

SUBSTITUTE FOR
HOUSE BILL NO. 5949

A bill to provide for peer-to-peer car sharing; to impose obligations on and provide rights to persons that operate peer-to-peer car sharing, shared vehicle owners, and shared vehicle drivers; to provide for liability for personal injuries and property damage in peer-to-peer car sharing; to provide for responsibilities of insurers; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 1

2 SHORT TITLE

3 Sec. 1. This act may be cited as the "peer-to-peer car sharing
4 program act".

5 CHAPTER 3

6 DEFINITIONS

1 Sec. 3. As used in this act:

2 (a) "Automobile insurance" means that term as defined in
3 section 3303 of the insurance code of 1956, 1956 PA 218, MCL
4 500.3303.

5 (b) "Car sharing delivery period" means the period of time
6 during which a shared vehicle is being delivered to the location of
7 the car sharing start time, if applicable, as documented by the
8 governing car sharing program agreement.

9 (c) "Car sharing period" means the period of time that
10 commences with the car sharing delivery period or, if there is no
11 car sharing delivery period, that commences with the car sharing
12 start time and in either case ends at the car sharing termination
13 time.

14 (d) "Car sharing program agreement" means the terms and
15 conditions applicable to a shared vehicle owner, a shared vehicle
16 driver, and a peer-to-peer car sharing program that govern the use
17 of a shared vehicle through a peer-to-peer car sharing program. Car
18 sharing program agreement does not mean or include either of the
19 following:

20 (i) A car rental agreement by a car rental company, as that
21 term is defined in section 3h of the Michigan consumer protection
22 act, 1976 PA 331, MCL 445.903h, or a similar agreement.

23 (ii) An agreement for a transportation network company
24 prearranged ride, as that term is defined in section 2 of the
25 limousine, taxicab, and transportation network company act, 2016 PA
26 345, MCL 257.2102.

27 (e) "Car sharing start time" means the time when the shared
28 vehicle becomes subject to the control of the shared vehicle driver
29 at or after the time the reservation of a shared vehicle is

1 scheduled to begin as documented in the records of a peer-to-peer
2 car sharing program.

3 (f) "Car sharing termination time" means, except as provided
4 in section 41, the earliest of the following:

5 (i) The time the agreed-on period of time established for the
6 use of the shared vehicle expires according to the terms of the car
7 sharing program agreement if the shared vehicle is delivered to the
8 location agreed on in the car sharing program agreement.

9 (ii) The time of the return of the shared vehicle to a location
10 that is alternatively agreed on by the shared vehicle owner and
11 shared vehicle driver, as communicated through the peer-to-peer car
12 sharing program, which alternatively agreed-on location must be
13 incorporated into the car sharing program agreement.

14 (iii) The time the shared vehicle owner or the shared vehicle
15 owner's authorized designee takes possession and control of the
16 shared vehicle.

17 (g) "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. Peer-to-peer car sharing does not
20 include either of the following:

21 (i) Car rental or rental activity by a car rental company, as
22 that term is defined in section 3h of the Michigan consumer
23 protection act, 1976 PA 331, MCL 445.903h.

24 (ii) A transportation network company prearranged ride, as that
25 term is defined in section 2 of the limousine, taxicab, and
26 transportation network company act, 2016 PA 345, MCL 257.2102.

27 (h) "Peer-to-peer car sharing program" means a person that
28 connects vehicle owners with drivers to enable the sharing of
29 vehicles for financial consideration. Peer-to-peer car sharing

1 program does not mean or include any of the following:

2 (i) A car rental company, as that term is defined in section 3h
3 of the Michigan consumer protection act, 1976 PA 331, MCL 445.903h.

4 (ii) A transportation network company, as that term is defined
5 in section 2 of the limousine, taxicab, and transportation network
6 company act, 2016 PA 345, MCL 257.2102.

7 (iii) A service provider that is solely providing hardware or
8 software as a service to a person that is not effectuating payment
9 of financial consideration for the use of a shared vehicle.

10 (i) "Person" means an individual, partnership, corporation,
11 association, or other legal entity.

12 (j) "Shared vehicle" means a vehicle that is available for
13 sharing through a peer-to-peer car sharing program. Shared vehicle
14 does not mean or include a rental car available to be rented by a
15 car rental company, as that term is defined in section 3h of the
16 Michigan consumer protection act, 1976 PA 331, MCL 445.903h.

17 (k) "Shared vehicle driver" means an individual who has been
18 authorized to drive the shared vehicle by the shared vehicle owner
19 under a car sharing program agreement.

20 (l) "Shared vehicle owner" means the registered owner, or a
21 person designated by the registered owner, of a vehicle made
22 available for sharing to shared vehicle drivers through a peer-to-
23 peer car sharing program. Shared vehicle owner does not mean or
24 include a car rental company, as that term is defined in section 3h
25 of the Michigan consumer protection act, 1976 PA 331, MCL 445.903h.

26 (m) "Vehicle" means a motor vehicle as that term is defined in
27 section 3101 of the insurance code of 1956, 1956 PA 218, MCL
28 500.3101.

29 CHAPTER 4

INSURANCE

1
2 Sec. 41. (1) Except as provided in subsection (2), a peer-to-
3 peer car sharing program shall assume the liability of a shared
4 vehicle owner for bodily injury and property damage to third
5 parties during the car sharing period in amounts stated in the car
6 sharing program agreement, which may not be less than those
7 required under section 3009 of the insurance code of 1956, 1956 PA
8 218, MCL 500.3009.

9 (2) Notwithstanding the definition of car sharing termination
10 time in section 3, the assumption of liability under subsection (1)
11 does not apply to a shared vehicle owner if the shared vehicle
12 owner does either of the following:

13 (a) Makes an intentional or fraudulent material
14 misrepresentation or omission to the peer-to-peer car sharing
15 program before the car sharing period in which the loss occurred.

16 (b) Acts in concert with the shared vehicle driver who fails
17 to return the shared vehicle in accordance with the terms of the
18 car sharing program agreement.

19 (3) Notwithstanding the definition of car sharing termination
20 time in section 3, the assumption of liability under subsection (1)
21 applies to financial responsibility requirements described in
22 chapter V of the Michigan vehicle code, 1949 PA 300, MCL 257.501 to
23 257.532, and requirements for insurance coverage for bodily injury
24 to and damage to the property of third parties under section 3009
25 of the insurance code of 1956, 1956 PA 218, MCL 500.3009.

26 (4) A peer-to-peer car sharing program shall ensure that,
27 during each car sharing period, the shared vehicle owner and the
28 shared vehicle driver are insured under an automobile insurance
29 policy that either recognizes that the shared vehicle insured under

1 the policy is made available and used through a peer-to-peer car
2 sharing program or that does not exclude use of a shared vehicle by
3 a shared vehicle owner or a shared vehicle driver. The peer-to-peer
4 car sharing program shall ensure that the automobile insurance
5 required under this section provides all of the following:

6 (a) For the shared vehicle owner, all of the following:

7 (i) Residual third-party liability insurance as required under
8 section 3101 of the insurance code of 1956, 1956 PA 218, MCL
9 500.3101, in the amounts required under section 3009 of the
10 insurance code of 1956, 1956 PA 218, MCL 500.3009.

11 (ii) Personal protection insurance and property protection
12 insurance of the types and in the amounts required by chapter 31 of
13 the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179,
14 except that the peer-to-peer car sharing program is not required to
15 ensure that the shared vehicle owner has personal protection
16 insurance benefits if the shared vehicle owner has elected to not
17 maintain coverage for personal protection insurance benefits under
18 section 3107d of the insurance code of 1956, 1956 PA 218, MCL
19 500.3107d, or if an exclusion applies to the vehicle under section
20 3109a(2) of the insurance code of 1956, 1956 PA 218, MCL 500.3109a.

21 (b) For the shared vehicle driver, residual third-party
22 liability insurance as required under section 3101 of the insurance
23 code of 1956, 1956 PA 218, MCL 500.3101, in the amounts required
24 under section 3009 of the insurance code of 1956, 1956 PA 218, MCL
25 500.3009.

26 (5) All of the following apply to the insurance required under
27 subsection (4):

28 (a) The insurance may be placed with an insurer licensed under
29 chapter 4 of the insurance code of 1956, 1956 PA 218, MCL 500.402

1 to 500.480, or, if the insurance is maintained by a peer-to-peer
2 car sharing program, an eligible unauthorized insurer under chapter
3 19 of the insurance code of 1956, 1956 PA 218, MCL 500.1901 to
4 500.1955.

5 (b) The insurance satisfies the financial responsibility
6 requirements described in chapter V of the Michigan vehicle code,
7 1949 PA 300, MCL 257.501 to 257.532.

8 (6) The insurance required under subsection (4) may be
9 satisfied by automobile insurance maintained by any of the
10 following:

11 (a) The shared vehicle owner.

12 (b) The shared vehicle driver.

13 (c) The peer-to-peer car sharing program.

14 (d) A combination of the shared vehicle owner, the shared
15 vehicle driver, and the peer-to-peer car sharing program.

16 (7) The insurance described in subsection (6) that is
17 satisfying the insurance requirement of subsection (4) must be
18 primary during each car sharing period and if a claim occurs in
19 another state with higher minimum financial responsibility limits
20 during the car sharing period, the coverage maintained under
21 subsection (6) must satisfy the difference in minimum coverage
22 amounts, up to the applicable policy limits. The insurer, insurers,
23 or peer-to-peer car sharing program providing coverage under
24 subsection (6) shall assume primary liability for a claim when
25 either of the following occurs:

26 (a) A dispute exists as to who was in control of the shared
27 vehicle at the time of the loss and the peer-to-peer car sharing
28 program does not have available, did not retain, or fails to
29 provide the information required by section 43.

1 (b) A dispute exists as to whether the shared vehicle was
2 returned to the alternatively agreed-on location as required under
3 section 3(f) (ii) .

4 (8) If insurance maintained by a shared vehicle owner or
5 shared vehicle driver in accordance with subsection (6) has lapsed
6 or does not provide the required coverage, insurance maintained by
7 the peer-to-peer car sharing program must provide the coverage
8 required by subsection (4) beginning with the first dollar of a
9 claim and provide the duty to defend the claim except under
10 circumstances as set forth in subsection (2) .

11 (9) Coverage under an automobile insurance policy maintained
12 by a peer-to-peer car sharing program must not be dependent on
13 another automobile insurer first denying a claim, and another
14 automobile insurer must not be required to first deny a claim.

15 (10) This chapter does not do any of the following:

16 (a) Limit the liability of a peer-to-peer car sharing program
17 for any act or omission of the peer-to-peer car sharing program
18 itself that results in injury or damage to a person as a result of
19 the use of a shared vehicle through a peer-to-peer car sharing
20 program.

21 (b) Limit the ability of a peer-to-peer car sharing program
22 to, by contract, seek indemnification from the shared vehicle owner
23 or the shared vehicle driver for economic loss sustained by the
24 peer-to-peer car sharing program that results from a breach of the
25 terms and conditions of the car sharing program agreement.

26 Sec. 42. When a person registers as a shared vehicle owner
27 with a peer-to-peer car sharing program and before the shared
28 vehicle owner makes a shared vehicle available for car sharing
29 through the peer-to-peer car sharing program, the peer-to-peer car

1 sharing program shall notify the shared vehicle owner that, if the
2 shared vehicle has a lien against it, the use of the shared vehicle
3 through a peer-to-peer car sharing program, including use without
4 comprehensive and collision coverage, may violate the terms of the
5 contract with the lienholder.

6 Sec. 43. A peer-to-peer car sharing program shall collect and
7 verify records that pertain to the use of a shared vehicle,
8 including, but not limited to, times used, car sharing delivery and
9 return locations, fees paid by the shared vehicle driver, and
10 revenues received by the shared vehicle owner, and provide that
11 information on request to the shared vehicle owner, the shared
12 vehicle owner's insurer, or the shared vehicle driver's insurer to
13 facilitate a claim coverage investigation, negotiation, settlement,
14 or litigation. The peer-to-peer car sharing program shall retain
15 the records for not less than 3 years.

16 Sec. 44. A peer-to-peer car sharing program and a shared
17 vehicle owner are exempt from vicarious liability, consistent with
18 49 USC 30106, under any state or local law that imposes liability
19 based on vehicle ownership, including, but not limited to, section
20 401 of the Michigan vehicle code, 1949 PA 300, MCL 257.401.

21 CHAPTER 5

22 CONSUMER PROTECTION DISCLOSURES

23 Sec. 51. A car sharing program agreement made in this state
24 must disclose all of the following to the shared vehicle owner and
25 the shared vehicle driver:

26 (a) Any right of the peer-to-peer car sharing program to seek
27 indemnification from the shared vehicle owner or the shared vehicle
28 driver for economic loss sustained by the peer-to-peer car sharing
29 program that results from a breach of the terms and conditions of

1 the car sharing program agreement.

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

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

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

15 (e) That the shared vehicle owner's automobile insurance may
16 not provide coverage for a shared vehicle during the car sharing
17 period and may exclude coverage and the duty to defend and
18 indemnify for any claim arising out of the ownership, maintenance,
19 or use of a shared vehicle afforded under the insurance.

20 (f) That the shared vehicle owner's or the shared vehicle
21 driver's automobile insurance policy might already provide the
22 coverage required by this act, depending on the terms of the
23 policy.

24 (g) An emergency telephone number to personnel capable of
25 fielding roadside assistance and other customer service inquiries.

26 (h) If there are conditions under which a shared vehicle
27 driver must maintain a personal automobile insurance policy with
28 certain applicable coverage limits on a primary basis in order to
29 book a shared motor vehicle.

1 (i) That, in accordance with sections 3101 and 3102 of the
2 insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3102, the
3 operation of a shared vehicle for more than 30 days in this state
4 may require the shared vehicle driver to maintain security for
5 payment of benefits as required under chapter 31 of the insurance
6 code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179, and that the
7 failure to maintain required security might be subject to penalty
8 as provided by law.

9 Sec. 52. (1) A peer-to-peer car sharing program shall not
10 enter into a peer-to-peer car sharing program agreement with an
11 individual unless the individual will operate the shared vehicle
12 and satisfies 1 of the following:

13 (a) The individual holds a driver license issued under the
14 Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, that
15 authorizes the individual to operate vehicles of the class of the
16 shared vehicle in this state.

17 (b) The individual is a nonresident of this state to whom both
18 of the following apply:

19 (i) The individual has a driver license issued by the state or
20 country of the individual's residence that authorizes the
21 individual to drive vehicles of the class of the shared vehicle in
22 that state or country.

23 (ii) The individual is at least the same age as that required
24 of a resident of this state to drive.

25 (c) The individual is otherwise specifically authorized by the
26 law of this state to drive vehicles of the class of the shared
27 vehicle.

28 (2) A peer-to-peer car sharing program shall keep a record of
29 all of the following:

1 (a) The name and address of the shared vehicle driver.

2 (b) The number of the driver license of the shared vehicle
3 driver and of each other individual, if any, who will operate the
4 shared vehicle.

5 (c) The place of issuance of the driver licenses identified
6 under subdivision (b).

7 Sec. 53. A peer-to-peer car sharing program has sole
8 responsibility for any equipment, such as a GPS system or other
9 special equipment that is put in or on the shared vehicle to
10 monitor or facilitate the car sharing transaction, and shall agree
11 to indemnify and hold harmless the shared vehicle owner for any
12 damage to or theft of the equipment during the car sharing period
13 not caused by the shared vehicle owner. The peer-to-peer car
14 sharing program has the right to seek indemnity from the shared
15 vehicle driver for any loss or damage to the equipment that occurs
16 during the car sharing period.

17 Sec. 54. (1) When a vehicle's registered owner registers as a
18 shared vehicle owner with a peer-to-peer car sharing program and
19 before the shared vehicle owner makes the shared vehicle available
20 for car sharing through the peer-to-peer car sharing program, the
21 peer-to-peer car sharing program shall do both of the following:

22 (a) Verify that the shared vehicle does not have any safety
23 recalls on the vehicle for which the repairs have not been made.

24 (b) Notify the shared vehicle owner of the requirements under
25 subsections (2) to (4).

26 (2) If a shared vehicle owner has received an actual notice of
27 a safety recall on a shared vehicle, the shared vehicle owner shall
28 not make the vehicle available as a shared vehicle through a peer-
29 to-peer car sharing program until the safety recall repair has been

1 made.

2 (3) If a shared vehicle owner receives an actual notice of a
3 safety recall on a shared vehicle while the shared vehicle is made
4 available through a peer-to-peer car sharing program, the shared
5 vehicle owner shall remove the shared vehicle from being available
6 through the peer-to-peer car sharing program as soon as practicable
7 after receiving the notice and until the safety recall repair has
8 been made.

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

15 CHAPTER 7

16 EFFECTIVE DATE

17 Sec. 71. This act takes effect 9 months after it is enacted
18 into law.

19 Enacting section 1. This act does not take effect unless all
20 of the following bills of the 102nd Legislature are enacted into
21 law:

22 (a) House Bill No. 5950.

23 (b) House Bill No. 5951.