

HOUSE BILL No. 2379

By Committee on Insurance and Pensions

2-12

Proposed Amendments for HB 2379
For House Committee on Transportation
February 24, 2021
Prepared by: Office of Revisor of Statutes

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

7 Be it enacted by the Legislature of the State of Kansas:
8 New Section 1. Sections 1 through 13, and amendments thereto, shall
9 be known and may be cited as the peer-to-peer vehicle sharing program
10 act.

11 New Sec. 2. As used in this act:
12 (a) "Act" means the peer-to-peer vehicle sharing program act.
13 (b) "Peer-to-peer vehicle sharing" means the authorized use of a
14 shared vehicle by an individual other than the shared vehicle's owner
15 through a peer-to-peer vehicle sharing program. "Peer-to-peer vehicle
16 sharing" does not mean rental or lease of a motor vehicle for purposes of
17 K.S.A. 79-5117, and amendments thereto.

18 (c) "Peer-to-peer vehicle sharing program" means a business platform
19 that connects vehicle owners with drivers to enable the sharing of vehicles
20 for financial consideration. "Peer-to-peer vehicle sharing program" does
21 not mean a rental car company and does not include a lessor, as defined in
22 K.S.A. 50-656, and amendments thereto.

23 (d) "Vehicle sharing program agreement" means the terms and
24 conditions applicable to a shared vehicle owner, a shared vehicle driver
25 and a peer-to-peer vehicle sharing program that govern the use of a shared
26 vehicle through a peer-to-peer vehicle sharing program. "Vehicle sharing
27 program agreement" does not include a rental agreement, as defined in
28 K.S.A. 50-656, and amendments thereto.

29 (e) "Shared vehicle" means a vehicle that is available for sharing
30 through a peer-to-peer vehicle sharing program. "Shared vehicle" does not
31 include a rental vehicle, as defined in K.S.A. 50-656, and amendments
32 thereto.

33 (f) "Shared vehicle driver" means an individual who has been
34 authorized to drive the shared vehicle by the shared vehicle owner under a
35 vehicle sharing program agreement. "Shared vehicle driver" does not
36 include a lessee, as defined in K.S.A. 50-656, and amendments thereto.

or the use of a vehicle for demonstration purposes or a leased,
temporary 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.

:
(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; or
(4) the use of a vehicle for demonstration purposes or a leased,
temporary 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.

, a vehicle that is used for demonstration purposes or 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.

, a vehicle that is used for demonstration purposes or 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.

, the operator of a vehicle that is used for demonstration purposes or
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.

1 (g) "Shared vehicle owner" means the registered owner, or a person
 2 or entity designated by the registered owner, of a vehicle made available
 3 for sharing to shared vehicle drivers through a peer-to-peer vehicle sharing
 4 program. "Shared vehicle owner" does not include a lessor, as defined in
 5 K.S.A. 50-656, and amendments thereto. A "shared vehicle owner" is not a
 6 rental car company, or any similar term, under any statute or rule and
 7 regulation.

a leasing company

, an owner of a vehicle that is used for demonstration purposes or is 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.

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

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

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

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

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

26 (2) when the shared vehicle is returned to a location as alternatively
 27 agreed upon by the shared vehicle owner and shared vehicle driver as
 28 communicated through a peer-to-peer vehicle sharing program, or

and such alternatively agreed upon
 location is incorporated into the
 vehicle sharing program agreement

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

31 New Sec. 3. (a) Except as provided in subsection (b), a peer-to-peer
 32 vehicle sharing program shall assume liability of a shared vehicle owner
 33 for bodily injury or property damage to third parties for uninsured and
 34 underinsured motorist or personal injury protection losses during the
 35 vehicle sharing period in amounts stated in the peer-to-peer vehicle sharing
 36 program agreement that shall not be less than those set forth in K.S.A. 40-
 37 3107, and amendments thereto.

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

42 (1) A shared vehicle owner makes an intentional or fraudulent
 43 material misrepresentation or omission of fact to the peer-to-peer vehicle

1 sharing program before the vehicle sharing period in which the loss
2 occurred; or

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

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

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

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

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

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

24 (1) Shared vehicle owner;

25 (2) shared vehicle driver;

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

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

28 or

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

30 (f) The insurance described under subsection (e) that satisfies the
31 insurance requirement of subsection (d) shall be primary during each
32 vehicle sharing period.

33 (g) (1) The peer-to-peer vehicle sharing program shall assume
34 primary liability for a claim when it is in whole or in part providing the
35 insurance required under subsections (d) and (e) and:

36 (A) A dispute exists as to who was in control of the shared vehicle at
37 the time of the loss; and

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

41 ~~(2) The shared vehicle's insurer shall indemnify the peer-to-peer~~
42 ~~vehicle sharing program to the extent of its obligation under, if any, the~~
43 ~~applicable insurance policy, if it is determined that the shared vehicle's~~

and 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.

insurer or

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

Strike subsection (g)(2)

1 ~~owner was in control of the shared vehicle at the time of the loss.~~

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

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

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

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

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

22 New Sec. 4. Between the time that a vehicle owner registers as a
23 shared vehicle owner on a peer-to-peer vehicle sharing program and the
24 time that the shared vehicle owner makes a vehicle available as a shared
25 vehicle on the program, the program shall notify the shared vehicle owner
26 that if the shared vehicle has a lien against it, the use of the shared vehicle
27 through a peer-to-peer vehicle sharing program, including use without
28 physical damage coverage, could violate the terms of the contract with the
29 lienholder.

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

35 (1) Liability coverage for bodily injury and property damage;

36 (2) personal injury protection coverage as defined in K.S.A. 40-3103,
37 and amendments thereto;

38 (3) uninsured and underinsured motorist coverage;

39 (4) medical benefits coverage as defined in K.S.A. 40-3103, and
40 amendments thereto;

41 (5) comprehensive physical damage coverage; and

42 (6) collision physical damage coverage.

43 (b) Nothing in this section invalidates or limits an exclusion

1 contained in a motor vehicle liability insurance policy, including any
2 insurance policy in use or approved for use, that excludes coverage for
3 motor vehicles made available for rent, sharing, hire or any business use.

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

4 New Sec. 6. A peer-to-peer vehicle sharing program shall collect and
5 verify records pertaining to the use of a vehicle, including, but not limited to,
6 times used, fees paid by the shared vehicle driver and revenues
7 received by the shared vehicle owner. The program shall provide such
8 information upon request to the shared vehicle owner, the shared vehicle
9 owner's insurer or the shared vehicle driver's insurer to facilitate a claim
10 coverage investigation. The peer-to-peer vehicle sharing program shall
11 retain such records for a period of time not less than the applicable
12 personal injury statute of limitations.

vehicle sharing period pick up and drop off locations,

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

, settlement, negotiation or litigation

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

recovery

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

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

28 (b) Nothing in this section shall be construed to require that a peer-to-
29 peer vehicle sharing program maintain the coverage mandated by section
30 3, and amendments thereto.

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

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

39 New Sec. 10. (a) Every vehicle sharing program agreement made in
40 the state of Kansas shall disclose the following information to the shared
41 vehicle owner and the shared vehicle driver, as appropriate:

- 42 (1) Any right of the peer-to-peer vehicle sharing program to seek
43 indemnification from the shared vehicle owner or the shared vehicle driver

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

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

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

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

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

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

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

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

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

32 (2) is a nonresident who:

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

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

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

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

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

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

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

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

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

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

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

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

38 (1) The lessee;

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

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

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

1 authorized driver.

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

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

12 (d) "Lessee" means any person or organization obtaining the use of a
13 rental motor vehicle from a lessor under the terms of a rental agreement.
14 *"Lessee" does not include a "shared vehicle driver" as defined in section*
15 *2, and amendments thereto.*

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

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

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

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