CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **55 (2016), CD1, FD1**

A BILL FOR AN ORDINANCE

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. Section 12-1.1, Revised Ordinances of Honolulu 1990 ("Purpose—Scope—Definitions"), is amended by amending the definitions of "Taxicab", "Taxicab company", and "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 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; and

(3) Operated on call or demand."

""Taxicab company" means any person or entity which holds licenses for one or more taxicabs, rents or leases [motor vehicles] taxicabs to certified taxi drivers to be used or operated as taxicabs, or which operates as 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 from the department or has been certified by a taxicab company."

SECTION 3. Chapter 12, Revised Ordinances of Honolulu 1990, is amended by adding a new section to read as follows:

"**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 sun visor 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 is 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 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 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; and

(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;

(5) Received a taxicab driver's control or certification number from the department. This control or certification 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;

(6) Submitted a photograph of the person taken no more than 30 days prior to submission of the person's application;

(7) Submitted proof that the driver is at least 21 years of age;

(8) Submitted proof that the driver is free of any known medical condition that would put a passenger at risk;

(9) Submitted a current traffic violations bureau certified abstract for the person; and

(10) Submitted proof, in the form of original documentation, of a national background check, and every two years thereafter, 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 results from the National Sex Offender Public Website.

(d) No taxicab driver certificate may be issued or be renewed, and any existing certificate 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,

(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 Public Website.

(e) Every taxicab driver's certificate issued or renewed under this section expires, unless earlier revoked, on March 16, 2017 and may be renewed by the director on or before its expiration date upon the applicant's meeting the standards set forth in subsection (c). Provided, however, that a 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 must 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, must be furnished with each application for renewal. For purposes of this section, an application filed pursuant to Section 12-1.9, repealed under Section 5 of Ordinance 16-25, will continue to be processed under this section.

(f) 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.

(g) 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.

(h) 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.

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(i) All existing and outstanding taxicab driver certificates on the effective date of this section shall continue in effect, unless earlier revoked, until March 16, 2017. All such taxi certificates, and any taxi certificate issued or renewed under this section, shall be revoked on March 16, 2017."

SECTION 4. Section 12-1.15, Revised Ordinances of Honolulu 1990, is repealed.

["**Sec. 12-1.15 Taxicab license—Issuance—Fees.**

(a) Issuance. The director shall issue taxicab licenses and collect the required fees in accordance with the provisions of this article and any other applicable provisions of the law. Prior to the initial issuance and renewal of the taxicab license, the director shall inspect the condition of each vehicle to ensure it is in compliance with the provisions of this ordinance. The issued licenses shall not be transferable.

(b) Fees.

(1) The annual fee for a taxicab license shall be $50.00; provided, that when a license fee has already been paid on a vehicle and that vehicle is, within the year, replaced by another vehicle, the unexpired portion of the license fee paid on the vehicle so replaced shall be credited to the license fee payable for the substitute vehicle. For the purposes hereof, the unexpired portion of the license fee paid on the vehicle which has been replaced shall be that portion of the annual fee which is equal to eight and one third percent of said fee multiplied by the number of full months remaining during the current licensing year. Whenever a vehicle licensed as a taxicab is replaced by another vehicle under the provisions of this article, the sum of six dollars in addition to the license fee shall be assessed against the owner of the vehicle so replaced to defray the administrative costs incurred by the city.

(2) Upon surrender, the license shall be canceled.

(c) Surrender and Cancellation.

(1) The holder of a taxicab license shall immediately surrender said license to the director when the taxicab licensed thereunder has not been used to carry passengers for hire for a consecutive period of 30 days.

(2) The above period shall be extended to a total of 180 days if the nonuse is caused by the vacation, illness or injury of the regular taxicab driver or due to the delay of repair due to parts or receipt of a replacement taxicab.

(3) Upon surrender, the taxicab license shall be canceled."]

SECTION 5. Section 12-1.17, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Section 12-1.17 Violation – Penalty.

The director, or any person or agency designated by the director, may issue citations to taxicab drivers in violation of any provisions of this article.

Any person or entity violating any of the provisions of this article and cited by any enforcement officer or the director 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 [.] per violation.

Any person or entity violating any of the provisions of this article and cited by the director, shall be subject to a fine not exceeding $1,000.00 per violation and shall not be duplicative of any fine issued after conviction. The director is authorized to adopt rules pursuant to the provisions of HRS Chapter 91 to implement and enforce this section."

SECTION 6. Section 12-1.20, Revised Ordinances of Honolulu 1990 ("Taxicab control numbers"), is amended to read as follows:

"Sec. 12-1.20 Taxicab [control] certification numbers.

No person may operate a taxicab unless the taxicab is clearly identified and marked as prescribed herein with a taxicab [control] certification number assigned by the director. The taxicab [control] certification number shall be prominently posted on the exterior surfaces of the front and rear bumpers and on the sign or dome light, described in Section 12-1.16, of the taxicab. The taxicab [control] certification number posted on the taxicab as prescribed in this section [shall] must be no less than [one and one-half] two inches in height, [and may be either painted onto the surfaces or be comprised of opaque plastic or decals provided by the taxicab company, owner or operator] and [shall] must conform to such other requirements or specifications as the director may prescribe by rule."

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SECTION 7. Section 12-1.3, Revised Ordinances of Honolulu 1990, as amended in Section 4 of Ordinance 16-25, is amended to read as follows:

"Sec. 12-1.3 Director of customer services – Authority.

[(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 8. Section 12-1.9, Revised Ordinances of Honolulu 1990, as enacted in Section 3 of this ordinance, 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 sun visor 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 is 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;

(5) Received a taxicab driver's control or certification number from the department. This control or certification 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;

(6) Submitted a photograph of the person taken no more than 30 days prior to submission of the person's application;

(7) Submitted proof that the driver is at least 21 years of age;

(8) Submitted proof that the driver is free of any known medical condition that would put a passenger at risk;

(9) Submitted a current traffic violations bureau certified abstract for the person; and

(10) Submitted proof, in the form of original documentation, of a national background check, and every two years thereafter, 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 results from the National Sex Offender Public Website.

(d) No taxicab driver certificate may issue or be renewed, and any existing certificate 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,

(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 Public Website.

(e) Every taxicab driver's certificate issued or renewed under this section expires, unless earlier revoked, on March 16, 2017 and may 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 a 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 must 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, must be furnished with each application for renewal. For purposes

of this section, an application filed pursuant to Section 12-1.9, repealed under Section 5 of Ordinance 16-25, shall continue to be processed under this section.

(f) 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.

(g) 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.

(h) 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.

(i) All existing and outstanding taxicab driver certificates on the effective date of this section shall continue in effect, unless earlier revoked, until March 16, 2017. All such taxi certificates, and any taxi certificate issued or renewed under this section, shall be revoked on March 16, 2017."]

SECTION 9. Chapter 12, Article ___, Revised Ordinances of Honolulu 1990, as enacted in Section 2 of Ordinance 16-25, is amended to read as follows:

"Article __. Private Transportation [Services] <u>Companies, Vehicles,</u> 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.

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"Passenger vehicle" is a vehicle manufactured with seating accommodations for eight or fewer passengers, (excluding the driver), but does not include motorcycles, mopeds, motor scooters, trucks, three-wheeled vehicles, or low-speed vehicles.

"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[.]; and

(4) A passenger vehicle operated by a private transportation driver.

"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] does not include transportation provided through a ridesharing arrangement, as defined in HRS [section] 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.] Is a transportation network company driver.

"Private transportation vehicle" means a personal vehicle used by a transportation network company driver 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 a person or an entity that uses a digital network or software application service to connect passengers to transportation network company drivers; provided that the person or 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.

"Transportation network company driver" means a person who 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) 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] for noncompliance with the provisions of this article. For violations by a private transportation company, the director is authorized to suspend or revoke the registration of a private transportation company and demand the suspension or revocation of all certifications of the private transportation company's drivers. The director may deny the registration or renewal of a registration for a private transportation company. Private transportation drivers and private transportation companies 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 database of private transportation [company database.] companies and require the registration of each private transportation company.

(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] for 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;

(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,

(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,

(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:

(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.

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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.

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 – Registration.

Any person or entity operating as a private transportation company in the city must register with the director annually. The director may establish fees, to be collected by the department, for registering a private transportation company and the renewal of such registration. No private transportation company registration may be renewed unless the renewal fee, if any, and all outstanding penalties assessed against the private transportation company, have been paid to the department.

Sec. 12- .4 Trade dress, logo or company identifier–Approval.

The private transportation company 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- .5 Certification of private transportation driver.

(a) No person shall act as a private transportation driver in the city without certification by a registered private transportation company or by the department if the private transportation driver and private transportation company are one and the same person, pursuant to this article.

In the event a private transportation company is required to certify the driver, 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;

(3) Is not at least 21 years of age;

(4) Has been convicted in the prior seven-year period of driving under the influence of an intoxicant, including drugs or alcohol;

(5) 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,

(vi) Sexual assault, or

(vii) Sexual abuse; or

(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

(6) Is a match in the National Sex Offender Public Website.

(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 at least 21 years of age;

(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 search, which reflects the absence of convictions for any of the offenses identified in this article. The criminal background check must be conducted prior to the initial certification of the driver and every two years thereafter;

(6) Has certified that the driver is physically and mentally fit to be a private transportation driver and is free of any known medical condition that would put a passenger at risk;

(7) Submitted a current traffic violations bureau certified abstract; and

(8) Has met all other qualifications under this article.

(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 determine whether that the driver has a sufficient:

(1) Understanding of the traffic laws and ordinances applicable in the city;

(2) Understanding of the locations of streets, roads, highways and significant landmarks within the city;

(3) Method of communicating with passengers; and

(4) 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) 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.

(f) When a private transportation company is made aware of a driver's failure to comply with any requirement of this article or that the driver submitted false information to the company, the private transportation company must notify the department and ensure that the driver does not operate as a private transportation driver.

(g) The private transportation company must certify to the department 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 within the city for a period of at least two years following the date on which a private transportation driver is no longer affiliated with a private transportation company or is no longer permitted to act as a transportation network company driver on the transportation network company's digital network. The records are subject to inspection by the department in accordance with Sections 12- .12 and 12- .13. The private transportation company will 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- .6 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 policy 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;

(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 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 standards set forth in subsection (a), 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- .7 Private transportation driver's certificate.

Every private transportation driver shall have a driver's certificate within the private transportation vehicle readily visible to passengers in the vehicle. The private transportation driver's certificate must be printed or available electronically.

Sec. 12- .8 Receipt.

Either the private transportation driver or the private transportation company, as applicable, must, upon request, provide any passenger with a printed or electronic receipt showing the total fare paid, and any other information specified by the director.

Sec. 12- .9 Private transportation company vehicle certification.

(a) No vehicle may be used for private transportation services unless the private transportation company or the department, if the driver and the company are one and the same, 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.

(b) A private transportation company shall certify each motor vehicle in compliance with subsection (a) and include the following information:

(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.

Every private transportation company vehicle certificate provided under this section will expire two years after the issuance thereof, unless it has previously been revoked.

(c) 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.

(d) 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 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.

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

Sec. 12- .10 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- .11 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 this article must 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. 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- .12 Audit or inspection of records of private transportation companies, drivers and vehicles.

(a) The department may visually inspect, no more than annually, a sample of records, randomly selected by the department, that a private transportation company is required to maintain for the sole purpose of verifying that the private transportation company is in compliance with the requirements of this article. The records of the private transportation company must substantiate the certification of the private transportation drivers and vehicles, and include all complaints made against the private transportation driver to the company by any passenger or member of the general public. Any record furnished to the department may exclude information that would tend to identify specific drivers or riders. The records must be located at the local business address stated in the private transportation company's registration with the department, in accordance with Section 12- .3, for inspection, and may be in either paper or electronic format. The records must be retained by the private transportation company for a period of two years.

(b) Any records inspected by the department pursuant to this section are: (1) designated confidential, (2) not subject to disclosure to a third party by the department without prior written consent of the private transportation company, and (3) exempt from disclosure under HRS Chapter 92F, the Hawaii Uniform information Practices Act ("UIPA"). Nothing in this section shall be construed as limiting the applicability of any other exemptions under HRS Chapter 92F.

Sec. 12- .13 Audit or inspection of specific private transportation driver or vehicle records.

(a) Upon notice of a passenger complaint, traffic accident, arrest or other incident which jeopardized or may have jeopardized the safety, health or welfare of the passengers or members 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 or pertaining to that private transportation driver. Any record furnished to the department may exclude information that would tend to identify specific drivers or riders, unless the identity of a driver is relevant to the complaint.

(b) Any records inspected by the department pursuant to this section are: (1) designated confidential, (2) not subject to disclosure to a third party by the department without prior written consent of the private transportation company, and (3) exempt from disclosure under HRS Chapter 92F, the Hawaii Uniform information Practices Act ("UIPA"). Nothing in this section shall be construed as limiting the applicability of any other exemptions under HRS Chapter 92F.

Sec. 12- .14 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 that is in violation of any provision of this article.

(b) Each citation must 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 and cited by the police department 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 for each violation.

(d) Any person or entity violating any of the provisions of this article and cited by the director, shall be subject to an administrative fine not exceeding $1,000.00 per violation and/or suspension or revocation of the certification for a private transportation driver or vehicle, which shall not be duplicative of any fine issued or penalty imposed after conviction. The director is authorized to adopt rules pursuant to the provisions of HRS Chapter 91 to implement and enforce this section.

(e) Service of a citation issued under this section will be made by personal service or by certified mail, restricted delivery, sent to the mailing address of the private transportation company listed in the private transportation company's registration with the department pursuant to Section 12- .3.

(f) Any private transportation company or private transportation driver cited by the director may submit a written request to the director for a hearing with respect to the violations alleged or the amount of the administrative fine assessed. Such request must be submitted within twenty days from the date of service of the citation.

(g) If a private transportation company or private transportation driver cited under subsection (a) timely notifies the director of the request for a hearing, the director shall afford an opportunity for a hearing under HRS 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.

(h) 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 date of service of the citation, the citation shall be deemed a final order of the director.

Sec. 12- .15 Suspension or revocation of a private transportation company's registration or denial of renewal of registration -- Other.

The director may suspend or revoke the registration of a private transportation company, 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 of this article governing the certification of private transportation drivers or vehicles, or the inspections or audits by the department. Any notice of intent to suspend or revoke the private transportation company's registration 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 listed in the private transportation company's registration with the department pursuant to Section 12- .3, and afford the private transportation company an opportunity to be heard in accordance with the procedures set forth in Section 12- .14."

SECTION 10. Chapter 12, Article 4, Revised Ordinances of Honolulu 1990, as amended ("General Provisions"), is repealed.

SECTION 11. Section 7 of Ordinance 16-25 is repealed.

["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."]

A BILL FOR AN ORDINANCE

SECTION 12. There shall be a 60-day grace period from January 15, 2017 upon the exercise of the penalty provision under Section 12-__.14, as enacted in Section 9 of this ordinance, during which period private transportation companies and drivers shall comply with the certification provisions in Chapter 12, Article ___, Revised Ordinances of Honolulu 1990, as enacted by Ordinance 16-25, and as amended in Section 9 of this ordinance.

SECTION 13. Until such time that the director of customer services adopts rules in accordance with HRS Chapter 91 that establish fees for private transportation drivers, vehicles, and companies, and those rules take effect, the following fees will apply:

(1) For private transportation vehicle company registrations, in accordance with Section 12-___.3, as enacted in Section 9 of this ordinance: $1,000.00.

(2) For the registration of private transportation companies where the driver and company are one and the same, in accordance with 12-___.3, as enacted in Section 9 of this ordinance: $25.00.

SECTION 14. 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.

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **55 (2016), CD1, FD1**

A BILL FOR AN ORDINANCE

SECTION 15. The amendment in Section 7 of this ordinance and the repeal in Section 8 of this ordinance take effect on March 16, 2017. The other sections of this ordinance take effect on January 15, 2017.

INTRODUCED BY:

Ann Kobayashi

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