

# SENATE BILL REPORT

## SB 6426

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As of January 24, 2012

**Title:** An act relating to personal vehicle sharing programs.

**Brief Description:** Regulating personal vehicle sharing programs.

**Sponsors:** Senators Prentice, Benton, Hobbs, Haugen, Keiser, Fain and Shin.

**Brief History:**

**Committee Activity:** Financial Institutions, Housing & Insurance: 1/25/12.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Staff:** Edward Redmond (786-7471)

**Background:** Every person in this state who operates a private passenger motor vehicle must be insured under an insurance liability policy, a liability bond, or a certificate of deposit or they must be self-insured. The minimum amounts of liability coverage required by the financial responsibility statutes are:

- \$10,000 in coverage for damage to another's property;
- \$25,000 in coverage for injuries to any one other person; and
- \$50,000 in aggregate coverage for injuries to all other persons involved.

There are mandatory offerings of personal injury protection coverage and underinsured automobile coverage. There are a number of other types of coverage that may be offered by an automobile insurer. Insurers may offer any type of coverage in any amount that is filed with and approved by the Insurance Commissioner (Commissioner). Automobile insurance rates and forms are filed with the Commissioner and must be approved by the Commissioner prior to use by an insurer. If the Commissioner determines that filed rates are not excessive, inadequate, or unfairly discriminatory, then the Commissioner must approve them.

Automobile rates may be adjusted for any factor that is not prohibited by law. Rates are often adjusted according to factors including the driver's age; sex; marital status; miles driven; claims history; geographical area; credit history; and the make, model, and year of a vehicle.

An insurer may cancel, non-renew, or refuse to insure an insurance policy for any reason that is not prohibited by law.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Bill:** Definitions. An owner's insurance policy is an automobile liability insurance policy that includes all coverage necessary to comply with statutory requirements and any optional coverage selected by the owner, including personal injury protection coverage, underinsured coverage, comprehensive property damage coverage, and collision property damage.

Personal vehicle sharing is the use of a private passenger motor vehicle by persons other than the vehicle's registered owner in connection with a personal vehicle sharing program.

Personal vehicle sharing program (Program) is a legal entity that is qualified to do business in this state and that facilitates the sharing of private passenger motor vehicles for noncommercial use by individuals within this state.

Insurance Requirements. For each vehicle used in personal vehicle sharing, a Program must provide insurance coverage for the vehicle, the designated operator of the vehicle, and all persons who, with the consent of the Program, use the motor vehicle insured under the policy. The limits for coverage must be:

- equal to or greater than the coverage limits provided in the owner's insurance policy, as reported to the Program by the owner; and
- not less than three times the minimum statutory limits.

Program Requirements. A Program must:

- provide the vehicle's registered owner with proof of compliance with all insurance requirements;
- not knowingly permit the vehicle to be operated as a commercial vehicle by a personal vehicle sharing user while engaged in personal vehicle sharing;
- ensure that the vehicle is a private passenger motor vehicle;
- facilitate the installation, operation, and maintenance of signage and computer hardware and software necessary for the vehicle to be used in the Program;
- indemnify the vehicle's registered owner for the cost of damage or theft of equipment installed for the Program and any damage caused to the vehicle by the installation, operation, or maintenance of the equipment; and
- provide the vehicle's registered owner and any person operating the vehicle under the Program with a disclosure that contains information explaining the legal requirements for a Program.

Record-keeping. A Program must collect and maintain:

- verifiable records that identify the date and time, initial and final locations of the vehicle, and miles driven when the vehicle is under the control of a person other than the vehicle's registered owner under the Program; and
- any information concerning damages or injuries arising out of personal vehicle sharing under the Program.

Liability. These records must be made available to the vehicle's registered owner, the registered owner's primary automobile liability insurer, and any government agency as required by law.

Notwithstanding an owner's insurance policy or the financial responsibility laws, a Program assumes all liability of the vehicle owner for any loss or injury that occurs when the vehicle is under a Program and is considered the vehicle owner for all purposes.

The provisions of the bill do not limit:

- the liability of a Program for any acts or omissions by the Program that result in injury to any persons as a result of the use or operation of the Program; or
- the ability of the Program to, by contract, seek indemnification from the vehicle's registered owner for any claims paid by the Program for any loss or injury resulting from fraud or material misrepresentation in the maintenance of the vehicle by the vehicle's registered owner.

A program continues to be liable until:

- the vehicle is returned to a location designated by the Program; and
- the time period established for the vehicle sharing expires; or
- the intent to terminate the use of the vehicle in the program is verifiably communicated to the Program; or
- the vehicle's registered owner takes possession and control of the vehicle.

A Program must assume liability for a claim in which a dispute exists as to who was in control of a private passenger motor vehicle when the loss giving rise to the claim occurred.

If a vehicle's registered owner was in control of the vehicle at the time of the loss, the insurer of the vehicle must indemnify the Program to the extent of the insurer's obligation under the owner's insurance policy.

If a private passenger motor vehicle's registered owner is named as a defendant in a civil action for any loss or injury that occurs at any time when the vehicle is under the operation and control of a person other than the vehicle's registered owner, is pursuant to a Program, or is otherwise under the control of a Program, the Program has the duty to defend and indemnify the vehicle's registered owner.

Notwithstanding any provision in the owner's insurance policy, while the vehicle is under the operation and control of a person other than the vehicle's registered owner, is under a Program, or is otherwise under the control of a Program:

- the insurer providing coverage to the owner of a private passenger motor vehicle may exclude any and all coverage afforded under the owner's insurance policy; and
- a primary or excess insurer of the owners, operators, or maintainers of the vehicle may notify an insured that the insurer has no duty to defend or indemnify any person or organization for liability for any loss that occurs during use of the vehicle pursuant to a Program.

Provisions Impacting the Owner and the Owner's Insurer. An owner's insurance policy may not be canceled, rescinded, or non-renewed solely because an owner's vehicle has been in a Program.

A private passenger motor vehicle may not be classified by an insurer as a commercial or a for-hire motor vehicle solely because the vehicle's registered owner allows the vehicle to be used for personal vehicle sharing if:

- the personal vehicle sharing is conducted under a Program;
- the annual revenue received by the vehicle's registered owner generated by the personal vehicle sharing does not exceed the annual cost of owning and operating the vehicle.

The provisions of the bill apply to automobile liability insurance policies issued or renewed on or after January 1, 2013.

**Appropriation:** None.

**Fiscal Note:** Requested on January 24, 2012.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.