

SENATE BILL No. 352

By Committee on Transportation

2-3

1 AN ACT concerning transportation; relating to peer-to-peer vehicle
2 sharing; insurance requirements; liability; recordkeeping; consumer
3 protection; enacting the peer-to-peer vehicle sharing program.
4

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

6 Section 1. Sections 1 through 14, and amendments thereto, shall be
7 known and may be cited as the peer-to-peer vehicle sharing program act.

8 Sec. 2. As used in this act:

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

10 (b) "Peer-to-peer vehicle sharing" means the authorized use of a
11 shared vehicle by an individual other than the shared vehicle's owner
12 through a peer-to-peer vehicle sharing program.

13 (c) "Peer-to-peer vehicle sharing program" means a business platform
14 that connects vehicle owners with drivers to enable the sharing of vehicles
15 for financial consideration.

16 (d) "Vehicle sharing program agreement" means the terms and
17 conditions applicable to a shared vehicle owner, a shared vehicle driver
18 and a peer-to-peer vehicle sharing program that govern the use of a shared
19 vehicle through a peer-to-peer vehicle sharing program.

20 (e) "Shared vehicle" means a vehicle that is available for sharing
21 through a peer-to-peer vehicle sharing program.

22 (f) "Shared vehicle driver" means an individual who has been
23 authorized to drive the shared vehicle by the shared vehicle owner under a
24 vehicle sharing program agreement.

25 (g) "Shared vehicle owner" means the registered owner of a vehicle
26 made available for sharing to shared vehicle drivers through a peer-to-peer
27 vehicle sharing program.

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

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

36 (j) "Vehicle sharing start time" means the time when the shared

1 vehicle becomes subject to the control of the shared vehicle driver at or
2 after the time the reservation of a shared vehicle is scheduled to begin as
3 documented in the records of a peer-to-peer vehicle sharing program.

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

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

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

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

15 Sec. 3. (a) Except as provided in subsection (b), a peer-to-peer
16 vehicle sharing program shall assume liability of a shared vehicle owner
17 for bodily injury or property damage to third parties for uninsured and
18 underinsured motorist or personal injury protection losses during the
19 vehicle sharing period in amounts stated in the peer-to-peer vehicle sharing
20 program agreement that shall not be less than those set forth in K.S.A. 40-
21 3107, and amendments thereto.

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

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

30 (2) acting in concert with a shared vehicle driver who fails to return
31 the shared vehicle.

32 (c) A peer-to-peer vehicle sharing program shall ensure that, during
33 each vehicle sharing period, the shared vehicle owner and the shared
34 vehicle driver are insured under a motor vehicle liability insurance policy
35 that provides insurance coverage in amounts no less than the minimum
36 amounts set forth in K.S.A. 40-3107, and amendments thereto, and the
37 policy:

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

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

42 (d) The insurance described under subsection (c) may be satisfied by
43 motor vehicle liability insurance maintained by:

- 1 (1) A shared vehicle owner;
2 (2) a shared vehicle driver;
3 (3) a peer-to-peer vehicle sharing program; or
4 (4) (A) a shared vehicle owner or a shared vehicle driver; and
5 (B) a peer-to-peer vehicle sharing program.
6 (e) The insurance described under subsection (d) that satisfies the
7 insurance requirement of subsection (c) shall be primary during each
8 vehicle sharing period.
9 (f) (1) The peer-to-peer vehicle sharing program shall assume
10 primary liability for a claim when it is in whole or in part providing the
11 insurance required under subsections (c) and (d) and:
12 (A) A dispute exists as to who was in control of the shared vehicle at
13 the time of the loss; and
14 (B) the peer-to-peer vehicle sharing program does not have available,
15 did not retain or fails to provide the information required under section 6,
16 and amendments thereto.
17 (2) The shared vehicle's insurer shall indemnify the peer-to-peer
18 vehicle sharing program to the extent of its obligation under, if any, the
19 applicable insurance policy, if it is determined that the shared vehicle's
20 owner was in control of the shared vehicle at the time of the loss.
21 (g) If insurance maintained by a shared vehicle owner or shared
22 vehicle driver in accordance with subsection (d) has lapsed or does not
23 provide the required coverage, insurance maintained by a peer-to-peer
24 vehicle sharing program shall provide the coverage required by subsection
25 (c) beginning with the first dollar of a claim and shall have the duty to
26 defend such claim except under circumstances described in subsection (b).
27 (h) Coverage under a motor vehicle liability insurance policy
28 maintained by the peer-to-peer vehicle sharing program shall not be
29 dependent on another motor vehicle insurer first denying a claim nor shall
30 another motor vehicle insurance policy be required to first deny a claim.
31 (i) Nothing in this section shall be construed to:
32 (1) Limit the liability of the peer-to-peer vehicle sharing program for
33 any act or omission of the peer-to-peer vehicle sharing program itself that
34 results in injury to any person as a result of the use of a shared vehicle
35 through the peer-to-peer vehicle sharing program; or
36 (2) limit the ability of the peer-to-peer vehicle sharing program to
37 contractually seek indemnification from the shared vehicle owner or the
38 shared vehicle driver for economic loss sustained by the peer-to-peer
39 vehicle sharing program resulting from a breach of the terms and
40 conditions of the vehicle sharing program agreement.
41 Sec. 4. Between the time that a vehicle owner registers as a shared
42 vehicle owner on a peer-to-peer vehicle sharing program and the time that
43 the shared vehicle owner makes a vehicle available as a shared vehicle on

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

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

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

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

22 Sec. 6. A peer-to-peer vehicle sharing program shall collect and
23 verify records pertaining to the use of a vehicle, including, but not limited to,
24 the times used, fees paid by the shared vehicle driver and revenues
25 received by the shared vehicle owner. The program shall provide that
26 information upon request to the shared vehicle owner, the shared vehicle
27 owner's insurer or the shared vehicle driver's insurer to facilitate a claim
28 coverage investigation. The peer-to-peer vehicle sharing program shall
29 retain the records for a time period not less than the applicable personal
30 injury statute of limitations.

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

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

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

42 Sec. 9. (a) Notwithstanding any other law, statute, rule or regulation
43 to the contrary, a peer-to-peer vehicle sharing program shall have an

1 insurable interest in a shared vehicle during the vehicle sharing period.

2 (b) Nothing in this section shall be construed to require that a peer-to-
3 peer vehicle sharing program maintain the coverage mandated by section
4 3, and amendments thereto.

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

8 (1) Liabilities assumed by the peer-to-peer vehicle sharing program
9 under a peer-to-peer vehicle sharing program agreement;

10 (2) any liability of the shared vehicle owner;

11 (3) damage or loss to the shared motor vehicle; or

12 (4) any liability of the shared vehicle driver.

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

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

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

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

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

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

36 (6) there may be conditions under which a shared vehicle driver must
37 maintain a personal motor vehicle liability insurance policy with certain
38 applicable coverage limits on a primary basis in order to reserve a shared
39 motor vehicle.

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

1 (c) A vehicle sharing program agreement is subject to the retailers'
2 sales tax imposed pursuant to K.S.A. 79-3603(h), and amendments thereto,
3 and such agreement shall not be considered an isolated or occasional
4 transaction.

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

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

11 (2) is a nonresident who:

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

15 (B) is at least the legal age required of a resident to drive in the state
16 of Kansas.

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

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

30 Sec. 13. (a) Between the time that a vehicle owner registers as a
31 shared vehicle owner on a peer-to-peer vehicle sharing program and before
32 the time that the shared vehicle owner makes a vehicle available as a
33 shared vehicle on the peer-to-peer vehicle sharing program, the peer-to-
34 peer vehicle sharing program shall:

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

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

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

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

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

14 Sec. 14. (a) A peer-to-peer vehicle sharing program, shared vehicle
15 owner or motor vehicle rental company shall, upon request of an airport,
16 including, but not limited to, any entity responsible for regulating
17 commerce at such airport within the state of Kansas, enter into an
18 agreement prior to:

19 (1) Listing shared vehicles or rental motor vehicles parked on airport
20 property or at airport facilities;

21 (2) facilitating the use of shared vehicles or rental motor vehicles to
22 transport airport customers to or from airport property or airport facilities,
23 regardless of whether that use is yet to be initiated or has a vehicle sharing
24 start time that occurs on or off airport property or airport facilities; or

25 (3) promoting or marketing shared vehicles or rental motor vehicles
26 to transport airport customers to or from airport property or airport
27 facilities, regardless of whether that use is yet to be initiated or has a
28 vehicle sharing start time that occurs on or off airport property or airport
29 facilities.

30 (b) The agreement required in subsection (a) shall set forth the same
31 or reasonably similar standards, regulations, procedures, fees and access
32 requirements applicable to any peer-to-peer vehicle sharing program, peer-
33 to-peer vehicle sharing and motor vehicle rental company.

34 Sec. 15. This act shall take effect and be in force from and after
35 January 1, 2021, and its publication in the statute book.