

**SUMMARY OF PROPOSED FLOOR DRAFT:**

**Bill 36 (2016), CD2, RELATING TO  
PRIVATE TRANSPORTATION SERVICES AND DRIVERS.**

**PROPOSED FD1 makes the following amendments:**

1. Amends Sec. 12-\_\_\_.1 as follows:
  - a. Adds a definition of "Private transportation company".
  - b. Removes the definition of "Road taxi stand".
  - c. Amends the definition of "Transportation network company" to change the reference to "taxi association" to "taxi company".
2. Amends Sec. 12-\_\_\_.2 to remove all headings in the subsections and to amend subsections (a) and (b) to read as follows:
  - (a) The director is authorized to ensure that all private transportation companies comply with the provisions of this article. The director is authorized to suspend or revoke any private transportation driver's certification or private transportation company vehicle certification. Any company 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 the director determines there has been a violation of this article.
  - (b) The director shall maintain a private transportation company database.
3. Amends Sec. 12-\_\_\_.3(a) to read as follows:
  - (a) No person shall act as a private transportation driver in the city without certification by a private transportation company, pursuant to this article.
4. Amends Sec. 12-\_\_\_.3(b) to read as follows:
  - (b) The procedure for the private transportation driver's certification and the fees relating to the certification shall be determined by the director and established by rule.
5. Amends Sec. 12-\_\_\_.3(c) to read as follows:
  - (c) Subject to subsection (d), no private transportation driver's certification may be issued to or renewed for any person unless such person has:
    - (1) A driver's license valid in the State of Hawaii;

- (2) One year of driving experience;
  - (3) Satisfactorily displayed:
    - (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;
    - (C) A sufficient method of communicating with the passenger; and
    - (D) A sufficient ability to respond to emergency situations, including, but not limited to, the ability to call for emergency assistance and knowledge of locations of major medical facilities;
  - (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) Submitted proof that the driver is free of any known medical condition that would put a passenger at risk;
  - (6) Submitted a current traffic violations bureau certified abstract for the person; and
  - (7) Submitted proof, in the form of original documentation, of a national background check consistent with the provisions in Section 12-\_\_\_.4.
6. Amends Sec. 12-\_\_\_.3(d)(1) to read as follows:
- (d) No private transportation driver may be certified and any existing certification must be revoked for any driver who:
    - (1) Has been found to have committed five infractions, as defined in HRS Section 291D-2, in the prior two-year period, other than traffic infractions involving parking, standing, or equipment, including seat belts, and offenses committed as a pedestrian;
7. Removes subsections (e), (f), and (g) from Sec. 12-\_\_\_.3.
8. Adds a new subsection (e) to Sec. 12-\_\_\_.3 to read as follows:

- (e) When a private transportation company is made aware of a driver's failure to comply with any requirement of this article or if the driver submits false information to the company, the private transportation company must ensure that the driver does not operate as a private transportation driver.

9. Amends the renumbered Sec. 12-\_\_\_.3(f) to read as follows:

- (f) The private transportation company must certify to the city that the company's private transportation drivers have satisfied the requirements of subsections (c) and (d). The company must maintain records that substantiate that the requirements are satisfied. Such records must be maintained for a period of at least seven years. The records are subject to inspection by the department at any time. The company shall be deemed in violation of this article and subject to the penalties under section 12-\_\_\_.8 each time the department determines that the records do not substantiate compliance with the requirements for an individual driver.

10. Amends Sec. 12-\_\_\_.4 to read as follows:

Prior to the initial certification of the private transportation driver, and every two years thereafter, the company must conduct a national criminal background check going back seven years on the driver, which must include:

- (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.

11. Amends Sec. 12-\_\_\_.5 to read as follows:

No private transportation company shall allow the use of a vehicle for private transportation services unless the company has certified for each vehicle:

- (a) Proof of registration for the motor vehicle 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; and
- (b) Proof of current vehicle safety inspection for the motor vehicle rides in the name of the driver or registered owner of the motor vehicle.

Every private transportation company vehicle certification made under this section will expire two years after the issuance thereof, unless it has previously been revoked, and may be renewed by the company on or before its expiration date as long as the vehicle satisfies the standards set in (a) and (b).

The procedure for the private transportation company vehicle certification and the fees charged for the certification shall be determined by the director and established by rule.

12. Amends Sec. 12-\_\_\_.6 to read as follows:

No person shall serve as a private transportation driver unless the person is driving a vehicle that has the driver's certification in the vehicle so that it is readily visible to all passengers in the vehicle and made available to enforcement officers on demand. The certification must contain a photograph of the driver, the driver's name, a unique driver identifier, a method for the passenger to seek help or file a complaint and any other information specified by the director. It is a violation of this section for any person to alter such certification.

Each private transportation driver's vehicle must display: 1) a decal, on the front and rear bumpers, with the transportation network company's, taxicab company's or independent driver's logo, name or other identifying symbol, as applicable, and any other information as specified by the director; and 2) a dome or a company identifier in the front window visible from a distance of at least 30 feet. In addition, any vehicle for hire which transports passengers to and from the Honolulu International Airport shall display permits or decals required by the applicable state laws.

13. Amends Sec. 12-\_\_\_.7 to read as follows:

Either the private transportation driver or the private transportation company, as applicable, must, upon request, provide the passenger with a receipt showing the total fare paid.



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**A BILL FOR AN ORDINANCE**

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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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## A BILL FOR AN ORDINANCE

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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.

"Private transportation company" means a taxicab company or a transportation network company.

"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.

"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 company or a for-hire vehicle owner.

### **Sec. 12-\_\_2 Director of customer services—Authority.**

- (a) The director is authorized to ensure that all private transportation companies comply with the provisions of this article. The director is authorized to suspend or revoke any private transportation driver's certification or private transportation



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## A BILL FOR AN ORDINANCE

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company vehicle certification. Any company 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 the director determines there has been a violation of this article.

- (b) The director shall maintain a private transportation company database.
- (c) 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 certification.**

- (a) No person shall act as a private transportation driver in the city without certification by a private transportation company, pursuant to this article.
- (b) The procedure for the private transportation driver's certification and the fees relating to the certification shall be determined by the director and established by rule.
- (c) Subject to subsection (d), no private transportation driver's certification may be issued to or renewed for any person unless such person has:
  - (1) A driver's license valid in the State of Hawaii;
  - (2) One year of driving experience;
  - (3) Satisfactorily displayed:
    - (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;
    - (C) A sufficient method of communicating with passengers; and
    - (D) A sufficient ability to respond to emergency situations, including, but not limited to, the ability to call for emergency assistance and knowledge of locations of major medical facilities;



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**A BILL FOR AN ORDINANCE**

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- (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) Submitted proof that the driver is free of any known medical condition that would put a passenger at risk;
  - (6) Submitted a current traffic violations bureau certified abstract for the person; and
  - (7) 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 may be certified and any existing certification must be revoked for any driver who:
- (1) Has been found to have committed five infractions, as defined in HRS Section 291D-2, in the prior two-year period, other than traffic infractions involving parking, standing, or equipment, including seat belts, and offenses committed as a pedestrian;
  - (2) Has been convicted once in the prior two-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;
  - (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, including:
      - (i) Assault,
      - (ii) Kidnapping,
      - (iii) Manslaughter,
      - (iv) Murder,



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**A BILL FOR AN ORDINANCE**

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- (v) Negligent homicide,
  - (vi) Reckless endangering,
  - (vii) Robbery,
  - (viii) Theft,
  - (ix) Computer crimes,
  - (x) Credit card offenses, or
  - (xi) Identity theft;
- (B) Offenses that are sex related, including:
- (i) Displaying indecent matter,
  - (ii) Indecent exposure,
  - (iii) Open lewdness,
  - (iv) Promoting pornography,
  - (v) Prostitution or promoting prostitution,
  - (vi) Sexual assault, or
  - (vii) Sexual abuse;
- (C) Offenses that are drug related, including:
- (i) Promoting a dangerous drug,
  - (ii) Promoting a detrimental drug,
  - (iii) Promoting a harmful drug, or
  - (iv) Promoting intoxicating compounds; or
- (5) Is a match in the National Sex Offender Registry database.



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**A BILL FOR AN ORDINANCE**

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- (e) When a private transportation company is made aware of a driver's failure to comply with any requirement of this article or if the driver submits false information to the company, the private transportation company must ensure that the driver does not operate as a private transportation driver.
- (f) The private transportation company must certify to the city that the company's private transportation drivers have satisfied the requirements of subsections (c) and (d). The company must maintain records that substantiate that the requirements are satisfied. Such records must be maintained for a period of at least seven years. The records are subject to inspection by the department at any time. The company shall be deemed in violation of this article and subject to the penalties under Section 12-\_\_\_.8 each time the department determines that the records do not substantiate compliance with the requirements for an individual driver.

**Sec. 12-\_\_\_.4 Criminal background check required.**

Prior to the initial certification of the private transportation driver, and every two years thereafter, the company must conduct a national criminal background check going back seven years on the driver, which must include:

- (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 Private transportation company vehicle certification.**

No private transportation company shall allow the use of a vehicle for private transportation services unless the company has certified for each vehicle:

- (a) Proof of registration for the motor vehicle 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; and
- (b) Proof of current vehicle safety inspection for the motor vehicle in the name of the driver or registered owner of the motor vehicle.

Every private transportation company vehicle certification made under this section will expire two years after the issuance thereof, unless it has previously been revoked, and may be renewed by the company on or before its expiration date as long as the vehicle satisfies the standards set in (a) and (b).



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## A BILL FOR AN ORDINANCE

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The procedure for the private transportation company vehicle certification and the fees charged for the certification shall be determined by the director and established by rule.

### **Sec. 12-\_\_\_.6 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 certification in the vehicle so that it is readily visible to all passengers in the vehicle and made available to enforcement officers on demand. The certification must contain a photograph of the driver, the driver's name, a unique driver identifier, a method for the passenger to seek help or file a complaint and any other information specified by the director. It is a violation of this section for any person to alter such certification.

Each private transportation driver's vehicle must display: 1) a decal, on the front and rear bumpers, with the transportation network company's, taxicab company's or independent driver's logo, name or other identifying symbol, as applicable, and any other information as specified by the director; and 2) a dome or a company identifier in the front window visible from a distance of at least 30 feet. In addition, any vehicle for hire which transports passengers to and from the Honolulu International Airport shall display permits or decals required by the applicable state laws.

### **Sec. 12-\_\_\_.7 Receipt**

Either the private transportation driver or the private transportation company, as applicable, must, upon request, provide the passenger with a receipt showing the total fare paid.

### **Sec. 12-\_\_\_.8 Violation—Penalty.**

Any person or entity 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



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**A BILL FOR AN ORDINANCE**

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in Section 12-1.9 (c), as amended, or] a taxicab driver violates any of the provisions contained in this article or in Article \_\_\_\_\_, Section 12-\_\_\_\_.3. 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]."

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;



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**A BILL FOR AN ORDINANCE**

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- (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 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.



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**A BILL FOR AN ORDINANCE**

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- (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.]"

SECTION 5. Section 12-1.18, Revised Ordinances of Honolulu 1990, is repealed.

["Sec. 12-1.18 Appeals.

An applicant whose application for a taxicab license has been denied, revoked or suspended by the department may file within 30 days after receipt of said revocation, suspension or denial, an appeal for a hearing with the city council."]

SECTION 6. This ordinance shall not affect the validity of any taxicab driver's certificate issued prior to the effective date hereof, and the holder of valid taxicab driver's certificate shall not be required to obtain a private transportation driver's certificate until the expiration or earlier suspension or revocation of any such valid taxicab driver's certificate.

SECTION 7. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



**A BILL FOR AN ORDINANCE**

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SECTION 8. This ordinance takes effect on January 15, 2017.

INTRODUCED BY:

Ann Kobayashi

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DATE OF INTRODUCTION:

April 28, 2016  
Honolulu, Hawaii

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\_\_\_\_\_

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
KIRK CALDWELL, Mayor  
City and County of Honolulu