

HOUSE BILL 1555

By Whitson

AN ACT to amend Tennessee Code Annotated, Title 5;  
Title 6; Title 7; Title 42; Title 55; Title 65 and Title  
67, relative to peer-to-peer car sharing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-1901(a), is amended by adding the following new sentence at the end of the subsection:

The surcharge or tax shall apply to entities engaged in peer-to-peer car sharing.

SECTION 2. Tennessee Code Annotated, Section 67-4-1901(c), is amended by deleting the subsection and substituting instead the following:

(c) As used in this part:

(1) "Commissioner" means the commissioner of revenue;

(2) "Peer-to-peer car sharing" means the authorized use of a motor vehicle by an individual other than the motor vehicle's owner through a peer-to-peer car sharing program;

(3) "Peer-to-peer car sharing program" means a business platform that connects motor vehicle owners with drivers to enable the sharing of motor vehicles for financial consideration; and

(4) "Rental" or "retail rental" includes peer-to-peer car sharing.

SECTION 3. Tennessee Code Annotated, Section 67-4-1908(a)(1), is amended by adding the following new sentence at the end of the subdivision:

The surcharge or tax shall apply to an entity engaged in peer-to-peer car sharing.

SECTION 4. Tennessee Code Annotated, Title 42, Chapter 3, Part 1, is amended by adding the following as a new section:

Commercial service airports may adopt reasonable standards, regulations, procedures, and fees for conducting peer-to-peer car sharing on airport property to promote the safe and efficient use of limited airport resources. As used in this section, "peer-to-peer car sharing" has the same meaning as defined in § 67-4-1901.

SECTION 5. Tennessee Code Annotated, Section 67-6-204, is amended by adding the following as a new subsection:

(d) This section applies to the rental of a motor vehicle by an entity engaged in peer-to-peer car sharing, as defined in § 67-4-1901.

SECTION 6. Tennessee Code Annotated, Title 55, is amended by adding the following as a new chapter:

**55-31-101. Short title.**

This chapter shall be known and may be cited as the "Peer-to-Peer Car Sharing Program Act."

**55-31-102. Chapter definitions.**

As used in this chapter:

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

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

(3) "Car sharing program agreement" means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program. "Car sharing program agreement" does not mean a rental car agreement;

(4) "Car 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 car sharing program;

(5) "Car sharing termination time" means:

(A) The time when the shared vehicle is returned to the location designated by the shared vehicle owner through a peer-to-peer car sharing program; and

(B) The earliest of the following occurs:

(i) The expiration of the agreed period of time established for the use of a shared vehicle in the car sharing program agreement;

(ii) The intent to terminate the use of the shared vehicle is verifiably communicated by the shared vehicle driver to the shared vehicle owner using the peer-to-peer car sharing program; or

(iii) The shared vehicle owner or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle;

(6) "Peer-to-peer car sharing" means the authorized use of a motor vehicle by an individual other than the motor vehicle's owner through a peer-to-peer car sharing program;

(7) "Peer-to-peer car sharing program" means a business platform that connects motor vehicle owners with drivers to enable the sharing of motor vehicles for financial consideration;

(8) "Shared vehicle" means a motor vehicle that is available for sharing through a peer-to-peer car sharing program;

(9) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement; and

(10) "Shared vehicle owner" means the registered owner of a motor vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

**55-31-103. Insurance requirements.**

(a)

(1)

(A) A peer-to-peer car sharing program shall assume liability, except as provided in subdivision (a)(1)(B), of a shared vehicle owner for any bodily injury or property damage to third parties or uninsured and underinsured motorists or personal injury protection losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement, which amount must comply with the Tennessee Financial Responsibility Law of 1977, compiled in chapter 12, part 1 of this title.

(B) The assumption of liability under subdivision (a)(1)(A) does not apply if the shared vehicle owner made an intentional or fraudulent material misrepresentation to the peer-to-peer car sharing program before the car sharing period in which the loss occurred.

(2) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that:

(A) Recognizes that the vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; and

(B) Provides insurance coverage in compliance with the Tennessee Financial Responsibility Law of 1977, compiled in chapter 12, part 1 of this title.

(3) The insurance described under subdivision (a)(2) may be satisfied by motor vehicle liability insurance maintained by:

(A) A shared vehicle owner;

(B) A shared vehicle driver;

(C) A peer-to-peer car sharing program; or

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

(4) The insurance described in subdivision (a)(3) satisfying the insurance requirement of subdivision (a)(2) must be primary during each car sharing period.

(5) The peer-to-peer car sharing program shall assume primary liability for a claim when the program is in whole or in part providing the insurance required under subdivision (a)(2) and:

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

(B) The peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by subsection (e).

(6) The shared vehicle's insurer shall indemnify the car sharing program to the extent of its obligation under, if any, the applicable insurance policy, if it is determined that the shared vehicle's owner was in control of the shared vehicle at the time of the loss.

(7) If insurance maintained by a shared vehicle owner or shared vehicle driver in subdivision (a)(3) has lapsed or does not provide the required coverage, then insurance maintained by a peer-to-peer car sharing program must provide the coverage required by subdivision (a)(2) beginning with the first dollar of a claim and have the duty to defend the claim.

(8) Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program must not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(9) This chapter does not:

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

(B) Limit the ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

(b) At the time when a motor vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle

owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing 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 car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

(c) An authorized insurer that writes motor vehicle liability insurance in this state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's personal motor vehicle liability insurance policy. This chapter does not invalidate or limit 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, or hire or for any business use.

(d)

(1) Except as provided in subdivision (a)(2), a motor vehicle insurer shall not deny, cancel, void, terminate, rescind, or fail to renew a policy of personal private passenger automobile liability insurance of a shared vehicle owner solely on the basis that the vehicle covered under the policy has been made available for sharing through a peer-to-peer car sharing program.

(2) A motor vehicle insurer may deny, cancel, void, terminate, rescind, or not renew a policy of personal private passenger automobile liability insurance covering a motor vehicle that has been made available for sharing through a peer-to-peer car sharing program if the applicant or policyholder of the policy of personal private passenger automobile liability insurance fails to provide complete and accurate information about the shared vehicle owner's participation with their shared vehicle in a peer-to-peer car sharing program as requested by

the motor vehicle insurer during the application or renewal process of the policy of personal private passenger automobile liability insurance.

(3) A motor vehicle insurer may limit the number of motor vehicles made available for sharing through a peer-to-peer car sharing program that it will insure on a single policy.

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

(f) A peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability in accordance with 49 U.S.C. § 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

(g) A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy has the right to seek contribution against the motor vehicle insurer of the peer-to-peer car 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 car sharing period; and

(2) Excluded under the terms of its policy.

(h)

(1) Notwithstanding any other law to the contrary, a peer-to-peer car sharing program has an insurable interest in a shared vehicle during the car sharing period.

(2) This section does not create liability on a peer-to-peer car sharing program to maintain the coverage mandated by subsection (a).

**55-31-104. Consumer protections.**

(a) Each car sharing program agreement made in this state must disclose to the shared vehicle owner and the shared vehicle driver:

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

(2) That 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 car sharing program;

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

(6) An emergency telephone number for personnel capable of fielding roadside assistance and other customer service inquiries.

(b)

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

(A) Holds a driver license issued by this state that authorizes the driver to operate motor vehicles of the class of the shared vehicle; or

(B) Is a nonresident who:

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

(ii) Is at least the same age as that required of a resident to drive under an unrestricted license.

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

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

(B) The number of the driver license of the shared vehicle driver and each other person, if any, who will operate the shared vehicle; and

(C) The date and place of issuance of the driver license.

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

(d)

(1) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

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

(B) Notify the shared vehicle owner of the requirements under subdivision (d)(2).

(2)

(A) If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, then a shared vehicle owner shall not make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

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

(C) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used in the possession of a shared vehicle driver, as soon as practicably possible after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-

to-peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

SECTION 7. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 8. This act shall take effect July 1, 2020, the public welfare requiring it.