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SB 1720: peer-to-peer car sharing

Sponsor: Senator Fann, LD 1

House Engrossed

Overview

Establishes laws governing Peer-to-Peer Car Sharing.

History

Currently, a person engaged in the business of renting motor vehicles without drivers is required to collect a five percent surcharge on each rental contract that is for a period of fewer than 180 days. The surcharge is computed on the total amount stated in the contract less any applicable taxes, and is a reimbursement for the amount of the vehicle license tax imposed on the vehicle ([A.R.S. § 28-5810](#)). Rental car surcharges are also levied and collected by the Arizona Sports and Tourism Authority (AZSTA) and stadium districts ([A.R.S. §§ 5-839](#); and [48-4234](#)).

According to the National Conference of State Legislatures, Car sharing is a free-market approach to mobility that can offer important mobility options for those who do not need or want to own a car, but who may need to use one for a few hours to grocery shop or visit a relative. Car sharing is distinct from ride sourcing in that members are actually driving a vehicle themselves rather than being picked up and driven as is the case with services such as Uber and Lyft. Typically, car sharing is a membership-based service that provides members of a car-sharing organization access to an insured vehicle; gas and free dedicated parking may be included. Four main car sharing models exist: roundtrip, one-way station-based, one-way floating and peer-to-peer (P2P).

At least nine states have passed legislation relating to peer-to-peer car sharing since 2010. Peer-to-peer car sharing legislation passed so far generally addresses: 1) insurance requirements and liability for peer-to-peer programs; 2) consumer disclosure agreements; 3) safety recalls and consumer protection; and 4) concession agreements with airport authorities. At least Maryland, Florida and Hawaii have introduced legislation in 2021 to address the taxation of peer-to-peer car sharing programs. Maryland originally passed legislation in 2018 that sunset on July 1, 2020 that, in part, required the Maryland Motor Vehicle Division and the Maryland Office of the Comptroller to compile certain information that could assist the Maryland Legislature in determining fair and equitable taxation on peer-to-peer transactions. ([NCSL](#)).

Provisions

Peer-to-Peer Car Sharing (Sec. 1)

Insurance

1. Requires a peer-to-peer car sharing program (Program) to assume certain liabilities in an amount as stated in the car sharing program but not less than statutorily prescribed minimum amounts (25/50/15).

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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2. Provides circumstances in which the Program is not liable for bodily injury or property damage to a third party in an amount that is greater than minimum amount of coverage as required by statute.
3. Specifies that the assumption of liability applies to bodily injury and property damage to third parties.
4. Requires a Program to ensure that an owner and driver of the shared vehicle have insurance policies that provide insurance coverage during a car sharing period in statutorily prescribed minimum amounts.
 - a) Outlines requirements for the insurance policies.
5. Allows insurance requirements to be met by an owner or driver of a shared vehicle or a Program, or a combination of all three.
6. Asserts the insurance required during a car sharing period is primary during each sharing period.
7. Requires a Program to assume primary liability for a claim if:
 - a) The Program provides the required insurance in whole or in part;
 - b) A dispute exists as to who was in control of the shared vehicle at the time of the loss; and
 - c) The Program for any reason fails to provide information related to a shared vehicle transaction that are required to be retained as specified.
8. Provides requirements for a Program and insurance that is maintained by a Program in the event the insurance that is maintained by shared vehicle owner or driver lapses or does not provide the required coverage.
9. Requires a shared vehicle's insurer to indemnify a Program to the extent of the Program's obligation if the shared vehicle owner was in control of a shared vehicle at the time of a loss.
10. Specifies that insurance policy maintained by a Program is not dependent on a motor vehicle liability insurer first denying a claim under any other motor vehicle insurance policy.
11. Prohibits a Program from:
 - a) Offering or selling insurance except in conjunction with and incidental to car sharing program agreements;
 - b) Advertising, representing or otherwise portraying itself or any of its employees or agents as licensed insurers or insurance producers, unless the Program is a licensed insurer or insurance producer;
 - c) Paying a person any compensation, fee or commission that is dependent on the placement of insurance under a Program's license; and
 - d) Making a car sharing program agreement contingent on the shared vehicle driver purchasing insurance through the Program.
12. Specifies a Program is not prohibited from recovering its insurance costs incurred in satisfying its obligations from a shared vehicle owner or driver.
13. Specifies the prohibitions on a Program does not prevent production or incentive payments to an employee if the payments are not dependent on the sale of insurance.
14. Asserts the laws governing Peer-to-Peer Car Sharing do not limit:
 - a) The liability of a Program for any act or omission resulting in injury to any person as a result of the use of a shared vehicle; and
 - b) The ability of a Program to seek indemnification from a shared vehicle owner or driver for economic losses due to a breach in a program agreement.

Vehicles with a Lien

15. Requires a Program to notify a shared vehicle owner who registers a vehicle with a lien on a Program, prior to the vehicle becoming available, both of the following:
 - a) That sharing a vehicle may violate the terms of the contract with the lienholder; and
 - b) That the contract with the lienholder may impose specific requirements for physical damage coverage.

Authorized Insurer Exclusions

16. Permits an authorized insurer to exclude any and all coverage and the duty to defend or indemnify any claim against a shared vehicle owner's personal liability insurance policy, including specified coverages.
17. Specifies exclusions in a motor vehicle liability insurance policy, including policies that exclude coverage for vehicles made available for rent, sharing, hire or for any business use, are not invalidated or limited by laws governing Peer-to-Peer Car Sharing.

Shared Vehicle Records Retention

18. Requires a Program to collect records relating to the use of a shared vehicle, including times used, fees paid by a shared vehicle driver and monies received by the shared vehicle owner, to be made available on request of the owner, owner's insurer or driver's insurer in order to facilitate a claim investigation.
 - a) Requires such records to be retained for at least six years.

Vicarious Liability Exemption

19. Exempts a Program and a shared vehicle owner from vicarious liability consistent with federal law and under any state or local law that imposes liability solely based on vehicle ownership.

Insurance Indemnification

20. Permits an insurer to seek contribution or indemnification from the Program's insurer for a claim involving a shared vehicle excluded from the insurer's policy if the claim is:
 - a) Made against the shared vehicle owner or driver for loss or injury that occurs during the car sharing period; and
 - b) Excluded under the terms of the insurer's policy.

Insurable Interests

21. Stipulates a Program has an insurable interest in a shared vehicle during the car sharing period, but a Program is not required to maintain mandated insurance coverage.
22. Allows a Program to purchase one or more motor vehicle insurance policies that provide coverage for:
 - a) Liabilities assumed by the P2P Program under a program agreement;
 - b) Any liability of the shared vehicle owner; or
 - c) Damage or loss to the shared vehicle or for any liability of the shared vehicle driver.

Car Sharing Program Agreements

23. Requires a program agreement to disclose to the shared vehicle owner and driver the following:
 - a) That the Program has a right to seek indemnification from the shared vehicle owner or driver for economic loss sustained resulting from a breach in a program agreement;
 - b) That a motor vehicle liability insurance policy issued to the shared vehicle owner or driver does not provide a defense or indemnification for any claim asserted by the Program;
 - c) That the Program's insurance coverage on a shared vehicle owner or driver only applies during a car sharing period and that the owner or driver may not have insurance when operating a shared vehicle after the car sharing termination time;

- d) The daily rate, fees and insurance or protection package costs that are charged to a shared vehicle owner or driver;
 - e) That the shared vehicle owner's motor vehicle liability insurance policy may not provide coverage for a shared vehicle;
 - f) An emergency telephone number for roadside assistance and other customer service inquiries;
 - g) Whether there are conditions that require a person to maintain a personal motor vehicle liability insurance policy with certain minimum coverage limits on a primary basis in order for the person to become a shared vehicle driver; and
 - h) That the shared vehicle owner's or driver's motor vehicle liability insurance may already provide coverage as required.
24. Permits a Program to enter into a program agreement with a driver operating a shared vehicle, provided the driver meets specified criteria.
25. Requires a Program to keep record of:
- a) The name, address and driver license number of each shared vehicle driver; and
 - b) The date and place of issuance of the shared vehicle driver's driver license.
26. Stipulates if the shared vehicle is an individual-owned shared vehicle, a Program is not:
- a) In the business of leasing or renting for less than one-year motor vehicles for hire without a driver; and
 - b) Subject to certain car rental surcharges.

Equipment Responsibility

27. Asserts a Program has sole responsibility for any equipment that is put in or on a shared vehicle to monitor or facilitate the shared vehicle transaction.
28. Requires a Program to indemnify and hold a shared vehicle owner harmless for damage to or theft of equipment during the car sharing period if the owner is not the cause of damage or theft.
29. Allows a Program to seek indemnity from the shared vehicle driver for any loss or damage to the equipment that occurs during the car sharing period.

Safety Recall

30. Requires a Program, before the shared vehicle is made available on the Program, to:
- a) Verify that the shared vehicle does not have unrepaired safety recalls; and
 - b) Notify the shared vehicle owner of requirements related to safety and recall and removal of a vehicle from the Program.
31. Prohibits the vehicle owner from making a vehicle available for rent on a Program if any safety recalls have received by the owner until the safety recall repairs have been made.
32. Instructs the shared vehicle owner who receives a safety recall notice while the vehicle is currently available on a Program to remove the vehicle from the Program as soon as practicable.
- a) Prohibits an owner from making the vehicle available on the Program again until the safety recall repair is made.
33. Instructs a shared vehicle owner who receives a safety recall notice while the vehicle is in possession of a shared vehicle driver to notify the Program about the safety recall so that the owner may make the safety recall repair.

Airports

34. Asserts a public airport is not prohibited or restricted from implementing rules or licensing requirements or from assessing fees or charges to shared vehicle transactions that either:
 - a) Are conducted at a public airport; or
 - b) Use an off-airport shuttle service provider contracted with the public airport to access a shared vehicle off the public airport premises.

Vehicle Manufacturers and Dealers

35. Specifies laws governing Peer-to-Peer Car Sharing do not expand or restrict the respective rights, obligations and limitations of motor vehicle manufacturers and licensed motor vehicle dealers set forth in statute relating to franchise regulation.

Transaction Privilege Tax and Surcharges

36. Subjects a shared vehicle transaction to Transaction Privilege Tax (TPT) and affiliated excise taxes.
37. Exempts a shared vehicle transaction from the vehicle license rental surcharge.
38. Exempts a shared vehicle transaction from the AZSTA surcharge and the stadium district surcharge if the shared vehicle owner certifies to the Arizona Department of Revenue (ADOR) that the vehicle is an individual-owned shared vehicle.
 - a) Specifies that an owner's certification is required only once for the duration of the time that the owner owns the shared vehicle.
 - b) Directs ADOR to verify that the vehicle is an individual-owned shared vehicle.
39. Specifies a Program that accepts payment for a shared vehicle transaction in Arizona is subject to TPT and affiliated excise taxes.
40. Allows a Program to rely in good faith on the shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with ADOR.
41. Exempts a Program from liability for any tax, penalty, fee or other sanction imposed on the shared vehicle owner if a Program relied in good faith on an owner's representation that the vehicle is a certified individual-owned shared vehicle.
42. Prohibits a local government or political subdivision of Arizona from imposing any additional taxes, fees or charges on the gross proceeds or gross income of a shared vehicle transaction that are not imposed by a jurisdiction on every other transaction involving motor vehicles for hire without drivers.

Miscellaneous

43. Requires a Program to register with ADOR for a license to pay taxes levied in Arizona and one or more counties, cities, towns or special taxing districts that are due from a shared vehicle transaction, subject to outlined limitations. (Sec. 2)
44. Directs a Program to remit AZSTA and stadium district surcharges for shared vehicle transactions that involve noncertified individual-owned shared vehicles. (Sec. 2)
45. Entitles a shared vehicle owner with an exclusion from any applicable taxes levied on shared vehicle transactions for which the Program has collected and remitted the applicable taxes. (Sec. 3)
46. Requires a Program licensed by ADOR to:
 - a) Electronically remit applicable TPT and local excise taxes to ADOR as well as any surcharges due for transactions involving vehicles that are not individual-owned shared vehicles; and

- b) Electronically report the taxes monthly and remit the aggregate total amounts for each respective taxing jurisdiction. (Sec. 4)
- 47. Specifies a Program is not required to list or otherwise identify an individual-owned shared vehicle on any return or any attachment to a return. (Sec. 4)
- 48. Instructs a Program to retain surcharge and tax information for each vehicle sharing transaction and provide the information to ADOT upon request. (Sec. 4)
- 49. Specifies the remittance of TPT or any other tax applicable to shared vehicle transactions by a Program fully satisfies any obligation of a shared vehicle owner to remit taxes applicable to the transaction. (Sec. 4)
- 50. Requires a shared vehicle transaction to be sourced as follows:
 - a) To the permanent address of the registered shared vehicle owner if the owner is registered in Arizona;
 - b) To the street address in Arizona where the shared vehicle owner resides while in Arizona if the shared vehicle is registered in another state or country; or
 - c) To the location of the shared vehicle at the car sharing start time if the shared vehicle owner does not reside in Arizona and the shared vehicle is registered in another state or country. (Sec. 5)
- 51. Includes peer-to-peer car sharing to the personal property rental tax classification. (Sec. 6)
- 52. Excludes, from the tax base of the personal property rental classification, the gross proceeds or gross income received by a shared vehicle owner from a Program. (Sec. 6)
- 53. Defines pertinent terms. (Sec. 1-6)