

**SUMMARY OF PROPOSED COMMITTEE DRAFT:**

**Bill 55 (2016)**

**RELATING TO PRIVATE TRANSPORTATION SERVICES AND DRIVERS.**

**PROPOSED CD1 makes the following amendments:**

1. Amends the article established by Ordinance 16-25 to incorporate the draft rules transmitted to Council by Departmental Communication 693 (2016).
2. Makes miscellaneous technical and non-substantive amendments.



**A BILL FOR AN ORDINANCE      PROPOSED**

AMENDING ORDINANCE 16-25, 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 this ordinance is to make amendments to Ordinance 16-25, relating to private transportation services and drivers.

SECTION 2. Chapter 12, Article \_\_\_\_, Revised Ordinances of Honolulu 1990, is amended 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.

"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



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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.

"Private transportation vehicle" means a personal vehicle or a taxicab.

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

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

"Taxicab driver" 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.



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### **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 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 valid State of Hawaii driver's license;
  - (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;



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- (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;
  - (4) Complied with the standards promulgated by the director relating to moral character and physical fitness of the driver 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,



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- (ii) Kidnapping,
  - (iii) Manslaughter,
  - (iv) Murder,
  - (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,



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- (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.
- (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 locally 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:



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- (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).

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.

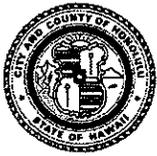
### **Sec. 12-\_\_\_.6 Identification of Transportation Network Company Vehicles and Drivers.**

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, for taxicabs only, or a company identifier, approved by the city, 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.



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**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.]

**Sec. 12- .3 Private Transportation Company License.**

- (a) Any person or entity desiring to operate as a private transportation company in the City and County of Honolulu shall obtain a license from the department, by filing a signed and notarized application form approved by the director.
- (1) The application shall include the following information:
- (A) The applicant private transportation company's name;
  - (B) The principal business street address and post office box address (if any), principal business phone number and email address;
  - (C) A local street address and telephone number of the company's office;
  - (D) A local or toll-free telephone number and email address for passenger complaints;
  - (E) The form of business entity under which the private transportation company will operate or is operating (e.g. corporation, partnership, cooperative association; sole proprietor; individual, etc.); and
  - (F) The number of personal vehicles or taxicabs the private transportation company will operate or is operating at the time of the application;
- (2) Private transportation companies must annually renew its license with the department.
- (3) The initial license application and every application for renewal submitted to the director must be accompanied by a non-refundable application fee of \$500.00 and a certification fee of \$25.00 for each driver certified by the private transportation company.



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

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- (b) The private transportation company must inform the director in writing within ten days if any of the information provided pursuant to subsection (a) changes, ceases to be true or is superseded in any way by new information.
- (c) The director may deny an application for license, or suspend or revoke any private transportation company license if the director determines that:
- (1) The application has a material misstatement or omission; or
  - (2) The application is incomplete.
- (d) A private transportation company license is not transferable. When the interest in a business entity holding a private transportation company license is transferred, the new owner or principal must submit an application for license within 30 days of the transfer of interest.
- (e) The director will maintain a database of private transportation companies licensed by the department to operate within the city.

### **Sec. 12- .4 Private Transportation Company-Registration Renewals.**

A private transportation company license is valid for one year. No private transportation company registration may be renewed unless the renewal fee has been paid and all outstanding penalties assessed against the private transportation company and its private transportation drivers have been paid to the director. The denial of an applications for license renewal will be set forth in writing, together with the reasons for denial. The written denial shall be delivered by first class mail to the address provided by the licensee on the license renewal application.

### **Sec. 12- .5 Trade Dress, Logo or Company Identifier - Approval.**

The private transportation company registrant must submit the trade dress, logo or company identifier which will be placed on the personal vehicle or taxicab for the director's approval at the time of the initial application.

### **Sec. 12- .6 Private Transportation Company Operating Responsibilities.**

The private transportation company must:

- (a) Maintain a business office that:



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- (1) Is open and personally staffed all business days between 9 a.m. and 5 p.m. within the City and County of Honolulu;
  - (2) Has a local or toll-free business telephone number and toll-free passenger hotline that must be answered during all hours that private transportation drivers are operating;
  - (3) Has a mailing address where the private transportation company will accept mail;
  - (4) Stores records, either in hardcopy or electronic format, relating to each driver and vehicle certified under this article, passenger complaints, driver investigations, and private transportation driver or vehicle accidents; and
  - (5) Provides secure storage for all items left in a private transportation vehicle by a passenger and can be retrieved by the passenger;
- (b) Limit access to the digital network or dispatch system to only certified private transportation drivers operating certified private transportation vehicles;
  - (c) Ensure that each private transportation vehicle is insured as statutorily required;
  - (d) Accept on behalf of, and send via first class mail to, its private transportation driver all correspondence from the director to that private transportation driver;
  - (e) Notify the director within three working days of the private transportation company having knowledge of the following:
    - (1) A conviction of its private transportation driver for any criminal offense or traffic violation that occurred during or arose out of the driver's operation of a private transportation vehicle;
    - (2) A conviction of its private transportation driver for any other criminal offense directly bearing on the driver's fitness to operate as a private transportation driver, including but not limited to any of the offenses listed in this article;
    - (3) A vehicle accident involving its private transportation driver while transporting a passenger; or



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- (4) Any restriction, suspension or revocation of a State of Hawaii driver's license issued to its private transportation driver;
- (f) Permit the director to carry out inspections and audits without limitation any or all private transportation driver and vehicle records;
- (g) Pay all penalties imposed by the department that are either not contested or are upheld after review; and
- (h) Determine whether its private transportation driver, who has been the victim of a crime of assault or robbery, has reported the crime to 911. If not, the private transportation company shall call 911 and report the crime immediately.

**Sec. 12- .7 Private Transportation Company - Prohibited Conduct - Suspension or Revocation of Registration.**

A licensed private transportation company is prohibited from performing the following:

- (a) Allowing anyone to operate as its driver who has not met the requirements set forth in this article;
- (b) Lease, permit, or otherwise allow an unlicensed private transportation company to use its digital network;
- (c) Refuse access to any record in a department's audit or inspection; or
- (d) Engage in any conduct to unreasonably delay the department's audit or inspection of records.

The director may suspend or revoke a private transportation company's license and the certification of its drivers upon the violation of any prohibited conduct listed above.

The director may fine a private transportation company or suspend or revoke a private transportation company's license and the certification of its drivers if the director determines from an audit or inspection that the private transportation company certified drivers or vehicles without proper documentation required under this article.



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**Sec. 12- .8 Transportation Network Company Operating Responsibilities.**

A transportation network company must:

- (a) Require that each personal vehicle certified by the transportation network company has its dress trade, logo or company identifier on the vehicle at all times while active on its digital network;
- (b) Require that its private transportation drivers do not pick up hails, cruise or otherwise solicit trips; and
- (c) Require that the passengers be able to view a picture of the driver and vehicle license plate number on the passenger's smart phone, tablet or other mobile device used to connect with transportation network company's digital network before the trip is initiated.

**Sec. 12- .9 Certification of Private Transportation Driver.**

- (a) No person shall act as a private transportation driver in the city without certification by a private transportation company, pursuant to this article.

The private transportation company shall conduct an investigation regarding the certification of the driver at no expense to the city concerning the character, experience and qualifications of the driver to determine whether or not the driver is fit, willing and able to operate a vehicle for hire in a manner consistent with the general welfare of the public and in accordance with the requirements of this article and all other applicable laws, rules and regulations.

- (b) 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;



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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, including:
- (i) Assault,
  - (ii) Kidnapping,
  - (iii) Manslaughter,
  - (iv) Murder,
  - (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,



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- (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.
- (c) In order to determine if a driver is qualified for certification, the private transportation company shall, at a minimum, obtain records to establish that the driver:
  - (1) Has a current and valid Hawaii State driver's license;
  - (2) Has one year of driving experience;
  - (3) Is twenty-one (21) years of age or older;
  - (4) Has a valid automobile insurance policy as required by law;
  - (5) Completed a seven year national criminal background check which includes a director approved Multi-state/Multi-Jurisdiction Criminal Locator or other similar validated nationwide database and National Sex Offender Public Website, which reflects the absence of convictions identified in this article;
  - (6) Submitted medical clearance by a physician currently licensed to practice medicine in the State of Hawaii verifying that the driver is physically and mentally fit to be a private transportation driver;
  - (7) Submitted a current traffic violations bureau certified abstract;
  - (8) Has met all other qualifications under this article.



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- (d) As part of the certification process, a private transportation company or a third party vendor retained at the private transportation company's cost, shall administer an examination to determine whether that the driver has:
- (1) A sufficient understanding of the traffic laws and ordinances;
  - (2) A sufficient understanding of the locations of streets, roads, highways and significant landmarks within the city;
  - (3) A sufficient method of communicating with passengers; and
  - (4) 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.
- (e) As part of the certification process, the private transportation company shall require from the proposed driver:
- (1) Written authorization in writing for the release by the city to the private transportation company of any and all information which the city may have concerning the proposed driver, including but not limited to criminal history information, and a release of the city from all liability which may result from the furnishing of such to the private transportation company; and
  - (2) Written authorization for the release by the private transportation company to the department of any and all information, without limitation, which the private transportation company may have concerning the proposed driver, and a release of the private transportation company and the city from all liability which may result from the furnishing of such by the private transportation company;
- (f) Each private transportation driver must consent to a criminal background check as described in this article. The criminal background check must be conducted by a government entity, or by a private entity approved by the director. The driver will provide information needed to complete the check including the name of the driver, all aliases or previously known names, date and place of birth, the driver's residence and business addresses for the past seven years, and social security number. The criminal background check shall be conducted prior to the initial certification and every two years thereafter.



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- (g) A private transportation company shall suspend a driver's certificate and require the driver to submit a medical clearance from a physician licensed in the State of Hawaii, if there are indications that the driver is or has become physically or mentally unfit to be a private transportation driver.
- (h) 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.
- (i) The private transportation company must certify to the city that the company's private transportation drivers have satisfied the requirements of this article. The company must maintain records that substantiate that the requirements are satisfied. Such records must be maintained locally 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 this article each time the department determines that the records do not substantiate compliance with the requirements for an individual driver.

**Sec. 12- .10 Private Transportation Driver Operating Standards, Passenger Relations Standards and Standards of Moral Character.**

- (a) The private transportation drivers must comply the following operating, conduct, and passenger relations standards:
  - (1) Private transportation drivers shall not transport more passengers than the number of seat belts available nor more luggage than the vehicle capacity will safely and legally allow;
  - (2) Private transportation drivers shall not operate a vehicle that was not certified by a private transportation company to transport passengers;
  - (3) Private transportation drivers shall have evidence of a valid vehicle insurance in their possession at all times;
  - (4) Private transportation drivers shall report articles left behind by passengers to the private transportation company as found articles, and follow the private transportation company's lost and found policy and procedures;



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- (5) Private transportation drivers shall permit the department to inspect the private transportation vehicle upon request;
- (6) Private transportation drivers shall not consume any alcohol while on duty or less than eight hours prior to going on duty;
- (7) Private transportation drivers shall not have any container of any alcoholic beverage in the private transportation vehicle unless the container belongs to the passenger;
- (8) Private transportation drivers shall comply with any written notice of violation issued by the director;
- (9) Private transportation drivers shall not operate a private transportation vehicle:
  - (A) With an expired, suspended or revoked driver's license;
  - (B) When the private transportation vehicle has an expired registration or safety inspection sticker; or
  - (C) When the private transportation vehicle fails the annual safety inspection;
- (10) Private transportation drivers shall immediately surrender their driver certification and vehicle certification to the director upon written notice that the driver certification has been suspended, not renewed or revoked by either the private transportation company or the director. Any decal, logo or unique company identifier must be removed from the front and rear bumper;
- (11) Private transportation drivers shall operate the private transportation vehicle with due regard for the safety, comfort and convenience of passengers;
- (12) Private transportation drivers shall not allow or knowingly permit the private transportation vehicle to be used for any unlawful purpose;
- (13) Private transportation drivers shall transport their passengers using the most cost effective and direct route, unless: (a) directed otherwise by the



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passenger; or (b) an emergency situation, such as road closure or accident, requires an alternate direct route;

- (14) Private transportation drivers shall keep their vehicles in a clean condition, and deposit all refuse appropriately and shall under no circumstances litter;
  - (15) Private transportation drivers shall not use offensive language, expressions, or gestures to any person while driving, operating, picking up customers, or in control of a private vehicle or taxicab;
  - (16) Private transportation drivers shall not smoke in the private transportation vehicle while a passenger is in the vehicle;
  - (17) Private transportation drivers shall, upon request by the Director or a police officer, provide the private transportation driver certificate, the vehicle certificate and any other documents requested for inspection;
  - (18) Private transportation drivers shall not operate any electronic, digital or GPS device in a private transportation vehicle without a hands-free mount and in hands-free mode;
  - (19) Private transportation drivers shall not sublease or permit another to operate their private transportation vehicle as a private transportation driver; and
  - (20) Private transportation drivers shall not refuse to transport any person except when upon arrival at the place of pick-up, the passenger is acting in a disorderly or threatening manner, or otherwise is acting in a manner that would cause a reasonable person to believe that the private transportation driver's health or safety, or that of others, may be endangered.
- (b) A violation of any of the above standards, may result in the suspension or revocation of the transportation driver certificate by the director, in addition to the assessment of a fine.

**Sec. 12- .11 Private Transportation Driver Certificate.**

- (a) Every private transportation driver shall have a driver certificate within the private transportation vehicle readily visible to passengers in the vehicle. The driver



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certification must be printed or available electronically and be in a format approved by the director, and must contain the company trade dress or logo, a 2 inch by 2 inch photograph of the driver, the driver's name, a unique driver identifier provided by the private transportation company, and the expiration date of the certification. The certificate shall also list the private transportation company telephone number and/or email address through which a passenger may file a complaint, and further list the department's telephone number if complaints are not resolved. The private transportation driver shall permit the inspection of the driver certificate upon request by a police officer, an inspector from the department or passenger.

- (b) Any person forges, alters, defaces or counterfeits or who attempts to forge, alter, deface or counterfeit a driver certificate, or has possession of a driver certificate in violation of this article. In addition, the department may refer the matter relating to the forged or counterfeit driver certificate to the police department or the prosecutor's office for investigation.

**Sec. 12- .12 Receipt.**

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

**Sec. 12- .13 Private Transportation Company Vehicle Certification.**

- (a) No private transportation company shall allow the use of a vehicle for private transportation services unless the company has certified for each vehicle:
- (1) 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
  - (2) Proof of current vehicle safety inspection for the motor vehicle in the name of the driver or registered owner of the motor vehicle.

The private transportation company shall at its expense collect, examine, maintain and store the above records for a period of seven years.

- (b) A private transportation company shall certify each motor vehicle in compliance with section (a) above, on a form approved by the director and include the following information:



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- (1) The vehicle identification number (VIN);
- (2) The registered owner's full legal name;
- (3) License plate number and expiration date;
- (4) Date of the annual safety inspection; and
- (5) Proof of insurance.

The private transportation company shall maintain said form in files located in its business office, and make such form available for inspection at the inspection or audit conducted by the department.

- (c) The private transportation shall provide a vehicle certificate for each certified vehicle. The vehicle certificate shall include the following information:

- (1) The vehicle identification number (VIN);
- (2) The registered owner's full legal name; and
- (3) The vehicle's license plate number and expiration date.

Every private transportation company vehicle certificate provided under this section will expire two years after the issuance thereof, unless it has previously been revoked. Each private transportation vehicle shall have the vehicle certificate readily visible to the passengers in the vehicle. The vehicle certificate must be in a format approved by the director.

- (d) Upon the initial application for license, and upon every renewal of the license, the private transportation company shall advise the number of certified vehicles and a fee determined by the director for certified motor vehicles.

- (e) No private transportation vehicle may be recertified unless all outstanding penalties assessed against the private transportation driver operating the vehicle being recertified are paid in full to the director.

- (f) A private transportation company shall ensure that the private transportation driver has timely renewed the private transportation vehicle's annual registration and passed the annual safety inspection. A private transportation company shall



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suspend the private transportation driver's access to its digital network or dispatch system upon discovery of a private transportation driver's failure to timely renew the private transportation vehicle's annual registration and passed the annual motor vehicle safety inspection. Access to digital network or dispatch system may be restored upon the private transportation driver's submission of documents confirming the renewal of the private transportation vehicle's annual registration and passing the annual safety inspection.

(g) Each failure to meet any of these requirements constitutes a separate violation.

**Sec. 12- .14 Suspension of Private Transportation Vehicles.**

Upon notification that a private transportation vehicle has been involved in an accident, the private transportation company shall suspend the private transportation driver's access to its digital network or dispatch system until the private transportation driver has provided to the private transportation company proof that the vehicle can be safely operated.

**Sec. 12- .15 Identification of Private Transportation Vehicles.**

Upon approval by the director, the private transportation company will direct its drivers on the placement of the trade dress, logo or company identifier on the personal vehicle or taxicab, whichever the case may be, but trade dress, logo or company identifier placed on the front and rear bumpers pursuant to the article shall be between 2 inches and 3 inches in height, and a minimum of 4 inches in width. The trade dress, logo or company identifier may be placed on the vehicle's body, but not on the roof (unless it is a taxi sign or dome) or cover any window, vehicle lights, or obscure the view of any mirrors.

**Sec. 12- .16 Audit or Inspection of Records of Private Transportation Companies, Drivers and Vehicles.**

Every private transportation company shall allow to the department unrestricted access to periodically audit or inspect the records of any private transportation driver or any private transportation vehicle to ensure compliance with the certification process of private transportation drivers and vehicles. The records of the private transportation company shall substantiate the certification of the private transportation drivers and vehicles, and include all complaints made against the private transportation driver by any passenger or member of the general public. The records shall be located at the local business address stated in the license application for inspection, and may be in either paper or electronic format. The records shall be retained by the private



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transportation company for a period of seven years.

**Sec. 12- .17 Audit or Inspection of Specific Private Transportation Driver or Vehicle Records.**

Upon notice of a passenger complaint, traffic accident, arrest or other incidents which may or may have jeopardized the safety, health or welfare of the passenger(s) or member(s) of the general public by a specific private transportation driver, the department may immediately demand, and the private transportation company shall provide, unrestricted access to the records of that private transportation driver.

**Sec. 12- .18 Violations - Penalties.**

- (a) The director, and any person or agency designated by the director may issue citations to a private transportation company or private transportation driver in violation of this article.
- (b) Each citation shall be in writing and describe the basis of the citation, including the specific provisions alleged to have been violated, and an assessment of administrative fines as provided in this article.
- (c) Any person or entity violating any of the provisions of this article shall be assessed an administrative fine not exceeding \$1,000.00 per violation.
- (d) Service of a citation issued under this section shall be made by personal service or by certified mail, restricted delivery, sent to the mailing address of the private transportation company on the license renewal application.
- (e) Any private transportation company or private transportation driver cited by the director may submit a written request to the director for a hearing, within twenty days from the service of the citation date, with respect to the violations alleged, or the amount of the administrative fine assessed.
- (f) If a private transportation company or private transportation driver cited under this section timely notifies the director of the request for a hearing, the director shall afford an opportunity for a hearing under chapter 91. The hearing shall be conducted by the director or the director may designate a hearings officer to hold the hearing. The director or any hearings officer designated by the director shall have the power to issue subpoenas, administer oaths, hear testimony, find facts, make conclusions of law, and issue a final order.



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(g) If the private transportation company or private transportation driver issued a citation does not submit a written request to the director for a hearing within twenty days from the receipt of the citation, the citation shall be deemed a final order of the director.

**Sec. 12- .19 Suspension or Revocation of Private Transportation Company License or Denial of Renewal of License - Other.**

The director may suspend or revoke the license of a private transportation company to operate, and suspend or revoke all of the certifications of its private transportation drivers, if a private transportation company has been found to have engaged in a pattern or practice of violating the provisions governing the certification of private transportation drivers or vehicles, or the provisions governing inspections or audits by the department. Any notice of intent to suspend or revoke the private transportation company's license based upon multiple violations within a six month period will issue by personal service or by certified mail, to the mailing address of the private transportation company on the license renewal application, and afford the private transportation company an opportunity to be heard."

SECTION 3. Section 12-1.1, Revised Ordinances of Honolulu 1990 ("Purpose—Scope—Definitions"), is amended by amending the definition of "taxicab driver" in subsection (b) to read as follows:

"Taxicab" means [a vehicle, operated by a taxicab driver, which is used in the movement of passengers for hire on the public highways and which is directed to a destination by the passenger for hire or on the passenger's behalf and which operates on call or demand.] a vehicle that is manufactured to carry no more than eight (8) passengers (excluding the driver), operated by a taxicab driver, which is: (1) used in the movement of passengers for hire on the public highways, (2) directed to a destination by the passenger for hire or on the passenger's behalf, (3) operates on call or demand, and (4) is not a prearranged ride as defined in section 12- .1.

"Taxicab company" means any person or entity which holds licenses for one or more taxicabs, rents or leases motor vehicles to certified taxi drivers to be used or operated as taxicabs, or which operates a central dispatch service for one or more taxicabs.

"Taxicab driver" means a person duly licensed as a driver of a motor vehicle who has [obtained a valid taxicab driver's certificate or has] been certified by a taxicab company."



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SECTION 4. Section 12-1.3, Revised Ordinances of Honolulu 1990 ("Director of customer services—Authority"), is amended to read as follows:

"[(a) Suspension or Revocation of Taxicab Driver's Certificate. The director is authorized to suspend or revoke any taxicab driver's certificate if a taxicab driver violates any of the provisions contained in this article or in Article \_\_, Section 12-\_\_3. Any taxicab driver must be afforded an opportunity for a hearing pursuant to HRS Chapter 91 if a certificate is suspended or revoked by the director.

(b) Rule-Making Powers.] The director is authorized to adopt rules or regulations not inconsistent with this chapter, having the force and effect of law, as provided for in HRS Chapter 91, in the administration and enforcement of this chapter."

SECTION 5. Section 7 of Ordinance 16-25 is repealed as follows:

["SECTION 7. 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 6. Section 8 of Ordinance 16-25 is redesignated as Section 7.

SECTION 7. Section 9 of Ordinance 16-25 is redesignated as Section 8 and amended to read as follows:

"SECTION [9.] 8. This ordinance takes effect on [January 15, 2017.] \_\_\_\_\_."

SECTION 8. 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.



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SECTION 9. This ordinance takes effect on \_\_\_\_\_.

INTRODUCED BY:

Ann Kobayashi

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DATE OF INTRODUCTION:

September 1, 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