

STAND. COM. REP. NO. 1653
Honolulu, Hawaii

RE: H.B. No. 333
H.D. 3
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii
Sir:

Your Committees on Judiciary and Ways and Means, to which was referred H.B. No. 333, H.D. 3, S.D. 1, entitled:
"A BILL FOR AN ACT RELATING TO PEER-TO-PEER CAR-SHARING,"
beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize peer-to-peer car-sharing and establishes regulations thereof; and
- (2) Establish the peer-to-peer car-sharing surcharge tax on the operator of the peer-to-peer program.

Your Committees received testimony in support of this measure from the Department of Transportation and Enterprise Holdings. Your Committees received comments on this measure from the Department of Taxation; Office of Consumer Protection; Department of Commerce and Consumer Affairs Insurance Division; Tax Foundation of Hawaii; Turo, Inc.; Hawaii Association for Justice; Avail; and Grassroot Institute of Hawaii.

Your Committees find that peer-to-peer car-sharing programs provide an alternative form of transportation for persons who do not own a car, nor wish to use public transportation. Your Committees further find that due to the recent development of peer-to-peer car sharing as an industry, uniform protections and safety standards for peer-to-peer car sharing do not yet exist. This measure will ensure that consumer protections are established with respect to the operation of a peer-to-peer car-sharing program.

Your Committees have amended this measure by:

- (1) Expanding the definition of "car-sharing termination time" to include situations in which a shared car:
 - (A) Is returned prior to the expiration of the car-sharing period;
 - (B) Cannot legally or safely be operated; and
 - (C) Is the subject of a safety recall;
- (2) Clarifying various definitions;
- (3) Requiring motor vehicle group insurance policies purchased by a peer-to-peer car-sharing program to be from an insurer authorized to transact insurance in the State;
- (4) Specifying that an insurer may exclude coverage and the duty to defend or indemnify a claim under a shared car owner's motor vehicle insurance policy except when coverage is required;
- (5) Requiring peer-to-peer car-sharing programs to collect records relating to the car-sharing program agreement and to disclose those records to the shared-car owner, shared-car driver, insurers, and law enforcement and other government agencies under certain circumstances;
- (6) Deleting the exemption from vicarious liability for peer-to-peer car-sharing programs;
- (7) Requiring clear disclosure of all costs, fees, and other terms associated with a car-sharing program agreement to a shared car driver before the execution of the agreement;
- (8) Requiring shared car owners and shared car drivers to acknowledge notice of certain disclosures;
- (9) Requiring peer-to-peer car-sharing programs to indemnify and hold harmless shared car owners and shared car drivers for damage to or theft of equipment during a car sharing period;
- (10) Allowing shared car owners and shared car drivers to seek indemnity for any loss or damage that occurs as a result of equipment installed on or in a vehicle by the peer-to-peer car-sharing program;
- (11) Prohibiting peer-to-peer car sharing programs and shared car owners from requiring an advance deposit from a shared car driver;

(12) Prohibiting peer-to-peer-car sharing programs and shared car owners from charging a shared car driver more than the cost to repair damage or the actual cash value of a car if the vehicle cannot be repaired, once liability for damages is agreed to by the shared car driver or established by law;

(13) Requiring peer-to-peer car-sharing programs to:

- (A) Verify that any repairs related to safety recalls have been completed for each vehicle prior to each car-sharing start time;
- (B) Notify shared car drivers of any safety recall affecting a shared car so that the car may be removed from use until repairs can be completed; and
- (C) Not make a vehicle available for car-sharing if the vehicle is subject to a safety recall and repairs have not been completed;

(14) Requiring a shared car owner to notify the peer-to-peer car-sharing program within forty-eight hours of receipt of a safety recall;

(15) Requiring peer-to-peer car-sharing programs to enter into agreements with the Airports Division of the Department of Transportation before operating at any airport in the State and comply with all rules of the Airport Division;

(16) Providing that any person who violates a provision of the peer-to-peer car-sharing chapter shall be deemed to have engaged in an unfair or deceptive act or practice in the conduct of trade or commerce;

(17) Requiring monies collected through the peer-to-peer car-sharing surcharge tax to be deposited into the state highway fund; and

(18) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 333, H.D. 3, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 333, H.D. 3, S.D. 2.

Respectfully submitted on behalf of the members of the Committees on
Judiciary and Ways and Means,

DONOVAN M. DELA CRUZ, Chair

KARL RHOADS, Chair