

PROPOSED SUBSTITUTE to HB 1389

H-2315.4 (2022) - By Representative Corry

Current Version of Bill:

- Establishes regulations for a "peer-to-peer car sharing programs" including insurance, liability, disclosures, and record-keeping.
 - Defines "shared vehicle owner" as "the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program."
 - Creates no liability on a peer-to-peer car sharing program to maintain mandated coverage during a car sharing period.
-

Proposed Substitute Bill compared to Current Bill:

- Revises the definition of "shared vehicle owner" by removing "a person or entity designated by the registered owner."
 - States that a peer-to-peer car sharing program is not obligated to maintain a liability insurance policy for the liability the peer-to-peer car sharing program assumes during a car sharing period.
 - Changes the effective date of the bill from January 1, 2022, to January 1, 2023.
 - Makes clarifying changes throughout the bill including replacing "automobile insurance" with "motor vehicle liability" to conform with existing bill references and revising references to "insurance" with "insurance policy" or "insurance coverage."
-

Committee: Consumer Protection and Business Committee
Staff: Michelle Rusk (786-7153)
Office of Program Research

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-2315.4/22 4th draft

ATTY/TYPIST: AI:akl

BRIEF DESCRIPTION: Concerning transportation.

1 AN ACT Relating to transportation; adding a new chapter to Title
2 46 RCW; repealing RCW 48.175.005, 48.175.010, 48.175.020, 48.175.030,
3 and 48.175.900; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the
6 peer-to-peer vehicle sharing program act.

7 NEW SECTION. **Sec. 2.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires
9 otherwise.

10 (1) "Car sharing delivery period" means the period of time during
11 which a shared vehicle is being delivered to the location of the car
12 sharing start time, if applicable, as documented by the governing car
13 sharing program agreement.

14 (2) "Car sharing period" means the period of time that commences
15 with the car sharing delivery period or, if there is no car sharing
16 delivery period, that commences with the car sharing start time and
17 in either case ends at the car sharing termination time.

18 (3) "Car sharing program agreement" means the terms and
19 conditions applicable to a shared vehicle owner and a shared vehicle
20 driver that govern the use of a shared vehicle through a peer-to-peer

1 car sharing program. "Car sharing program agreement" does not mean
2 rental car agreement, or similar agreement, as defined in RCW
3 48.115.005.

4 (4) "Car sharing start time" means the time when the shared
5 vehicle becomes subject to the control of the shared vehicle driver
6 at or after the time the reservation of a shared vehicle is scheduled
7 to begin as documented in the records of a peer-to-peer car sharing
8 program.

9 (5) "Car sharing termination time" means the earliest of the
10 following events:

11 (a) The expiration of the agreed upon period of time established
12 for the use of a shared vehicle according to the terms of the car
13 sharing program agreement if the shared vehicle is delivered to the
14 location agreed upon in the car sharing program agreement;

15 (b) When the shared vehicle is returned to a location as
16 alternatively agreed upon by the shared vehicle owner and shared
17 vehicle driver as communicated through a peer-to-peer car sharing
18 program; or

19 (c) When the shared vehicle owner or the shared vehicle owner's
20 authorized designee, takes possession and control of the shared
21 vehicle.

22 (6) "Peer-to-peer car sharing" means the authorized use of a
23 vehicle by an individual other than the vehicle's owner through a
24 peer-to-peer car sharing program. "Peer-to-peer car sharing" does not
25 mean retail car rental under chapter 82.08 RCW or rental car as
26 defined in RCW 46.04.465 and 48.115.005.

27 (7) "Peer-to-peer car sharing program" means a business platform
28 that connects vehicle owners with drivers to enable the sharing of
29 vehicles for financial consideration. "Peer-to-peer car sharing
30 program" does not mean rental car company as defined in RCW
31 48.115.005 or rental car business as defined in RCW 46.04.466.

32 (8) "Shared vehicle" means a vehicle that is available for
33 sharing through a peer-to-peer car sharing program. "Shared vehicle"
34 does not mean rental car as defined in RCW 46.04.465 and 48.115.005
35 or retail car rental as defined in RCW 82.08.011.

36 (9) "Shared vehicle driver" means an individual who has been
37 authorized to drive the shared vehicle by the shared vehicle owner
38 under a car sharing program agreement. "Shared vehicle driver" does
39 not mean consumer as used in RCW 82.08.011. "Shared vehicle driver"
40 does not mean renter within the meaning of RCW 48.115.005. A shared

1 vehicle driver is not a person to whom a rental car is made available
2 within the meaning of RCW 46.04.465.

3 (10) "Shared vehicle owner" means the registered owner of a
4 vehicle made available for sharing to shared vehicle drivers through
5 a peer-to-peer car sharing program. "Shared vehicle owner" does not
6 mean rental car business as defined in RCW 46.04.466. "Shared vehicle
7 owner" does not mean rental car company as defined in RCW 48.115.005.

8 NEW SECTION. **Sec. 3.** (1)(a) A peer-to-peer car sharing program
9 shall assume the liability, except as provided in (b) of this
10 subsection, of a shared vehicle owner for bodily injury or property
11 damage to third parties or uninsured and underinsured motorist or
12 personal injury protection losses during the car sharing period in an
13 amount stated in the peer-to-peer car sharing program agreement,
14 which amount may not be less than those set forth in chapter 46.29
15 RCW.

16 (b) Notwithstanding the definition of car sharing termination
17 time as provided in section 2 of this act, the assumption of
18 liability under (a) of this subsection does not apply to any shared
19 vehicle owner when:

20 (i) A shared vehicle owner makes an intentional or fraudulent
21 material misrepresentation or omission to the peer-to-peer car
22 sharing program before the car sharing period in which the loss
23 occurred; or

24 (ii) Acting in concert with a shared vehicle driver who fails to
25 return the shared vehicle pursuant to the terms of the car sharing
26 program agreement.

27 (c) Notwithstanding the definition of car sharing termination
28 time as provided in section 2 of this act, the assumption of
29 liability under (a) of this subsection would apply to bodily injury,
30 property damage, uninsured and underinsured motorist, or personal
31 injury protection losses by damaged third parties required by chapter
32 46.29 RCW.

33 (d) A peer-to-peer car sharing program shall make certain that,
34 during each car sharing period, the shared vehicle owner and the
35 shared vehicle driver are insured under a motor vehicle liability
36 insurance policy that provides insurance coverage in amounts no less
37 than the minimum amounts provided in chapter 46.29 RCW, and:

1 (i) Recognizes that the shared vehicle insured under the policy
2 is made available and used through a peer-to-peer car sharing
3 program; or

4 (ii) Does not exclude use of a shared vehicle by a shared vehicle
5 driver.

6 (e) The insurance coverage described under (d) of this subsection
7 may be satisfied by a motor vehicle liability insurance policy
8 maintained by:

9 (i) A shared vehicle owner;

10 (ii) A shared vehicle driver;

11 (iii) A peer-to-peer car sharing program; or

12 (iv) Any combination of (e)(i) through (iii) of this subsection.

13 (f) The insurance policy or policies described in (e) of this
14 subsection that are satisfying the insurance requirement of (d) of
15 this subsection shall be primary during each car sharing period.

16 (g) The peer-to-peer car sharing program shall assume primary
17 liability for a claim when it is in whole or in part providing the
18 insurance required under (d) and (e) of this subsection and:

19 (i) A dispute exists as to who was in control of the shared motor
20 vehicle at the time of the loss; and

21 (ii) The peer-to-peer car sharing program does not have
22 available, did not retain, or fails to provide the information
23 required by section 4 of this act. The shared motor vehicle's insurer
24 shall indemnify the peer-to-peer car sharing program to the extent of
25 its obligation under, if any, the applicable insurance policy, if it
26 is determined that the shared motor vehicle's owner was in control of
27 the shared motor vehicle at the time of the loss.

28 (h) If the insurance policy maintained by a shared vehicle owner
29 or shared vehicle driver in accordance with (e) of this subsection
30 has lapsed or does not provide the required insurance coverage, the
31 insurance policy maintained by a peer-to-peer car sharing program
32 shall provide the insurance coverage required by (d) of this
33 subsection beginning with the first dollar of a claim and shall have
34 the duty to defend such claim except under circumstances as provided
35 in (b) of this subsection.

36 (i) Coverage under a motor vehicle liability insurance policy
37 maintained by the peer-to-peer car sharing program is not dependent
38 on another motor vehicle insurer first denying a claim nor shall
39 another motor vehicle liability insurance policy be required to first
40 deny a claim.

1 (j) Nothing in this chapter:

2 (i) Limits the liability of the peer-to-peer car sharing program
3 for any act or omission of the peer-to-peer car sharing program
4 itself that results in injury to any person as a result of the use of
5 a shared vehicle through a peer-to-peer car sharing program; or

6 (ii) Limits the ability of the peer-to-peer car sharing program
7 to, by contract, seek indemnification from the shared vehicle owner
8 or the shared vehicle driver for economic loss sustained by the peer-
9 to-peer car sharing program resulting from a breach of the terms and
10 conditions of the car sharing program agreement.

11 (2) At the time when a vehicle owner registers as a shared
12 vehicle owner on a peer-to-peer car sharing program and prior to the
13 time when the shared vehicle owner makes a shared vehicle available
14 for car sharing on the peer-to-peer car sharing program, the peer-to-
15 peer car sharing program shall notify the shared vehicle owner that,
16 if the shared vehicle has a lien against it, the use of the shared
17 vehicle through a peer-to-peer car sharing program, including use
18 without physical damage coverage, may violate the terms of the
19 contract with the lienholder.

20 (3)(a) An authorized insurer that writes motor vehicle liability
21 insurance in the state may exclude any and all coverage and the duty
22 to defend or indemnify for any claim afforded under a shared vehicle
23 owner's motor vehicle liability insurance policy including, but not
24 limited to:

25 (i) Liability coverage for bodily injury and property damage;

26 (ii) Personal injury protection coverage;

27 (iii) Uninsured and underinsured motorist coverage;

28 (iv) Medical payments coverage;

29 (v) Comprehensive physical damage coverage; and

30 (vi) Collision physical damage coverage.

31 (b) Nothing in this chapter invalidates or limits an exclusion
32 contained in a motor vehicle liability insurance policy, including
33 any insurance policy in use or approved for use that excludes
34 coverage for motor vehicles made available for rent, sharing, or
35 hire, or for any business use.

36 (4) A peer-to-peer car sharing program shall collect and verify
37 records pertaining to the use of a vehicle including, but not limited
38 to, times used, fees paid by the shared vehicle driver, and revenues
39 received by the shared vehicle owner and provide that information
40 upon request to the shared vehicle owner, the shared vehicle owner's

1 insurer, or the shared vehicle driver's insurer to facilitate a claim
2 coverage investigation. The peer-to-peer car sharing program shall
3 retain the records for a time period not less than the applicable
4 personal injury statute of limitations.

5 (5) A peer-to-peer car sharing program and a shared vehicle owner
6 shall be exempt from vicarious liability consistent with 49 U.S.C.
7 Sec. 30106 and under any state or local law that imposes liability
8 solely based on vehicle ownership.

9 (6) A motor vehicle insurer that defends or indemnifies a claim
10 against a shared vehicle that is excluded under the terms of its
11 policy shall have the right to seek contribution against the motor
12 vehicle insurer of the peer-to-peer car sharing program if the claim
13 is:

14 (a) Made against the shared vehicle owner or the shared vehicle
15 driver for loss or injury that occurs during the car sharing period;
16 and

17 (b) Excluded under the terms of its policy.

18 (7)(a) Notwithstanding any other law, statute, rule, or
19 regulation to the contrary, a peer-to-peer car sharing program shall
20 have an insurable interest in a shared vehicle during the car sharing
21 period.

22 (b) Nothing in this section obligates a peer-to-peer car sharing
23 program to maintain a liability insurance policy for the liability
24 assumed under subsection (1) of this section.

25 (c) A peer-to-peer car sharing program may own and maintain as
26 the named insured one or more policies of motor vehicle liability
27 insurance that provides coverage for:

28 (i) Liabilities assumed by the peer-to-peer car sharing program
29 under a peer-to-peer car sharing program agreement;

30 (ii) Any liability of the shared vehicle owner; or

31 (iii) Damage or loss to the shared motor vehicle, or any
32 liability of the shared vehicle driver.

33 NEW SECTION. **Sec. 4.** (1) Each car sharing program agreement
34 made in the state shall disclose to the shared vehicle owner and the
35 shared vehicle driver:

36 (a) Any right of the peer-to-peer car sharing program to seek
37 indemnification from the shared vehicle owner or the shared vehicle
38 driver for economic loss sustained by the peer-to-peer car sharing

1 program resulting from a breach of the terms and conditions of the
2 car sharing program agreement;

3 (b) That a motor vehicle liability insurance policy issued to the
4 shared vehicle owner for the shared vehicle or to the shared vehicle
5 driver does not provide a defense or indemnification for any claim
6 asserted by the peer-to-peer car sharing program;

7 (c) That the peer-to-peer car sharing program's insurance
8 coverage on the shared vehicle owner and the shared vehicle driver is
9 in effect only during each car sharing period and that, for any use
10 of the shared vehicle by the shared vehicle driver after the car
11 sharing termination time, the shared vehicle driver and the shared
12 vehicle owner may not have insurance coverage;

13 (d) The daily rate, fees, and if applicable, any insurance or
14 protection package costs that are charged to the shared vehicle owner
15 or the shared vehicle driver;

16 (e) That the shared vehicle owner's motor vehicle liability
17 insurance may not provide coverage for a shared vehicle;

18 (f) An emergency telephone number to personnel capable of
19 fielding roadside assistance and other customer service inquiries;
20 and

21 (g) If there are conditions under which a shared vehicle driver
22 must maintain a personal motor vehicle insurance policy with certain
23 applicable coverage limits on a primary basis in order to book a
24 shared motor vehicle.

25 (2)(a) A peer-to-peer car sharing program may not enter into a
26 peer-to-peer car sharing program agreement with a driver unless the
27 driver who will operate the shared vehicle:

28 (i) Holds a driver's license issued in this state authorizing the
29 driver to operate vehicles of the class of the shared vehicle;

30 (ii) Is a nonresident who:

31 (A) Has a driver's license issued by the state or country of the
32 driver's residence that authorizes the driver in that state or
33 country to drive vehicles of the class of the shared vehicle; and

34 (B) Is at least the same age as that required of a resident to
35 drive; or

36 (iii) Otherwise is specifically authorized to drive vehicles of
37 the class of the shared vehicle.

38 (b) A peer-to-peer car sharing program shall keep a record of:

39 (i) The name and address of the shared vehicle driver;

1 (ii) The number of the driver's license of the shared vehicle
2 driver and each other person, if any, who will operate the shared
3 vehicle; and

4 (iii) The place of issuance of the driver's license.

5 (3) A peer-to-peer car sharing program shall have sole
6 responsibility for any equipment, such as a global positioning system
7 or other special equipment that is put in or on the vehicle to
8 monitor or facilitate the car sharing transaction, and shall agree to
9 indemnify and hold harmless the vehicle owner for any damage to or
10 theft of such equipment during the sharing period not caused by the
11 vehicle owner. The peer-to-peer car sharing program has the right to
12 seek indemnity from the shared vehicle driver for any loss or damage
13 to such equipment that occurs during the sharing period.

14 (4)(a) At the time when a vehicle owner registers as a shared
15 vehicle owner on a peer-to-peer car sharing program and prior to the
16 time when the shared vehicle owner makes a shared vehicle available
17 for car sharing on the peer-to-peer car sharing program, the peer-to-
18 peer car sharing program shall:

19 (i) Verify that the shared vehicle does not have any safety
20 recalls on the vehicle for which the repairs have not been made; and

21 (ii) Notify the shared vehicle owner of the requirements under
22 (b) of this subsection.

23 (b) If the shared vehicle owner has received an actual notice of
24 a safety recall on the vehicle, a shared vehicle owner may not make a
25 vehicle available as a shared vehicle on a peer-to-peer car sharing
26 program until the safety recall repair has been made.

27 (i) If a shared vehicle owner receives an actual notice of a
28 safety recall on a shared vehicle while the shared vehicle is made
29 available on the peer-to-peer car sharing program, the shared vehicle
30 owner shall remove the shared vehicle as available on the peer-to-
31 peer car sharing program, as soon as practicably possible after
32 receiving the notice of the safety recall and until the safety recall
33 repair has been made.

34 (ii) If a shared vehicle owner receives an actual notice of a
35 safety recall while the shared vehicle is being used in the
36 possession of a shared vehicle driver, as soon as practicably
37 possible after receiving the notice of the safety recall, the shared
38 vehicle owner shall notify the peer-to-peer car sharing program about
39 the safety recall so that the shared vehicle owner may address the
40 safety recall repair.

1 NEW SECTION. **Sec. 5.** The following acts or parts of acts are
2 each repealed:
3 (1) RCW 48.175.005 (Definitions) and 2012 c 108 s 1;
4 (2) RCW 48.175.010 (Requirements of program) and 2012 c 108 s 2;
5 (3) RCW 48.175.020 (Program's liabilities—Owner's insurance
6 policy) and 2012 c 108 s 3;
7 (4) RCW 48.175.030 (Private passenger motor vehicle not a
8 commercial or for-hire motor vehicle—Criteria) and 2012 c 108 s 4;
9 and
10 (5) RCW 48.175.900 (Application—2012 c 108) and 2012 c 108 s 6.

11 NEW SECTION. **Sec. 6.** Sections 1 through 4 and 7 of this act
12 constitute a new chapter in Title 46 RCW.

13 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2023.

--- END ---