

CAR-SHARING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to motor vehicles shared through a car-sharing business platform.

Highlighted Provisions:

This bill:

- ▶ enacts provisions relating to business platforms that connect motor vehicle owners with drivers to enable the sharing of motor vehicles for consideration;
- ▶ enacts consumer protection provisions relating to a car-sharing program, including:
 - required disclosures on a car-sharing agreement;
 - driver requirements; and
 - records of a car-sharing program;
- ▶ enacts provisions relating to liability and insurance for claims arising during the period a shared vehicle is used under a car-sharing program; and
- ▶ defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



- 28 [13-48a-101](#), Utah Code Annotated 1953
- 29 [13-48a-102](#), Utah Code Annotated 1953
- 30 [13-48a-201](#), Utah Code Annotated 1953
- 31 [13-48a-202](#), Utah Code Annotated 1953
- 32 [13-48a-203](#), Utah Code Annotated 1953
- 33 [13-48a-204](#), Utah Code Annotated 1953
- 34 [13-48a-205](#), Utah Code Annotated 1953
- 35 [13-48a-301](#), Utah Code Annotated 1953
- 36 [13-48a-302](#), Utah Code Annotated 1953
- 37 [13-48a-303](#), Utah Code Annotated 1953
- 38 [13-48a-304](#), Utah Code Annotated 1953
- 39 [13-48a-305](#), Utah Code Annotated 1953
- 40 [13-48a-306](#), Utah Code Annotated 1953
- 41 [13-48a-307](#), Utah Code Annotated 1953

43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section [13-48a-101](#) is enacted to read:

45 **CHAPTER 48a. CAR-SHARING PROGRAMS**

46 **Part 1. General Provisions**

47 **13-48a-101. Definitions.**

48 As used in this chapter:

49 (1) (a) "Car sharing" means the authorized use of a motor vehicle:

50 (i) by an individual other than the owner of the motor vehicle; and

51 (ii) through a car-sharing program.

52 (b) "Car sharing" does not mean the business of providing private passenger motor
 53 vehicles to the public as used in Section [31A-22-311](#).

54 (2) (a) "Car-sharing agreement" means an agreement:

55 (i) applicable to a shared vehicle owner and a shared vehicle driver; and

56 (ii) that governs a shared vehicle driver's use of a shared vehicle through a car-sharing
 57 program.

58 (b) "Car-sharing agreement" does not mean:

59 (i) a short-term lease or rental of a motor vehicle as used in Section 59-12-1201; or

60 (ii) a rental agreement, as defined in Section 31A-22-311.

61 (3) "Car-sharing delivery period" means the period of time during which a shared

62 vehicle is being delivered to the location of the car-sharing start time, if applicable, as

63 documented by the governing car-sharing agreement.

64 (4) "Car-sharing period" means the period of time that:

65 (a) (i) begins at the car-sharing delivery period; or

66 (ii) if there is no car-sharing delivery period, begins at the car-sharing start time; and

67 (b) ends at the car-sharing termination time.

68 (5) (a) "Car-sharing program" means a business platform that connects motor vehicle

69 owners with drivers to enable the sharing of motor vehicles for consideration.

70 (b) "Car-sharing program" does not mean:

71 (i) a motor vehicle rental company, as defined in Section 13-48-102; or

72 (ii) a rental company, as defined in Section 31A-22-311.

73 (6) "Car-sharing start time" means the time when a shared vehicle becomes subject to

74 the control of the shared vehicle driver at or after the time the reservation of the shared vehicle

75 is scheduled to begin, as documented in the records of the car-sharing program.

76 (7) "Car-sharing termination time" means the earliest of the following events:

77 (a) the expiration of the agreed upon period of time established for the use of a shared

78 vehicle according to the terms of the car-sharing agreement, if the shared vehicle is delivered to

79 the location agreed upon in the car-sharing agreement;

80 (b) when the shared vehicle is returned to a location as alternatively agreed upon by the

81 shared vehicle owner and shared vehicle driver as communicated through a car-sharing

82 program, which alternatively agreed upon location shall be incorporated into the car-sharing

83 agreement; and

84 (c) when the shared vehicle owner or shared vehicle owner's authorized designee takes

85 possession and control of the shared vehicle.

86 (8) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

87 (9) "Shared vehicle" means a motor vehicle that is available for use by an individual

88 other than the shared vehicle owner through a car-sharing program.

89 (10) (a) "Shared vehicle driver" means an individual who has been authorized to drive

90 a shared vehicle by the shared vehicle owner under a car-sharing program.

91 (b) "Shared vehicle driver" does not mean a renter, as defined in Section [31A-22-311](#).

92 (11) (a) "Shared vehicle owner" means:

93 (i) the registered owner of a motor vehicle made available for car sharing; or

94 (ii) a person designated by the registered owner of a motor vehicle made available for
95 car sharing.

96 (b) "Shared vehicle owner" does not mean a rental company, as defined in Section
97 [31A-22-311](#).

98 Section 2. Section **13-48a-102** is enacted to read:

99 **13-48a-102. Limits on reach of chapter.**

100 Nothing in this chapter:

101 (1) limits the liability of a car-sharing program for an act or omission of the car-sharing
102 program that results in injury to a person as a result of the use of a shared vehicle through a
103 car-sharing program; or

104 (2) limits the ability of the car-sharing program, by contract, to seek indemnification
105 from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the
106 car-sharing program resulting from a breach of the terms and conditions of the car-sharing
107 agreement.

108 Section 3. Section **13-48a-201** is enacted to read:

109 **Part 2. Consumer Protection Provisions**

110 **13-48a-201. Notification about possible violation of lienholder agreement.**

111 (1) As used in this section, "lienholder agreement" means an agreement between the
112 owner of a motor vehicle and another person under which the other person has a lien against
113 the motor vehicle.

114 (2) At the time that the owner of a motor vehicle registers to make the owner's motor
115 vehicle available for sharing through a car-sharing program, the car-sharing program shall
116 notify the owner that the use of the owner's motor vehicle through the car-sharing program,
117 including without physical damage coverage, may violate the terms of a lienholder agreement
118 that the motor vehicle may be subject to.

119 Section 4. Section **13-48a-202** is enacted to read:

120 **13-48a-202. Safety recalls.**

121 (1) At the time that the owner of a motor vehicle registers to make the owner's motor
122 vehicle available for sharing through a car-sharing program, the car-sharing program shall:

123 (a) verify that the shared vehicle does not have any safety recalls for which the repairs
124 have not been made; and

125 (b) notify the motor vehicle owner of the requirements under Subsections (2), (3), and
126 (4).

127 (2) An owner of a motor vehicle may not register to make the owner's motor vehicle
128 available for sharing through a car-sharing program if:

129 (a) the owner has received an actual notice of a safety recall applicable to the motor
130 vehicle; and

131 (b) the safety recall repair has not been made.

132 (3) A shared vehicle owner who receives an actual notice of a safety recall applicable
133 to the shared vehicle during the time that the shared vehicle is made available for sharing
134 through a car-sharing program shall, as soon as practicably possible after receiving the notice,
135 remove the shared vehicle from availability for sharing through the car-sharing program until
136 the safety recall repair is made.

137 (4) A shared vehicle owner who receives an actual notice of a safety recall applicable
138 to the shared vehicle during the time that the shared vehicle is in the possession of a shared
139 vehicle driver under a car-sharing agreement shall, as soon as practicably possible after
140 receiving the notice, notify the car-sharing program about the safety recall so that the shared
141 vehicle owner may address the safety recall repair.

142 Section 5. Section **13-48a-203** is enacted to read:

143 **13-48a-203. Required disclosures for a car-sharing agreement.**

144 A car-sharing agreement shall disclose to the shared vehicle owner and the shared
145 vehicle driver:

146 (1) a right of the car-sharing company to seek indemnification from the shared vehicle
147 owner or shared vehicle driver for economic loss resulting from a breach of the car-sharing
148 agreement;

149 (2) that a motor vehicle liability insurance policy issued to the shared vehicle owner or
150 shared vehicle driver does not provide a defense or indemnification for any claim asserted by
151 the car-sharing company;

152 (3) that the car-sharing program's insurance policy covering the shared vehicle owner
153 and the shared vehicle driver is in effect only during the car-sharing period and that, for any use
154 of the shared vehicle by the shared vehicle driver after the car-sharing termination time, the
155 shared vehicle driver and the shared vehicle owner may not have insurance coverage;

156 (4) of the daily rate, fees, and, if applicable, insurance or protection package costs that
157 are charged to the shared vehicle owner or shared vehicle driver;

158 (5) that the shared vehicle owner's motor vehicle liability insurance policy may not
159 provide coverage for the shared vehicle;

160 (6) of an emergency telephone number to contact personnel capable of fielding
161 roadside assistance or other customer service inquiries; and

162 (7) whether there are conditions under which a shared vehicle driver must maintain a
163 personal automobile insurance policy with certain applicable coverage limits on a primary basis
164 in order to book a shared vehicle.

165 Section 6. Section **13-48a-204** is enacted to read:

166 **13-48a-204. Records relating to the use of shared vehicles.**

167 (1) A car-sharing program shall collect and verify records pertaining to the use of a
168 shared vehicle, including times used, car-sharing period pick up and drop off locations, fees
169 paid by the shared vehicle driver, and revenues received by the shared vehicle owner, and
170 provide that information upon request to the shared vehicle owner, the shared vehicle owner's
171 insurer, or the shared vehicle driver's insurer to facilitate a claim coverage investigation,
172 settlement, negotiation, or litigation.

173 (2) The car-sharing program shall retain the records for a time period not less than two
174 years.

175 Section 7. Section **13-48a-205** is enacted to read:

176 **13-48a-205. GPS or other special equipment.**

177 (1) A car-sharing program:

178 (a) has sole responsibility for any GPS or other special equipment that the car-sharing
179 company places on or in a shared vehicle to monitor the shared vehicle or facilitate the
180 car-sharing agreement; and

181 (b) shall agree to indemnify and hold harmless the shared vehicle owner for any
182 damage to the shared vehicle that:

- 183 (i) is a result of damage to or theft of equipment described in Subsection (1)(a);
184 (ii) occurs during the car-sharing period; and
185 (iii) is not caused by the shared vehicle owner.

186 (2) A car-sharing program may seek indemnity from a shared vehicle driver for any
187 loss of or damage to equipment described in Subsection (1)(a) that occurs during the
188 car-sharing period.

189 Section 8. Section **13-48a-301** is enacted to read:

190 **Part 3. Liability and Insurance for Covered Loss from Operation of Shared Vehicle**

191 **13-48a-301. Car-sharing company assumption of liability for a covered loss --**

192 **Exception.**

193 (1) Except as provided in Subsection (2), a car-sharing program shall assume liability
194 of a shared vehicle owner for bodily injury or property damage to third parties or personal
195 injury protection losses during the car-sharing period in an amount stated in the car-sharing
196 agreement, which amount may not be less than those set forth in Section [31A-22-304](#).

197 (2) Notwithstanding the definition of car-sharing termination time, the assumption of
198 liability under Subsection (1) does not apply to a shared vehicle owner when:

199 (a) a shared vehicle owner makes an intentional or fraudulent material
200 misrepresentation or omission to the car-sharing program before the car-sharing period in
201 which the loss occurred; or

202 (b) acting in concert with a shared vehicle driver who fails to return the shared vehicle
203 pursuant to the terms of the car-sharing agreement.

204 (3) Notwithstanding the definition of car-sharing termination time, the assumption of
205 liability under Subsection (1) would apply to bodily injury, property damage, or personal injury
206 protection losses by damaged third parties required by Section [31A-22-304](#).

207 Section 9. Section **13-48a-302** is enacted to read:

208 **13-48a-302. Motor vehicle liability insurance.**

209 (1) A car-sharing program shall ensure that, during each car-sharing period, the shared
210 vehicle owner and the shared vehicle driver are insured under a motor vehicle liability
211 insurance policy that provides coverage in amounts no less than the minimum amounts set
212 forth in Section [31A-22-304](#), and:

213 (a) recognizes that the shared vehicle insured under the policy is made available and

214 used through a car-sharing program; or

215 (b) does not exclude use of a shared vehicle by a shared vehicle driver.

216 (2) The insurance described in Subsection (1) may be satisfied by motor vehicle
217 liability insurance maintained by:

218 (a) a shared vehicle owner;

219 (b) a shared vehicle driver;

220 (c) a car-sharing program; or

221 (d) a shared vehicle owner, a shared vehicle driver, and a car-sharing program.

222 (3) The insurance described in Subsection (1) that is satisfying the insurance
223 requirement of Subsection (1) shall be primary during each car-sharing period and in the event
224 that a claim occurs in another state with minimum financial responsibility limits higher than
225 those in Section 31A-22-304, during the car-sharing period, the coverage maintained under
226 Subsection (2) shall satisfy the difference in minimum coverage amounts, up to the applicable
227 policy limits.

228 (4) The insurer, insurers, or car-sharing program providing coverage under Subsection
229 (1) or (2) shall assume primary liability for a claim when:

230 (a) a dispute exists as to who was in control of the shared motor vehicle at the time of
231 the loss and the car-sharing program does not have available, did not retain, or fails to provide
232 the information required by Section 13-48a-203; or

233 (b) a dispute exists as to whether the shared vehicle was returned to the alternatively
234 agreed upon location as required under Section 13-48a-101.

235 (5) If insurance maintained by a shared vehicle owner or shared vehicle driver in
236 accordance with Subsection (2) has lapsed or does not provide the required coverage, insurance
237 maintained by the car-sharing program shall provide the coverage required by Subsection (1)
238 beginning with the first dollar of a claim and have the duty to defend the claim except under
239 circumstances set forth in Subsection 13-48a-301(2).

240 (6) Coverage under an automobile insurance policy maintained by the car-sharing
241 program is not dependent on another automobile insurer first denying a claim, nor shall another
242 automobile insurance policy be required to first deny a claim.

243 Section 10. Section 13-48a-303 is enacted to read:

244 **13-48a-303. Certain abilities of insurance companies preserved.**

245 (1) (a) A motor vehicle liability insurance policy may exclude coverage and a duty to
246 defend or indemnify with respect to a claim arising during a motor vehicle's use as a shared
247 vehicle, based on the motor vehicle's use as a shared vehicle.

248 (b) Coverage that may be excluded as provided in Subsection (1) includes coverage
249 for:

250 (i) bodily injury or property damage suffered by a third party;

251 (ii) a claim covered by uninsured motorist coverage described in Section [31A-22-305](#);

252 (iii) a claim covered by underinsured motorist coverage described in Section

253 [31A-22-305.5](#);

254 (iv) a claim covered by personal injury protection coverage and benefits described in

255 Section [31A-22-307](#);

256 (v) a claim for medical payments;

257 (vi) a claim for comprehensive physical damage; and

258 (vii) a claim for collision physical damage.

259 (2) Nothing in this chapter invalidates, limits, or restricts the ability of an insurance
260 company under other applicable law to:

261 (a) underwrite an insurance policy; or

262 (b) cancel or fail to renew an insurance policy.

263 (3) Nothing in this chapter invalidates or limits a provision in a motor vehicle liability
264 insurance policy, including any insurance policy in use or approved for use, that excludes
265 coverage for a motor vehicle made available for rent, sharing, hire, or any business use.

266 Section 11. Section **13-48a-304** is enacted to read:

267 **13-48a-304. Insurable interest -- Insurance to cover various liabilities -- No**
268 **liability to maintain certain insurance.**

269 (1) Notwithstanding any other provision of law, a car-sharing program has an insurable
270 interest in a shared vehicle during the car-sharing period.

271 (2) A car-sharing program may own and maintain as the named insured one or more
272 policies of motor vehicle insurance that provide coverage for:

273 (a) a liability assumed by the car-sharing program under a car-sharing agreement;

274 (b) a liability of the shared vehicle owner;

275 (c) a liability of the shared vehicle driver; or

276 (d) damage or loss to a shared vehicle.

277 (3) Nothing in this section requires a car-sharing program to maintain insurance
278 coverage for the car-sharing program's liability under this chapter.

279 Section 12. Section **13-48a-305** is enacted to read:

280 **13-48a-305. Recovery for claim excluded from insurance policy.**

281 An insurance company that defends or indemnifies a claim against a shared vehicle that
282 is excluded under the terms of the insurance company's policy shall have the right to seek
283 recovery against the motor vehicle insurer of the car-sharing program if the claim is:

284 (1) made against the shared vehicle owner or shared vehicle driver for a loss or injury
285 that occurs during the car-sharing period; and

286 (2) excluded under the terms of the policy of the insurance company that defends or
287 indemnifies the claim.

288 Section 13. Section **13-48a-306** is enacted to read:

289 **13-48a-306. Exemption from liability based on operation of a car-sharing**
290 **program or on vehicle ownership.**

291 Consistent with 49 U.S.C. Sec. 30106, a car-sharing program and a shared vehicle
292 owner are exempt from vicarious liability under any state or local law that imposes liability
293 solely based on vehicle ownership.

294 Section 14. Section **13-48a-307** is enacted to read:

295 **13-48a-307. Driver license requirement and records.**

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

298 (a) holds a driver license issued under the applicable law of this state that authorizes
299 the driver to operate vehicles of the class of the shared vehicle;

300 (b) is a nonresident who:

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

303 and

304 (ii) is at least the same age as that required of a resident to drive; or

305 (c) otherwise is specifically authorized to drive vehicles of the class of the shared
306 vehicle.

- 307 (2) A car-sharing program shall keep a record of:
308 (a) the name and address of the shared vehicle driver;
309 (b) the number of the driver license of the shared vehicle driver and each other person,
310 if any, who will operate the shared vehicle; and
311 (c) the place of issuance of the driver license.