

**SHB 2773 - H AMD 1608**

By Representative Kirby

WITHDRAWN 02/19/2020

1 Strike everything after the enacting clause and insert the  
2 following:

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

5 NEW SECTION. **Sec. 2.** This chapter is intended to govern the  
6 intersection of peer-to-peer car services and the state-regulated  
7 business of insurance. Nothing in this chapter is construed to extend  
8 beyond insurance for peer-to-peer car sharing or have any  
9 implications for other provisions of the code of this state  
10 including, but not limited to, those related to motor vehicle  
11 regulation, airport regulation, or taxation.

12 NEW SECTION. **Sec. 3.** The definitions in this section apply  
13 throughout this chapter unless the context clearly requires  
14 otherwise.

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

19 (2) "Car sharing period" means the period of time that commences  
20 with the car sharing delivery period or, if there is no car sharing  
21 delivery period, that commences with the car sharing start time and  
22 in either case ends at the car sharing termination time.

23 (3) "Car sharing program agreement" means the terms and  
24 conditions applicable to a shared vehicle owner and a shared vehicle  
25 driver that govern the use of a shared vehicle through a peer-to-peer  
26 car sharing program. "Car sharing program agreement" does not mean  
27 rental car agreement, or similar agreement, as defined in RCW  
28 48.115.005.

29 (4) "Car sharing start time" means the time when the shared  
30 vehicle becomes subject to the control of the shared vehicle driver

1 at or after the time the reservation of a shared vehicle is scheduled  
2 to begin as documented in the records of a peer-to-peer car sharing  
3 program.

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

6 (a) The expiration of the agreed upon period of time established  
7 for the use of a shared vehicle according to the terms of the car  
8 sharing program agreement if the shared vehicle is delivered to the  
9 location agreed upon in the car sharing program agreement;

10 (b) When the shared vehicle is returned to a location as  
11 alternatively agreed upon by the shared vehicle owner and shared  
12 vehicle driver as communicated through a peer-to-peer car sharing  
13 program; or

14 (c) When the shared vehicle owner or the shared vehicle owner's  
15 authorized designee, takes possession and control of the shared  
16 vehicle.

17 (6) "Peer-to-peer car sharing" means the authorized use of a  
18 vehicle by an individual other than the vehicle's owner through a  
19 peer-to-peer car sharing program and has the same meaning as  
20 "personal vehicle sharing" as defined in RCW 48.175.005. "Peer-to-  
21 peer car sharing" does not mean rental car as defined in RCW  
22 46.04.465.

23 (7) "Peer-to-peer car sharing program" means a business platform  
24 that connects vehicle owners with drivers to enable the sharing of  
25 vehicles for financial consideration and has the same meaning as  
26 "personal vehicle sharing program" as defined in RCW 48.175.005.  
27 "Peer-to-peer car sharing program" does not mean rental car company  
28 as defined in RCW 48.115.005.

29 (8) "Program insurance policy" has the same meaning as defined in  
30 RCW 48.175.005.

31 (9) "Shared vehicle" means a vehicle that is available for  
32 sharing through a peer-to-peer car sharing program. "Shared vehicle"  
33 does not mean rental car as defined in RCW 46.04.465.

34 (10) "Shared vehicle driver" means an individual who has been  
35 authorized to drive the shared vehicle by the shared vehicle owner  
36 under a car sharing program agreement for noncommercial use. For the  
37 purposes of this subsection, "noncommercial use" means use other than  
38 that for a "commercial vehicle" as defined in RCW 46.04.140.

39 (11) "Shared vehicle owner" means the registered owner, or a  
40 person or entity designated by the registered owner, of a vehicle

1 made available for sharing to shared vehicle drivers through a peer-  
2 to-peer car sharing program.

3 NEW SECTION. **Sec. 4.** (1)(a) A peer-to-peer car sharing program  
4 shall assume liability, except as provided in (b) of this subsection,  
5 of a shared vehicle owner for bodily injury or property damage to  
6 third parties or uninsured and underinsured motorist or personal  
7 injury protection losses during the car sharing period in an amount  
8 stated in the peer-to-peer car sharing program agreement and must be  
9 in accordance with chapter 48.175 RCW.

10 (b) Notwithstanding the definition of car sharing termination  
11 time as provided in section 3 of this act, the assumption of  
12 liability under (a) of this subsection does not apply to any shared  
13 vehicle owner when:

14 (i) A shared vehicle owner makes an intentional or fraudulent  
15 material misrepresentation or omission to the peer-to-peer car  
16 sharing program before the car sharing period in which the loss  
17 occurred; or

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

21 (c) Notwithstanding the definition of car sharing termination  
22 time as provided in section 3 of this act, the assumption of  
23 liability under (a) of this subsection would apply to bodily injury,  
24 property damage, uninsured and underinsured motorist, or personal  
25 injury protection losses by damaged third parties required by chapter  
26 46.29 RCW.

27 (d) A peer-to-peer car sharing program shall ensure that, during  
28 each car sharing period, the shared vehicle owner and the shared  
29 vehicle driver are insured under a program insurance policy in  
30 accordance with chapter 48.175 RCW.

31 (e) Nothing in this chapter:

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

36 (ii) Limits the ability of the peer-to-peer car sharing program  
37 to, by contract, seek indemnification from the shared vehicle owner  
38 or the shared vehicle driver for economic loss sustained by the peer-

1 to-peer car sharing program resulting from a breach of the terms and  
2 conditions of the car sharing program agreement.

3 (2) At the time when a vehicle owner registers as a shared  
4 vehicle owner on a peer-to-peer car sharing program and prior to the  
5 time when the shared vehicle owner makes a shared vehicle available  
6 for car sharing on the peer-to-peer car sharing program, the peer-to-  
7 peer car sharing program shall notify the shared vehicle owner that,  
8 if the shared vehicle has a lien against it, the use of the shared  
9 vehicle through a peer-to-peer car sharing program, including use  
10 without physical damage coverage, may violate the terms of the  
11 contract with the lienholder.

12 (3) Nothing in this chapter invalidates or limits an exclusion  
13 contained in a motor vehicle liability insurance policy, including  
14 any insurance policy in use or approved for use that excludes  
15 coverage for motor vehicles made available for rent, sharing, or  
16 hire, or for any business use.

17 (4) A peer-to-peer car sharing program shall collect and verify  
18 records pertaining to the use of a vehicle including, but not limited  
19 to, times used, fees paid by the shared vehicle driver, and revenues  
20 received by the shared vehicle owner and provide that information  
21 upon request to the shared vehicle owner, the shared vehicle owner's  
22 insurer, or the shared vehicle driver's insurer to facilitate a claim  
23 coverage investigation. The peer-to-peer car sharing program shall  
24 retain the records for a time period not less than the applicable  
25 personal injury statute of limitations.

26 (5) A motor vehicle insurer that defends or indemnifies a claim  
27 against a shared vehicle that is excluded under the terms of its  
28 policy shall have the right to seek contribution against the motor  
29 vehicle insurer of the peer-to-peer car sharing program if the claim  
30 is:

31 (a) Made against the shared vehicle owner or the shared vehicle  
32 driver for loss or injury that occurs during the car sharing period;  
33 and

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

35 NEW SECTION. **Sec. 5.** (1) Each car sharing program agreement  
36 made in the state shall disclose to the shared vehicle owner and the  
37 shared vehicle driver:

38 (a) Any right of the peer-to-peer car sharing program to seek  
39 indemnification from the shared vehicle owner or the shared vehicle

1 driver for economic loss sustained by the peer-to-peer car sharing  
2 program resulting from a breach of the terms and conditions of the  
3 car sharing program agreement;

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

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

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

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

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

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

25 (h) All other insurance notices in accordance with RCW  
26 48.175.010.

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

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

32 (ii) Is a nonresident who:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the safety recall so that the shared vehicle owner may address the  
2 safety recall repair.

3 (5) A peer-to-peer car sharing program shall follow all  
4 requirements in accordance with chapter 48.175 RCW.

5 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act  
6 constitute a new chapter in Title 46 RCW.

7 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2021."

8 Correct the title.

EFFECT: Makes changes to the insurance requirement provisions to align with current law regarding insurance for personal vehicle sharing programs.

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