

HOUSE BILL No. 2379

AN ACT concerning transportation; relating to peer-to-peer vehicle sharing; establishing insurance requirements; liability; recordkeeping requirements; consumer protection provisions; enacting the peer-to-peer vehicle sharing program act; amending K.S.A. 2020 Supp. 50-656 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. Sections 1 through 13, and amendments thereto, shall be known and may be cited as the peer-to-peer vehicle sharing program act.

New Sec. 2. As used in this act:

(a) "Act" means the peer-to-peer vehicle sharing program act.

(b) "Peer-to-peer vehicle sharing" means the authorized use of a shared vehicle by an individual other than the shared vehicle's owner through a peer-to-peer vehicle sharing program. "Peer-to-peer vehicle sharing" does not include:

(1) The rental or lease of a motor vehicle for purposes of K.S.A. 79-5117, and amendments thereto;

(2) the use of a vehicle for demonstrations purposes; or

(3) a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(c) "Peer-to-peer vehicle sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. "Peer-to-peer vehicle sharing program" does not include:

(1) A rental car company;

(2) a lessor, as defined in K.S.A. 50-656, and amendments thereto;

(3) a service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle;

(4) the use of a vehicle for demonstration purposes; or

(5) a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(d) "Vehicle sharing program agreement" means the terms and conditions applicable to a shared vehicle owner, a shared vehicle driver and a peer-to-peer vehicle sharing program that govern the use of a shared vehicle through a peer-to-peer vehicle sharing program. "Vehicle sharing program agreement" does not include:

(1) A rental agreement, as defined in K.S.A. 50-656, and amendments thereto;

(2) the use of a vehicle for demonstration purposes; or

(3) a leased, temporarily loaned or borrowed vehicle owned by a used or new vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(e) "Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer vehicle sharing program. "Shared vehicle" does not include:

(1) A rental vehicle, as defined in K.S.A. 50-656, and amendments thereto;

(2) a vehicle that is used for demonstration purposes; or

(3) a lease, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(f) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a vehicle sharing program agreement. "Shared vehicle driver" does not include:

(1) A lessee, as defined in K.S.A. 50-656, and amendments thereto;

(2) the operator of a vehicle that is used for demonstration purposes; or

(3) the operator of a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(g) (1) "Shared vehicle owner" means 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 vehicle sharing program.

(2) "Shared vehicle owner" does not include:

(A) A lessor, as defined in K.S.A. 50-656, and amendments thereto;

(B) an owner of a vehicle that is used for demonstration purposes; or

(C) a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(3) A "shared vehicle owner" is not a rental car company, a leasing company or any similar term, under any statute or rule and regulation.

(h) "Vehicle sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the vehicle sharing start time, if applicable, as documented by the governing vehicle sharing program agreement.

(i) "Vehicle sharing period" means the period of time that commences with the vehicle sharing delivery period or, if there is no vehicle sharing delivery period, that commences with the vehicle sharing start time and, in either case, that ends at the vehicle sharing termination time.

(j) "Vehicle sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer vehicle sharing program.

(k) "Vehicle sharing termination time" means the earliest of the following events:

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

(2) when the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer vehicle sharing program and such alternatively agreed upon location is incorporated into the vehicle sharing program agreement; or

(3) when the shared vehicle owner or the shared vehicle owner's authorized designee takes possession and control of the shared vehicle.

New Sec. 3. (a) Except as provided in subsection (b), a peer-to-peer vehicle sharing program shall assume liability of a shared vehicle owner for bodily injury or property damage to third parties for uninsured and underinsured motorist or personal injury protection losses during the vehicle sharing period in amounts stated in the peer-to-peer vehicle sharing program agreement that shall not be less than those set forth in K.S.A. 40-3107, and amendments thereto.

(b) Notwithstanding the definition of "vehicle sharing termination time" as defined in section 2, and amendments thereto, the assumption of liability under subsection (a) shall not apply to any shared vehicle owner when:

(1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission of fact to the peer-to-peer vehicle sharing program before the vehicle sharing period in which the loss occurred; or

(2) acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the vehicle sharing program agreement.

(c) Notwithstanding the definition of "vehicle sharing termination time" as defined in section 2, and amendments thereto, the assumption of liability under subsection (a) shall apply to bodily injury, property damage, uninsured and underinsured motorist or personal injury protection losses by damaged third parties as required by K.S.A. 40-3107, and amendments thereto.

(d) A peer-to-peer vehicle sharing program shall ensure that, during each vehicle sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage in amounts not less than the minimum amounts set forth in K.S.A. 40-3107, and amendments thereto, and the policy:

(1) Recognizes that the vehicle insured under the policy has been made available as a shared vehicle and is used through a peer-to-peer vehicle sharing program; or

(2) does not exclude use of the vehicle by a shared vehicle driver.

(e) The insurance described under subsection (d) may be satisfied by motor vehicle liability insurance maintained by a:

(1) Shared vehicle owner;

(2) shared vehicle driver;

(3) peer-to-peer vehicle sharing program;

(4) shared vehicle owner and a peer-to-peer vehicle sharing program; or

(5) shared vehicle driver and a peer-to-peer vehicle sharing program.

(f) The insurance described under subsection (e) that satisfies the insurance requirement of subsection (d) shall be primary during each vehicle sharing period. In the event that a claim occurs in another state with insurance policy coverage amounts that exceed the minimum amounts set forth in K.S.A. 40-3107, and amendments thereto, during the vehicle sharing period, the coverage maintained under subsection (e) shall satisfy the difference in minimum coverage amounts up to the applicable policy limits.

(g) The insurer or peer-to-peer vehicle sharing program shall assume primary liability for a claim when it is in whole or in part providing the insurance required under subsections (d) and (e) and:

(1) A dispute exists as to who was in control of the shared vehicle at the time of the loss or a dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location as required by section 2(k), and amendments thereto; and

(2) the peer-to-peer vehicle sharing program does not have available, did not retain or fails to provide the information required under section 6, and amendments thereto.

(h) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) has lapsed or does not provide the required coverage, then insurance maintained by a peer-to-peer vehicle sharing program shall provide the coverage required by subsection (d) beginning with the first dollar of a claim and shall have the duty to defend such claim except under circumstances described in subsection (b).

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

(j) Nothing in this section shall be construed to:

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

(2) limit the ability of the peer-to-peer vehicle sharing program to contractually seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer vehicle sharing program resulting from a breach of the terms and conditions of the vehicle sharing program agreement.

New Sec. 4. Between the time that a vehicle owner registers as a shared vehicle owner on a peer-to-peer vehicle sharing program and the time that the shared vehicle owner makes a vehicle available as a shared vehicle on the program, the program shall notify the shared vehicle owner that if the shared vehicle has a lien against it, the use of

the shared vehicle through a peer-to-peer vehicle sharing program, including use without physical damage coverage, could violate the terms of the contract with the lienholder.

New Sec. 5. (a) An authorized insurer that writes motor vehicle liability insurance in the state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy, including, but not limited to:

- (1) Liability coverage for bodily injury and property damage;
- (2) personal injury protection coverage as defined in K.S.A. 40-3103, and amendments thereto;
- (3) uninsured and underinsured motorist coverage;
- (4) medical benefits coverage as defined in K.S.A. 40-3103, and amendments thereto;
- (5) comprehensive physical damage coverage; and
- (6) collision physical damage coverage.

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

(c) Nothing in this section invalidates, limits or restricts an insurer's ability under existing law to underwrite any insurance policy or to cancel and non-renew insurance policies.

New Sec. 6. A peer-to-peer vehicle sharing program shall collect and verify records pertaining to the use of a vehicle, including, but not limited to, times used, vehicle sharing period pick up and drop off locations, fees paid by the shared vehicle driver and revenues received by the shared vehicle owner. The program shall provide such information upon request to the shared vehicle owner, the shared vehicle owner's insurer or the shared vehicle driver's insurer to facilitate a claim coverage investigation, settlement, negotiation or litigation. The peer-to-peer vehicle sharing program shall retain such records for a period of time not less than the applicable personal injury statute of limitations.

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

New Sec. 8. A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy shall have the right to seek recovery against the motor vehicle insurer of the peer-to-peer vehicle sharing program if the claim is:

- (1) Made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the vehicle sharing period; and
- (2) excluded under the terms of its policy.

New Sec. 9. (a) Notwithstanding any other law, statute, rule or regulation to the contrary, a peer-to-peer vehicle sharing program shall have an insurable interest in a shared vehicle during the vehicle sharing period.

(b) Nothing in this section shall be construed to require that a peer-to-peer vehicle sharing program maintain the coverage mandated by section 3, and amendments thereto.

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

- (1) Liabilities assumed by the peer-to-peer vehicle sharing program under a peer-to-peer vehicle sharing program agreement;
- (2) any liability of the shared vehicle owner;
- (3) damage or loss to the shared motor vehicle; or
- (4) any liability of the shared vehicle driver.

New Sec. 10. (a) Every vehicle sharing program agreement made in the state of Kansas shall disclose the following information to the

shared vehicle owner and the shared vehicle driver, as appropriate:

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

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

(3) the peer-to-peer vehicle sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each vehicle sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the vehicle sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

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

(5) the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle; and

(6) if there are conditions under which a shared vehicle driver must maintain a personal motor vehicle liability insurance policy with certain applicable coverage limits on a primary basis in order to reserve a shared motor vehicle.

(b) Every vehicle sharing program agreement made in the state of Kansas shall also provide an emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries.

New Sec. 11. (a) A peer-to-peer vehicle sharing program shall not enter into a peer-to-peer vehicle sharing program agreement with a driver unless the driver who will operate the shared vehicle:

(1) Holds a driver's license issued by the state of Kansas that authorizes the driver to operate vehicles of the class of the shared vehicle;

(2) is a nonresident who:

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

(B) is at least the legal age required of a resident to drive in the state of Kansas; or

(3) otherwise is specifically authorized by the state of Kansas to drive vehicles of the class of the shared vehicle.

(b) A peer-to-peer vehicle sharing program shall maintain a record of the name, address, driver's license number and place of issuance of the driver's license of the shared vehicle driver and every other person, if any, who will also drive the shared vehicle.

New Sec. 12. A peer-to-peer vehicle sharing program shall have sole responsibility for any equipment, such as a GPS system or other special equipment, that is installed in or on the shared vehicle to monitor or facilitate the vehicle sharing transaction, and shall agree to indemnify and hold harmless the shared vehicle owner for any damage to or theft of such equipment during the vehicle sharing period not caused by the shared vehicle owner. The peer-to-peer vehicle sharing program shall have the right to seek indemnity from the shared vehicle driver for any loss or damage to such equipment that occurs during the sharing period.

New Sec. 13. (a) After the time that a vehicle owner registers as a shared vehicle owner on a peer-to-peer vehicle sharing program but before the time that the shared vehicle owner makes a vehicle available as a shared vehicle on the peer-to-peer vehicle sharing program, the peer-to-peer vehicle sharing program shall:

(1) Verify that the shared vehicle does not have any safety recalls for which repairs correcting the safety recalls have not been made; and

(2) notify the shared vehicle owner of the requirements under subsection (b).

(b) (1) If a vehicle owner has received an actual notice of a safety recall on the owner's vehicle, the owner may not make such vehicle available as a shared vehicle on a peer-to-peer vehicle sharing program until the safety recall repair has been made.

(2) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is available on the peer-to-peer vehicle sharing program, the shared vehicle owner shall remove the shared vehicle from the peer-to-peer vehicle sharing program as soon as practicable after receiving the notice of the safety recall and shall not replace such vehicle on the peer-to-peer vehicle sharing program until the safety recall repair has been made.

(3) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used and is in the possession of a shared vehicle driver, as soon as practicable after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer vehicle sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

Sec. 14. K.S.A. 2020 Supp. 50-656 is hereby amended to read as follows: 50-656. (a) "Authorized driver" means:

(1) The lessee;

(2) the lessee's spouse if such spouse is a licensed driver and satisfies the lessor's minimum age requirement;

(3) any person who operates the vehicle during an emergency situation; or

(4) any person listed by the lessor on such lessee's contract as an authorized driver.

(b) "Collision damage waiver" means any contract or contractual provision, whether separate from or a part of a motor vehicle rental agreement, whereby the lessor agrees for a charge, to waive any and all claims against the lessee for any damage to the rental motor vehicle during the term of the rental agreement.

(c) "Lessor" means any person or organization in the business of providing rental motor vehicles to the public. *"Lessor" does not include a peer-to-peer vehicle sharing program, as defined in section 2, and amendments thereto, or a shared vehicle owner, as defined in section 2, and amendments thereto.*

(d) "Lessee" means any person or organization obtaining the use of a rental motor vehicle from a lessor under the terms of a rental agreement. *"Lessee" does not include a "shared vehicle driver" as defined in section 2, and amendments thereto.*

(e) "Rental agreement" means any written agreement setting forth the terms and conditions governing the use of the rental motor vehicle by the lessee for a period of 60 days or less. *"Rental agreement" does not include a vehicle sharing program agreement, as defined in section 2, and amendments thereto.*

(f) "Rental motor vehicle" means a private passenger type vehicle or commercial type vehicle which, upon execution of a rental agreement, is made available to a lessee for the lessee's use. "Rental motor vehicle" does not include a shared vehicle, as defined in section 2, and amendments thereto.

Sec. 15. K.S.A. 2020 Supp. 50-656 is hereby repealed.

Sec. 16. This act shall take effect and be in force from and after January 1, 2022, and its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.