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**HOUSE BILL 1389**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Representatives Corry and Eslick

Read first time 01/27/21. Referred to Committee on Consumer Protection & Business.

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, or a  
4 person or entity designated by the registered owner, of a vehicle  
5 made available for sharing to shared vehicle drivers through a peer-  
6 to-peer car sharing program. "Shared vehicle owner" does not mean  
7 rental car business as defined in RCW 46.04.466. "Shared vehicle  
8 owner" does not mean rental car company as defined in RCW 48.115.005.

9 NEW SECTION. **Sec. 3.** (1)(a) A peer-to-peer car sharing program  
10 shall assume liability, except as provided in (b) of this subsection,  
11 of a shared vehicle owner for bodily injury or property damage to  
12 third parties or uninsured and underinsured motorist or personal  
13 injury protection losses during the car sharing period in an amount  
14 stated in the peer-to-peer car sharing program agreement, which  
15 amount may not be less than those set forth in chapter 46.29 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 ensure that, during  
34 each car sharing period, the shared vehicle owner and the shared  
35 vehicle driver are insured under a motor vehicle liability insurance  
36 policy that provides insurance coverage in amounts no less than the  
37 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 described under (d) of this subsection may be  
7 satisfied by motor vehicle liability insurance maintained by:  
8 (i) A shared vehicle owner;  
9 (ii) A shared vehicle driver;  
10 (iii) A peer-to-peer car sharing program; or  
11 (iv) Both a shared vehicle owner, a shared vehicle driver, and a  
12 peer-to-peer car sharing program.

13 (f) The insurance described in (e) of this subsection that is  
14 satisfying the insurance requirement of (d) of this subsection shall  
15 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 insurance maintained by a shared vehicle owner or shared  
29 vehicle driver in accordance with (e) of this subsection has lapsed  
30 or does not provide the required coverage, insurance maintained by a  
31 peer-to-peer car sharing program shall provide the coverage required  
32 by (d) of this subsection beginning with the first dollar of a claim  
33 and have the duty to defend such claim except under circumstances as  
34 provided in (b) of this subsection.

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

39 (j) Nothing in this chapter:

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

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

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

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

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

25 (ii) Personal injury protection coverage;

26 (iii) Uninsured and underinsured motorist coverage;

27 (iv) Medical payments coverage;

28 (v) Comprehensive physical damage coverage; and

29 (vi) Collision physical damage coverage.

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

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

1 coverage investigation. The peer-to-peer car sharing program shall  
2 retain the records for a time period not less than the applicable  
3 personal injury statute of limitations.

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

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

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

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

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

21 (b) Nothing in this section creates liability on a peer-to-peer  
22 car sharing program to maintain the coverage mandated by subsection  
23 (1) of this section.

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

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

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

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

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

35 (a) Any right of the peer-to-peer car sharing program to seek  
36 indemnification from the shared vehicle owner or the shared vehicle  
37 driver for economic loss sustained by the peer-to-peer car sharing  
38 program resulting from a breach of the terms and conditions of the  
39 car sharing program agreement;

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

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

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

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

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

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

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

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

28 (ii) Is a nonresident who:

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

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

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

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

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

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

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

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

11 (4)(a) 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:

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

18 (ii) Notify the shared vehicle owner of the requirements under  
19 (b) of this subsection.

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

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

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

38 NEW SECTION. **Sec. 5.** The following acts or parts of acts are  
39 each repealed:



- 1 (1) RCW 48.175.005 (Definitions) and 2012 c 108 s 1;  
2 (2) RCW 48.175.010 (Requirements of program) and 2012 c 108 s 2;  
3 (3) RCW 48.175.020 (Program's liabilities—Owner's insurance  
4 policy) and 2012 c 108 s 3;  
5 (4) RCW 48.175.030 (Private passenger motor vehicle not a  
6 commercial or for-hire motor vehicle—Criteria) and 2012 c 108 s 4;  
7 and  
8 (5) RCW 48.175.900 (Application—2012 c 108) and 2012 c 108 s 6.

9 NEW SECTION. **Sec. 6.** Sections 1 through 4 of this act  
10 constitute a new chapter in Title 46 RCW.

11 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2022.

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