

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1258

Introduced by Bostar, 29.

Read first time January 20, 2022

Committee:

- 1 A BILL FOR AN ACT relating to motor vehicles; to adopt the Peer-to-Peer
- 2 Vehicle Sharing Program Act; and to provide an operative date.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 16 of this act shall be known and may be
2 cited as the Peer-to-Peer Vehicle Sharing Program Act.

3 Sec. 2. For purposes of the Peer-to-Peer Vehicle Sharing Program
4 Act, unless the context otherwise requires:

5 (1) Agreement means the terms and conditions applicable to a vehicle
6 owner and a vehicle driver that govern the use of a vehicle shared
7 through a peer-to-peer vehicle sharing program. Agreement does not mean a
8 rental agreement as defined in section 44-4067;

9 (2) Delivery period means the period of time during which a vehicle
10 is being delivered to the location at which the start time begins, if
11 applicable, as documented by the agreement;

12 (3) Driver means an individual who has been authorized to drive a
13 vehicle by an owner under an agreement;

14 (4) Owner means the registered owner, or a person or entity
15 designated by the registered owner, of a vehicle made available for
16 sharing through a peer-to-peer vehicle sharing program;

17 (5) Peer-to-peer vehicle sharing program or program means a business
18 platform that connects vehicle owners with drivers to enable the sharing
19 of vehicles for financial consideration. A program is not a
20 transportation network company as defined in section 75-323 or a rental
21 car company as defined in section 44-4067;

22 (6) Sharing means the authorized use of a vehicle by an individual
23 other than an owner through a peer-to-peer vehicle sharing program;

24 (7) Sharing period means the period of time that commences with the
25 delivery period or, if there is no delivery period, that commences with
26 the start time and, in either case, ends at the termination time;

27 (8) Start time means the time when a vehicle becomes subject to the
28 control of a driver at or after the time the reservation is scheduled to
29 begin as documented in the records of a program;

30 (9) Termination time means the earliest of the following events:

31 (a) The expiration of the agreed upon period of time established for

1 the use of a vehicle according to the terms of the agreement if the
2 vehicle is delivered to the location agreed upon in the agreement;

3 (b) When a vehicle is returned to a location as alternatively agreed
4 upon by the owner and driver as communicated through the peer-to-peer
5 vehicle sharing program. Such alternatively agreed upon location shall be
6 incorporated into the agreement; or

7 (c) When an owner, or the owner's authorized designee, takes
8 possession and control of the vehicle; and

9 (10) Vehicle means a personal motor vehicle that is available for
10 use through a peer-to-peer vehicle sharing program. Vehicle does not mean
11 a rental vehicle as defined in section 44-4067.

12 Sec. 3. (1) Except as provided in subsection (2) of this section, a
13 peer-to-peer vehicle sharing program shall assume liability of a vehicle
14 owner for bodily injury or property damage to third parties or uninsured
15 and underinsured motorist losses during the sharing period in an amount
16 stated in the agreement, which amount may not be less than that set forth
17 in section 60-310.

18 (2) Notwithstanding the definition of termination time, the
19 assumption of liability under subsection (1) of this section does not
20 apply to any vehicle owner when such owner:

21 (a) Makes a material, intentional, or fraudulent misrepresentation,
22 or a material, intentional, or fraudulent omission, to a program before
23 the sharing period in which the loss occurred; or

24 (b) Acts in concert with a driver who fails to return a vehicle
25 pursuant to the terms of an agreement.

26 (3) Notwithstanding the definition of termination time, the
27 assumption of liability under subsection (1) of this section applies to
28 bodily injury, property damage, and uninsured and underinsured motorist
29 losses by injured third parties required by section 60-310.

30 Sec. 4. (1) A program shall ensure that, during each sharing
31 period, the vehicle owner and vehicle driver are insured under a motor

1 vehicle liability insurance policy that provides financial responsibility
2 in amounts no less than the minimum amounts set forth in section 60-310
3 that:

4 (a) Recognizes that the vehicle is made available and used through
5 the program; or

6 (b) Does not exclude use of the vehicle by a driver through the
7 program.

8 (2) The financial responsibility required under subsection (1) of
9 this section may be satisfied by motor vehicle liability insurance or
10 other acceptable means of demonstrating financial responsibility in this
11 state, voluntarily maintained by:

12 (a) The owner;

13 (b) The driver;

14 (c) The program; or

15 (d) Any combination of owner, driver, and program.

16 (3) The financial responsibility described in subsection (1) of this
17 section and satisfied pursuant to subsection (2) of this section shall be
18 primary coverage during the sharing period in the event that a claim
19 occurs in another state with minimum financial responsibility limits
20 higher than those required under section 60-310, and during the sharing
21 period the coverage maintained under subsection (2) of this section shall
22 satisfy the difference in minimum coverage amounts, up to the applicable
23 policy limits.

24 (4) The insurer, insurers, or peer-to-peer vehicle sharing program
25 providing coverage under section 3 or 4 of this act shall assume primary
26 liability for a claim when:

27 (a) A dispute exists as to who was in control of the vehicle at the
28 time of the loss and the program does not have available, did not retain,
29 or fails to provide the information required by section 4 of this act; or

30 (b) A dispute exists as to whether the vehicle was returned to the
31 alternatively agreed-upon location as described in subdivision (9)(b) of

1 section 2 of this act.

2 (5) If insurance maintained by the owner or the driver in accordance
3 with subsection (2) of this section has lapsed or does not provide the
4 required financial responsibility, the program or its insurer shall
5 provide the coverage required by subsection (1) of this section beginning
6 with the first dollar of a claim and have the duty to defend such claim
7 except under circumstances as set forth in subsection (2) of section 3 of
8 this act.

9 (6) Financial responsibility maintained by the program shall not be
10 dependent on another automobile insurer first denying a claim, nor shall
11 another automobile insurance policy be required to first deny a claim.

12 (7) Nothing in the Peer-to-Peer Vehicle Sharing Program Act:

13 (a) Limits the liability of a program for any act or omission of the
14 program itself that results in injury to any person as a result of the
15 use of a vehicle through the program; or

16 (b) Limits the ability of a program, by contract, to seek
17 indemnification from an owner or a driver for economic loss sustained by
18 the program resulting from a breach of the terms and conditions of an
19 agreement.

20 Sec. 5. (1) If a vehicle has a lien against it, a peer-to-peer
21 vehicle sharing program shall ensure that during each sharing period the
22 vehicle owner's risk of loss due to physical damage to the vehicle is
23 covered though either:

24 (a) A physical damage protection package as described in subsection
25 (3) of this section;

26 (b) A financial protection package as described in subsection (4) of
27 this section; or

28 (c) Any policy of insurance providing comprehensive and collision
29 coverage that recognizes that the vehicle insured under the policy is
30 made available and used through a peer-to-peer vehicle sharing program.

31 (2) The requirement set forth in subsection (1) of this section may

1 be satisfied by any product, including a physical damage protection
2 package, a financial protection package, or a comprehensive and collision
3 damage protection package provided by:

4 (a) The vehicle owner;

5 (b) The vehicle driver;

6 (c) The peer-to-peer vehicle sharing program; or

7 (d) Any combination of a vehicle owner, vehicle driver, or peer-to-
8 peer vehicle sharing program.

9 (3)(a) A peer-to-peer vehicle sharing program may enter into a
10 contract with a vehicle owner pursuant to which the program agrees, for a
11 fee, to contractually assume some or all of the vehicle owner's risk of
12 loss due to physical damage to the vehicle during the time that such
13 vehicle is in the custody of the vehicle driver or program and:

14 (i) Such contractual assumption of risk shall not be deemed to be
15 physical damage insurance or the transaction of the business of insurance
16 in the state; and

17 (ii) Such assumption of risk may include loss due to wear and tear,
18 the cost of a substitute vehicle, or towing or other loss directly
19 related to the sharing of the vehicle through the program.

20 (b) A peer-to-peer vehicle sharing program may enter into a contract
21 with a vehicle driver pursuant to which the program agrees, for a fee, to
22 contractually assume all or part of the vehicle driver's liability for
23 physical damage to the vehicle due to physical damage to the vehicle
24 during the time that such vehicle is in the custody of the vehicle
25 driver, and such contractual assumption of liability:

26 (i) Shall not be deemed to be physical damage insurance or the
27 transaction of the business of insurance in the state;

28 (ii) May be referred to as a collision damage waiver, optional
29 vehicle protection, financial protection, physical damage protection, or
30 similar descriptive terms; and

31 (iii) Shall be on a separate form which includes each of the

1 following requirements:

2 (A) The terms of the assumption of liability, including, but not
3 limited to, any conditions or exclusions; and

4 (B) Notice that coverage to the vehicle may be covered under the
5 vehicle driver's own automobile insurance.

6 (4)(a) A peer-to-peer vehicle sharing program may offer a financial
7 protection package consisting of a combination of any insurance permitted
8 under section 4 of this act and any contractual assumption of physical
9 damage loss or liability permitted under subsection (3) of this section.

10 (b) Any such financial protection package may be identified as a
11 package, financial protection plan, or any words of similar description.

12 (c) The cost of any such financial protection package may be
13 calculated on a daily basis as a percentage of the daily reservation fee.

14 (d) Offering any such financial protection package is not the sale,
15 solicitation, or negotiation of insurance merely because the package
16 includes the term insurance in its name.

17 Sec. 6. At the time an owner registers a vehicle for use through
18 the program and again prior to the time such owner makes such vehicle
19 available for use through such program, the program shall notify the
20 owner that if the vehicle has a lien against it, the use of the vehicle
21 through the program, including use without physical damage coverage, may
22 violate the terms of the contract with the lienholder.

23 Sec. 7. (1) An authorized insurer that writes motor vehicle
24 liability insurance in this state may exclude any and all coverage and
25 the duty to defend or indemnify for any claim afforded under the owner's
26 motor vehicle liability insurance policy, including, but not limited to:

27 (a) Liability coverage for bodily injury and property damage;

28 (b) Personal injury protection coverage as defined;

29 (c) Uninsured and underinsured motorist coverage;

30 (d) Medical payments coverage;

31 (e) Comprehensive physical damage coverage; and

1 (f) Collision physical damage coverage.

2 (2) Nothing in the this section invalidates, limits, or restricts an
3 insurer's ability under existing law to underwrite any insurance policy.
4 Nothing in the Peer-to-Peer Vehicle Sharing Program Act invalidates,
5 limits, or restricts an insurer's ability to cancel and nonrenew
6 insurance policies.

7 Sec. 8. (1) A program shall collect and verify records pertaining
8 to the use of a vehicle, including, but not limited to, sharing periods,
9 sharing period pick-up and drop-off locations, fees paid by a driver, and
10 revenue received by an owner.

11 (2) A program shall provide the information collected pursuant to
12 subsection (1) of this section upon request to the owner, the owner's
13 insurer, and the driver's insurer to facilitate a claim coverage
14 investigation, settlement, negotiation, or litigation.

15 (3) A program shall retain the records required in this section for
16 a period of not less than four years.

17 Sec. 9. A motor vehicle insurer that defends or indemnifies a claim
18 arising from the operation of a vehicle that is excluded under the terms
19 of its policy shall have the right to seek recovery against the motor
20 vehicle insurer of the program if the claim is made (1) against the owner
21 or driver for loss or injury that occurs during the sharing period and
22 (2) excluded under the terms of its policy.

23 Sec. 10. (1) A program shall have an insurable interest in a
24 vehicle during the sharing period.

25 (2) Nothing in this section shall impose liability on a program to
26 maintain the coverage required by section 3 or section 4 of this act.

27 (3) A program may own and maintain as the named insured one or more
28 policies of motor vehicle liability insurance that provides coverage for:

29 (a) Liabilities assumed by the program under an agreement;

30 (b) Liability of an owner;

31 (c) Damage or loss to a vehicle; or

1 (d) Liability of a driver.

2 Sec. 11. A program and an owner shall be exempt from vicarious
3 liability in accordance with 49 U.S.C. 30106(a), as such section existed
4 on January 1, 2022, and under any state or local law that imposes
5 liability solely based on vehicle ownership.

6 Sec. 12. (1) Each agreement made in this state shall disclose to
7 each owner and driver:

8 (a) Any right of the program to seek indemnification from an owner
9 or a driver for economic loss sustained by the program resulting from a
10 breach of the terms and conditions of the agreement;

11 (b) That a motor vehicle liability insurance policy issued to an
12 owner for the vehicle, or to a driver, may not provide a defense or
13 indemnity for any claim asserted by the program;

14 (c) That a program's financial responsibility afforded to each owner
15 and driver is available only during the sharing period;

16 (d) That for any use of a vehicle by a driver after the termination
17 time, a driver or owner may not have coverage;

18 (e) The daily rate, fees, costs, and, if applicable, any insurance
19 or protection package costs that are charged to an owner or a driver;

20 (f) That an owner's motor vehicle liability insurance may not
21 provide coverage for the vehicle; and

22 (g) That either a physical damage protection package or financial
23 protection package obtained pursuant to section 5 of this act only
24 provides protection during the sharing period.

25 (2) Each agreement made in this state shall disclose to each driver:

26 (a) An emergency telephone number to personnel capable of fielding
27 roadside assistance and other customer service inquiries; and

28 (b) Any conditions under which a driver must maintain a personal
29 automobile insurance policy and any required coverage limits on a primary
30 basis in order to use a vehicle through the program.

31 Sec. 13. A program shall have sole responsibility for any

1 equipment, such as a global positioning system or other special
2 equipment, that is put in or on a vehicle to monitor or facilitate
3 sharing and shall agree to indemnify and hold harmless the owner for any
4 damage to or theft of such equipment during the sharing period not caused
5 by the owner. A program has the right to seek indemnity from a driver for
6 any loss or damage to such equipment that occurs during the sharing
7 period.

8 Sec. 14. (1) At the time an owner registers a vehicle for use by a
9 program, and prior to the time when the owner makes a vehicle available
10 for use by such program, the program shall:

11 (a) Verify that the vehicle does not have any safety recalls for
12 which the repairs have not been made; and

13 (b) Notify the owner of the requirements under subsection (2) of
14 this section.

15 (2) An owner shall:

16 (a) Not make a vehicle available for use through a program if the
17 owner has received actual notice of a safety recall on such vehicle until
18 the safety recall repair has been made;

19 (b) Upon receipt of actual notice of a safety recall on a vehicle
20 when such vehicle is available for use through a program, remove the
21 vehicle from availability as soon as practicably possible and until the
22 safety recall repair has been made; and

23 (c) Upon receipt of actual notice of a safety recall on a vehicle,
24 and when the vehicle is in the possession of a driver, notify the program
25 of the safety recall so that the program may notify the driver and the
26 vehicle can be removed from use until the owner makes the necessary
27 safety recall repair.

28 Sec. 15. (1) A program shall not enter into an agreement with any
29 driver unless such driver:

30 (a) Holds a driver's license issued in this state authorizing the
31 driver to operate vehicles of the class of vehicle used by the program;

1 or

2 (b) Is a nonresident who:

3 (i) Holds a driver's license issued by the state or country of the
4 driver's residence that authorizes the driver in that state or country to
5 drive vehicles of the class of vehicle used by the program; and

6 (ii) Is at least the same age as that required of a resident to
7 drive in this state.

8 (2) A program shall keep a record of:

9 (a) The name and address of each driver; and

10 (b) The driver's license number and place of issuance for each
11 driver who operates a vehicle under the agreement.

12 Sec. 16. Nothing in the Peer-to-Peer Vehicle Sharing Program Act
13 shall be construed to limit the powers of an airport authority under
14 Nebraska law.

15 Sec. 17. This act becomes operative on January 1, 2023.