) Does not own, control, operate, or manage the personal vehicles used by transportation network company drivers; and
- (2) Is not a taxicab association or a for-hire vehicle owner.

"Private transportation driver" or "driver" means an individual who:

- (1) Is a taxicab driver as defined in Section 12-1.1; or
- (2) Receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the transportation network company, and uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

Sec. 12-___.2 Director of customer services—Authority.

- (a) Issuance, Denial, Suspension or Revocation of Private Transportation Driver's Certificate. The director is authorized to issue and renew private transportation driver's certificates pursuant to this article. The director is authorized to deny



A BILL FOR AN ORDINANCE

initial issuance or renewal of, or suspend or revoke any private transportation driver's certificate if an applicant cannot meet the requirements set forth in Section 12-___.3(c) and (d), or a driver violates any of the provisions contained in this article. Any applicant or driver must be afforded an opportunity for a hearing before the director or a hearing officer appointed by the director, pursuant to HRS Chapter 91, if a certificate is denied, suspended, or revoked by the director.

- (b) Private Transportation Driver Database. The director shall maintain a database that includes the name of each driver with a valid private transportation driver's certificate. The database shall include any complaints received by the director concerning the driver.
- (c) Rule-Making Powers. The director is authorized to adopt rules that are consistent with this article, having the force and effect of law, as provided for in HRS Chapter 91, in the administration and enforcement of this article.

Sec. 12-___.3 Private transportation driver's certificate.

- (a) No person shall act as a private transportation driver in the city without a valid transportation driver's certificate issued by the director pursuant to this article.
- (b) The director shall collect a fee of \$25.00 for the issuance of each original and \$10.00 for each duplicate private transportation driver's certificate.
- (c) Subject to subsection (d), no private transportation driver's certificate may be issued to any person unless such person has:
 - (1) A valid State of Hawaii driver's license;
 - (2) One year of driving experience;
 - (3) Satisfactorily passed an examination showing:
 - (A) A sufficient understanding of the traffic laws and ordinances, and this article;
 - (B) A sufficient understanding of the locations of streets, roads, highways and significant landmarks within the City and County of Honolulu; and
 - (C) A sufficient understanding of the English language;



A BILL FOR AN ORDINANCE

- (4) Complied with the standards promulgated by the director relating to moral character and physical fitness of the applicant based on prior records or certified documents relative thereto;
 - (5) Received a private transportation driver's certificate number from the department;
 - (6) Submitted proof of registration for the motor vehicle used to provide prearranged rides in the name of the driver, or proof of authorization from the registered owner for the driver to operate the motor vehicle as a private transportation driver;
 - (7) Submitted proof of a current vehicle safety inspection for the motor vehicle used to provide prearranged rides in the name of the driver or registered owner of the motor vehicle;
 - (8) Submitted proof of motor vehicle insurance as required by state or city law;
 - (9) Submitted a current traffic violations bureau certified abstract for the person;
 - (10) Submitted proof of a valid general excise tax license issued in the State of Hawaii; and
 - (11) Submitted proof, in the form of original documentation, of a national background check consistent with the provisions in Section 12-___4.
- (d) No private transportation driver's certificate may be issued to or be renewed for any person who:
- (1) Has been found to have committed more than three traffic infractions, as defined in HRS Section 291 D-2, in the prior seven-year period, other than traffic infractions involving parking, standing, or equipment, and offenses committed as a pedestrian;
 - (2) Has been convicted once in the prior seven-year period for the offense of resisting an order to stop a motor vehicle, reckless driving, excessive speeding, racing on a highway, or driving with a suspended or revoked driver license;



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- (3) Has been convicted in the prior seven-year period of driving under the influence of an intoxicant, including drugs or alcohol;
- (4) Has been convicted in the prior seven-year period of any of the following:
 - (A) Offenses against the person or property of another, or of the public order;
 - (B) Offenses that are sex related;
 - (C) Offenses that are drug related;
 - (D) Acts of terrorism; or
- (5) Is a match in the National Sex Offender Registry database.
- (e) Every private transportation driver's certificate issued under this section will expire two years after the issuance thereof, unless it has previously been revoked, and may be renewed by the director on or before its expiration date upon the applicant meeting the standards set in subsections (c) and (d). Provided, however, that every private transportation driver need not demonstrate compliance with the requirements of paragraphs (c)(3)(A), (c)(3)(B), and (c)(3)(C). The director may accept an application for certificate renewal not more than six months prior to the date of expiration. If, however, a renewal is not applied for on or before the 90th day following the expiration date of the certificate, the applicant shall be treated as an applicant for a new certificate.
- (f) Whenever the driver's license of any private transportation driver is suspended or revoked, the director shall require that the certificate be surrendered to and be retained by the director. At the end of the period of suspension, the certificate so surrendered will be returned to the licensee unless the certificate has expired.
- (g) The director may suspend or revoke a private transportation driver's certificate if the holder of the certificate is convicted of any of the offenses set forth in subsection (d).

Sec. 12-__4 Criminal background check required.

Prior to issuing or renewing a private transportation driver's certificate, the driver shall submit, in the form of original documentation, a national criminal background check going back seven years, which must include:



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- (a) Multi-state/Multi-Jurisdiction Criminal Locator or other similar commercial or government nationwide database with validation (primary source search); and
- (b) National Sex Offender Registry database.

Sec. 12-__5 Identification of transportation network company vehicles and drivers.

No person shall serve as a private transportation driver unless the person is driving a vehicle that has the driver's certificate mounted in the vehicle so that it is readily visible to all passengers in the vehicle. The driver's certificate shall be issued by the director. It must contain a photograph of the driver to be furnished by the driver, the driver's name, the driver's license number, and any other information specified by the director. The driver's certificate must be laminated in plastic or constructed so as to make alteration difficult. It must be a violation of this section for any person to alter such driver's certificate.

Each private transportation driver's vehicle must display, on the lower corner of the passenger-side windshield, the transportation network company's or taxicab company's logo, name or other identifying symbol, as applicable, and the private transportation driver's certificate number.

Sec. 12-__6 Violation—Penalty.

Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine not exceeding \$1,000.00 or imprisonment for a period not exceeding one year, or to both such fine and imprisonment."

SECTION 3. Section 12-1.3, Revised Ordinances of Honolulu 1990 ("Director of customer services—Authority"), is amended by amending subsection (a) to read as follows:

- (a) Denial, Suspension or Revocation of Taxicab Driver's Certificate. The director is authorized to deny [initial issuance or] renewal of or suspend or revoke any taxicab driver's certificate if [an applicant cannot meet the requirements set forth in Section 12-1.9 (c), as amended, or] a taxicab driver violates any of the provisions contained in this article. Any [applicant or] taxicab driver [shall] must be afforded an opportunity for a hearing pursuant to HRS Chapter 91 if a certificate is [denied,] suspended or revoked by the director[pursuant to the provisions of HRS Chapter 91]."



A BILL FOR AN ORDINANCE

SECTION 4. Section 12-1.9, Revised Ordinances of Honolulu 1990, is repealed.

["Sec. 12-1.9 Taxicab driver's certificate.

- (a) No driver of a taxicab shall use or cause to be used, for purpose of hire, a taxicab which does not have a taxicab driver's certificate mounted within 12 inches of the taximeter so that it is readily visible to all passengers (the certificate shall not be mounted on the sunvisor of the taxicab). The taxicab driver's certificate shall be issued by the director. It shall contain a photograph of the taxicab driver to be furnished by the taxicab driver, the taxicab driver's name, driver's license number and any other information specified by the director. The taxicab driver's certificate shall be laminated in plastic or so constructed so as to make alteration difficult. It shall be a violation of this section for any person to alter such taxicab driver's certificate.
- (b) The director shall collect a fee of \$25.00 for the issuance of each original and \$10.00 for each duplicate taxicab driver's certificate.
- (c) No taxicab driver's certificate shall be issued to any person unless such person has:
 - (1) A valid State of Hawaii driver's license;
 - (2) One year of driving experience prior to operating a taxicab;
 - (3) Satisfactorily passed an examination showing:
 - (A) A sufficient understanding of the traffic laws or ordinances, and this article,
 - (B) A sufficient understanding of the locations of streets, roads, highways and significant landmarks within the City and County of Honolulu,
 - (C) A sufficient understanding of the English language;
 - (4) Complied with the standards promulgated by the director relating to moral character and physical fitness of the applicant based on prior records or certified documents relative thereto; and
 - (5) Received a taxicab driver's control number from the department. This control number shall be shown on the taxicab driver's certificate along with



A BILL FOR AN ORDINANCE

the driver's name and the name and telephone number of the company with which the driver is affiliated. Other personal information shall be shown on the back of the taxicab driver's certificate. The taxi driver shall notify the director, the insurance company and the taxi company with whom he or she is affiliated, of every change to his or her current telephone number or address, within 30 days of such change; and

- (6) Submitted a photograph of the person taken no more than 30 days prior to submission of the person's application.
- (d) Every taxicab driver's certificate issued under this section shall expire, unless otherwise revoked, two years after the issuance thereof and shall be renewed by the director on or before its expiration date upon the applicant's meeting the standards set in subsection (c). Provided, however, that every taxicab driver need not demonstrate compliance with the requirements of paragraphs (c)(3)(B) and (c)(3)(C) in order to further renew the taxicab driver's certificate and need not demonstrate compliance with the requirements of paragraph (c)(3)(A), except for once every fourth renewal. The director may accept an application for certificate renewal not more than six months prior to the date of expiration. If, however, a renewal is not applied for on or before the 90th day following the expiration date of the certificate, the applicant shall be treated as an applicant for a new certificate. A new set of photographs, taken not more than 30 days prior to submission of the application, shall be furnished with each application for renewal.
- (e) Whenever the driver's license of any taxicab driver is suspended or revoked, the director shall require that the taxicab driver's certificate be surrendered to and be retained by the director, except that at the end of the period of suspension, the certificate so surrendered shall be returned to the licensee.
- (f) Every taxicab driver's certificate shall have printed thereon a telephone number designated by the director as the telephone number for taxicab complaints. This telephone number shall be preceded by the following message: "If you have any complaints, call _____." The message and telephone number shall be printed in bold print letters not less than three-eighths of an inch in height.
- (g) Every taxicab driver's certificate shall also have printed thereon the following message: "This taxi is meter regulated. Receipt upon request." The message shall be printed in bold letters not less than three-eighths of an inch in height.]"



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 36 (2016), CD1

A BILL FOR AN ORDINANCE

SECTION 5. This ordinance takes effect on January 1, 2017.

INTRODUCED BY:

Ann Kobayashi

DATE OF INTRODUCTION:

April 28, 2016
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20_____.

KIRK CALDWELL, Mayor
City and County of Honolulu