

AMENDMENTS TO SENATE BILL NO. 548

Sponsor: SENATOR STEFANO

Printer's No. 603

1 Amend Bill, page 1, line 2, by striking out "vehicles" and
2 inserting

3 peer-to-peer car sharing

4 Amend Bill, page 1, line 4, by striking out "private vehicle
5 rental" and inserting

6 peer-to-peer car sharing

7 Amend Bill, page 1, lines 11 through 18; pages 2 through 17,
8 lines 1 through 30; page 18, lines 1 through 10; by striking out
9 all of said lines on said pages and inserting

10 Chapter

11 11. Peer-to-Peer Car Sharing

12 Chapter 11

13 Peer-to-Peer Car Sharing

14 Sec.

15 1101. Scope of chapter.

16 1102. Intent.

17 1103. Definitions.

18 1104. Insurance.

19 1105. Consumer protection disclosures.

20 1106. Driver's license verification.

21 1107. Responsibility for equipment.

22 1108. Automobile safety recalls.

23 1109. Regulations.

24 § 1101. Scope of chapter.

25 This chapter relates to peer-to-peer car sharing.

26 § 1102. Intent.

27 This chapter is intended to govern the intersection of peer-
28 to-peer car services and the State-regulated business of
29 insurance. Nothing in this chapter shall be construed to extend
30 beyond insurance or have implications for other law of this
31 State, including motor vehicle regulation, airport regulation or
32 taxation.

33 § 1103. Definitions.

1 The following words and phrases when used in this chapter
2 shall have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "Car sharing delivery period." The period of time during
5 which a shared vehicle is being delivered to the location of the
6 car sharing start time, if applicable, as documented by a
7 governing car sharing program agreement.

8 "Car sharing period." The period of time that commences with
9 a car sharing delivery period or, if there is no car sharing
10 delivery period, that commences with a car sharing start time
11 and in either case ends at a car sharing termination time.

12 "Car sharing program agreement." The terms and conditions
13 applicable to a shared vehicle owner and a shared vehicle driver
14 that govern the use of a shared vehicle through a peer-to-peer
15 car sharing program. The term does not include a rental car
16 agreement.

17 "Car sharing start time." The time when a shared vehicle
18 becomes subject to the control of the shared vehicle driver at
19 or after the time the reservation of the shared vehicle is
20 scheduled to begin as documented in the records of a peer-to-
21 peer car sharing program.

22 "Car sharing termination time." The earliest of the
23 following events:

24 (1) the expiration of the agreed-upon period of time
25 established for the use of a shared vehicle according to the
26 terms of the car sharing program agreement if the shared
27 vehicle is delivered to the location agreed upon in the car
28 sharing program agreement;

29 (2) a shared vehicle is returned to a location as
30 alternatively agreed upon by the shared vehicle owner and
31 shared vehicle driver as communicated through a peer-to-peer
32 car sharing program, which alternatively agreed-upon location
33 shall be incorporated into the car sharing program agreement;
34 or

35 (3) A shared vehicle owner or the shared vehicle owner's
36 authorized designee, takes possession and control of the
37 shared vehicle.

38 "Peer-to-peer car sharing." The authorized use of a vehicle
39 by an individual other than the vehicle's owner through a peer-
40 to-peer car sharing program. The term does not include a rental
41 car obtained through a rental car company.

42 "Peer-to-peer car sharing program." A business platform that
43 connects vehicle owners with drivers to enable the sharing of
44 vehicles for financial consideration.

45 "Rental car" or "rental vehicle." A private passenger motor
46 vehicle designed to transport 15 or fewer passengers or a truck,
47 trailer or semitrailer used in the transportation of property
48 other than commercial freight, that is rented without a driver
49 and is part of a fleet of five or more such vehicles used for
50 that purpose, owned or leased by the same person or entity.

51 "Rental car company." A business entity engaged in the

1 business of renting rental vehicles in this Commonwealth.

2 "Shared vehicle." A vehicle that is available for sharing
3 through a peer-to-peer car sharing program. The term does not
4 include a rental car or rental vehicle.

5 "Shared vehicle driver." An individual who has been
6 authorized to drive a shared vehicle by the shared vehicle owner
7 under a car sharing program agreement.

8 "Shared vehicle owner." The registered owner, or a person or
9 entity designated by the registered owner, of a vehicle made
10 available for sharing to shared vehicle drivers through a peer-
11 to-peer car sharing program.

12 § 1104. Insurance.

13 (a) Insurance coverage during car sharing period.--

14 (1) A peer-to-peer car sharing program shall assume
15 liability, except as provided under paragraph (2), of a
16 shared vehicle owner for bodily injury or property damage to
17 third parties or uninsured and underinsured motorist or
18 personal injury protection losses during the car sharing
19 period in an amount stated in the car sharing program
20 agreement which amount may not be less than those specified
21 in 75 Pa.C.S. Ch. 17 (relating to financial responsibility).

22 (2) Notwithstanding the definition of "car sharing
23 termination time," the assumption of liability under
24 paragraph (1) of this subsection does not apply to a shared
25 vehicle owner when:

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

30 (ii) acting in concert with a shared vehicle driver
31 who fails to return the shared vehicle pursuant to the
32 terms of car sharing program agreement.

33 (3) Notwithstanding the definition of "car sharing
34 termination time," the assumption of liability under
35 paragraph (1) shall apply to bodily injury, property damage,
36 uninsured and underinsured motorist or personal injury
37 protection losses by damaged third parties required by 75
38 Pa.C.S. Ch. 17.

39 (4) A peer-to-peer car sharing program shall ensure
40 that, during each car sharing period, the shared vehicle
41 owner and the shared vehicle driver are insured under a motor
42 vehicle liability insurance policy that provides insurance
43 coverage in amounts no less than the minimum amounts
44 specified in 75 Pa.C.S. Ch. 17 and:

45 (i) recognizes that the shared vehicle insured under
46 the policy is made available and used through a peer-to-
47 peer car sharing program; or

48 (ii) does not exclude use of a shared vehicle by a
49 shared vehicle driver.

50 (5) The insurance described under paragraph (4) may be
51 satisfied by motor vehicle liability insurance maintained by:

1 (i) a shared vehicle owner;
2 (ii) a shared vehicle driver;
3 (iii) a peer-to-peer car sharing program; or
4 (iv) a shared vehicle owner, a shared vehicle driver
5 and a peer-to-peer car sharing program.

6 (6) The insurance described under paragraph (5) that
7 satisfies the insurance requirement of paragraph (4) shall be
8 primary during each car sharing period and in the event that
9 a claim occurs in another state with minimum financial
10 responsibility limits higher than specified in 75 Pa.C.S. Ch.
11 17, during the car sharing period, the coverage maintained
12 under paragraph (5) shall satisfy the difference in minimum
13 coverage amounts, up to the applicable policy limits.

14 (7) The insurer, insurers or peer-to-peer car sharing
15 program providing coverage under paragraph (4) or (5) shall
16 assume primary liability for a claim when:

17 (i) a dispute exists as to who was in control of the
18 shared vehicle at the time of the loss and the peer-to-
19 peer car sharing program does not have available, did not
20 retain, or fails to provide the information required by
21 subsection (d); or

22 (ii) a dispute exists as to whether the shared
23 vehicle was returned to the alternatively agreed-upon
24 location as required by this chapter.

25 (8) If insurance maintained by a shared vehicle owner or
26 shared vehicle driver in accordance with paragraph (5) has
27 lapsed or does not provide the required coverage, insurance
28 maintained by a peer-to-peer car sharing program shall
29 provide the coverage required by paragraph (4) beginning with
30 the first dollar of a claim and have the duty to defend such
31 claim except under circumstances as provided under paragraph
32 (2).

33 (9) Coverage under an automobile insurance policy
34 maintained by the peer-to-peer car sharing program shall not
35 be dependent on another automobile insurer first denying a
36 claim nor shall another automobile insurance policy be
37 required to first deny a claim.

38 (10) Nothing in this section shall be construed to:

39 (i) limit the liability of the peer-to-peer car
40 sharing program for an act or omission of the peer-to-
41 peer car sharing program itself that results in injury to
42 a person as a result of the use of a shared vehicle
43 through a peer-to-peer car sharing program; or

44 (ii) limit the ability of the peer-to-peer car
45 sharing program to, by contract, seek indemnification
46 from a shared vehicle owner or a shared vehicle driver
47 for economic loss sustained by a peer-to-peer car sharing
48 program resulting from a breach of the terms and
49 conditions of the car sharing program agreement.

50 (b) Notification of implications of lien.--At the time when
51 a vehicle owner registers as a shared vehicle owner on a peer-

1 to-peer car sharing program and prior to the time when the
2 shared vehicle owner makes a shared vehicle available for car
3 sharing on the peer-to-peer car sharing program, the peer-to-
4 peer car sharing program shall notify the shared vehicle owner
5 that, if the shared vehicle has a lien against it, the use of
6 the shared vehicle through a peer-to-peer car sharing program,
7 including use without physical damage coverage, may violate the
8 terms of the contract with the lienholder.

9 (c) Exclusions in motor vehicle liability insurance
10 policies.--

11 (1) An authorized insurer that writes motor vehicle
12 liability insurance in this Commonwealth may exclude any and
13 all coverage and the duty to defend or indemnify for a claim
14 afforded under a shared vehicle owner's motor vehicle
15 liability insurance policy, including:

16 (i) liability coverage for bodily injury and
17 property damage;

18 (ii) personal injury protection coverage;

19 (iii) uninsured and underinsured motorist coverage;

20 (iv) medical payments coverage;

21 (v) comprehensive physical damage coverage; and

22 (vi) collision physical damage coverage.

23 (2) Nothing in this chapters shall be construed to:

24 (i) Invalidate or limit an exclusion contained in a
25 motor vehicle liability insurance policy, including an
26 insurance policy in use or approved for use that excludes
27 coverage for motor vehicles made available for rent,
28 sharing or hire or for any business use.

29 (ii) Invalidate, limit or restrict an insurer's
30 ability under existing law to underwrite any insurance
31 policy.

32 (iii) Invalidate, limit or restrict an insurer's
33 ability under existing law to cancel and nonrenew policy.

34 (d) Recordkeeping and use of vehicle in car sharing.--

35 (1) A peer-to-peer car sharing program shall collect and
36 verify records pertaining to the use of a vehicle, including
37 times used, car sharing period pickup and drop off locations,
38 fees paid by the shared vehicle driver and revenues received
39 by the shared vehicle owner and provide that information upon
40 request to the shared vehicle owner, the shared vehicle
41 owner's insurer or the shared vehicle driver's insurer to
42 facilitate a claim coverage investigation, settlement,
43 negotiation or litigation.

44 (2) The peer-to-peer car sharing program shall retain
45 the records for a time period not less than the applicable
46 personal injury statute of limitations.

47 (e) Exemption and vicarious liability.--A peer-to-peer car
48 sharing program and a shared vehicle owner shall be exempt from
49 vicarious liability in accordance with 49 U.S.C. § 30106
50 (relating to rented or leased motor vehicle safety and
51 responsibility) and under any State or local law that imposes

1 liability solely based on vehicle ownership.

2 (f) Contribution against indemnification.--A motor vehicle
3 insurer that defends or indemnifies a claim against a shared
4 vehicle that is excluded under the terms of the policy shall
5 have the right to seek recovery against the motor vehicle
6 insurer of the peer-to-peer car sharing program if the claim is:

7 (1) Made against the shared vehicle owner or the shared
8 vehicle driver for loss or injury that occurs during the car
9 sharing period.

10 (2) Excluded under the terms of the policy.

11 (g) Insurable interest.--

12 (1) Notwithstanding any other law, statute, rule or
13 regulation to the contrary, a peer-to-peer car sharing
14 program shall have an insurable interest in a shared vehicle
15 during the car sharing period.

16 (2) Nothing in this subsection shall be construed as
17 creating liability on a peer-to-peer car sharing program to
18 maintain the coverage mandated by subsection (a).

19 (3) A peer-to-peer car sharing program may own and
20 maintain as the named insured one or more policies of motor
21 vehicle liability insurance that provides coverage for:

22 (i) liabilities assumed by the peer-to-peer car
23 sharing program under a car sharing program agreement;

24 (ii) liability of the shared vehicle owner;

25 (iii) damage or loss to the shared vehicle; or

26 (iv) liability of the shared vehicle driver.

27 § 1105. Consumer protection disclosures.

28 A car sharing program agreement shall disclose to the shared
29 vehicle owner and the shared vehicle driver:

30 (1) A right of the peer-to-peer car sharing program to
31 seek indemnification from the shared vehicle owner or the
32 shared vehicle driver for economic loss sustained by the
33 peer-to-peer car sharing program resulting from a breach of
34 the terms and conditions of the car sharing program
35 agreement.

36 (2) That a motor vehicle liability insurance policy
37 issued to the shared vehicle owner for the shared vehicle or
38 to the shared vehicle driver does not provide a defense or
39 indemnification for a claim asserted by the peer-to-peer car
40 sharing program.

41 (3) That the peer-to-peer car sharing program's
42 insurance coverage on the shared vehicle owner and the shared
43 vehicle driver is in effect only during each car sharing
44 period and that, for any use of the shared vehicle by the
45 shared vehicle driver after the car sharing termination time,
46 the shared vehicle driver and the shared vehicle owner may
47 not have insurance coverage.

48 (4) The daily rate, fees and, if applicable, insurance
49 or protection package costs that are charged to the shared
50 vehicle owner or the shared vehicle driver.

51 (5) That the shared vehicle owner's motor vehicle

1 liability insurance may not provide coverage for a shared
2 vehicle.

3 (6) An emergency telephone number to personnel capable
4 of fielding roadside assistance and other customer service
5 inquiries.

6 (7) If there are conditions under which a shared vehicle
7 driver must maintain a personal automobile insurance policy
8 with certain applicable coverage limits on a primary basis in
9 order to book a shared vehicle.

10 § 1106. Driver's license verification.

11 (a) Conditions for car sharing program agreement.--A peer-
12 to-peer car sharing program may not enter into a car sharing
13 program agreement with a driver unless the driver who will
14 operate the shared vehicle:

15 (1) holds a driver's license issued by the Department of
16 Transportation that authorizes the driver to operate vehicles
17 of the class of the shared vehicle; or

18 (2) is a nonresident who:

19 (i) has a driver's license issued by the state or
20 country of the driver's residence that authorizes the
21 driver in that state or country to drive vehicles of the
22 class of the shared vehicle; and

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

25 (3) otherwise is specifically authorized by law to drive
26 vehicles of the class of the shared vehicle.

27 (b) Data retention.--A peer-to-peer car sharing program
28 shall keep a record of:

29 (1) The name and address of the shared vehicle driver.

30 (2) The number of the driver's license of the shared
31 vehicle driver and each other person, if any, who will
32 operate the shared vehicle.

33 (3) The place of issuance of the driver's license.

34 § 1107. Responsibility for equipment.

35 A peer-to-peer car sharing program shall have sole
36 responsibility for equipment, such as a GPS system or other
37 special equipment that is put in or on the shared vehicle to
38 monitor or facilitate the car sharing transaction, and shall
39 agree to indemnify and hold harmless the shared vehicle owner
40 for damage to or theft of the equipment during the car sharing
41 period not caused by the shared vehicle owner. The peer-to-peer
42 car sharing program has the right to seek indemnity from the
43 shared vehicle driver for loss or damage to the equipment that
44 occurs during the car sharing period.

45 § 1108. Automobile safety recalls.

46 (a) Verification and notification.--At the time when a
47 vehicle owner registers as a shared vehicle owner on a peer-to-
48 peer car sharing program and prior to the time when the shared
49 vehicle owner makes a shared vehicle available for car sharing
50 on the peer-to-peer car sharing program, the peer-to-peer car
51 sharing program shall:

1 (1) Verify that the shared vehicle does not have any
2 safety recalls on the vehicle for which the repairs have not
3 been made.

4 (2) Notify the shared vehicle owner of the requirements
5 under subsection (b).

6 (b) Effect of safety recall.--

7 (1) If the shared vehicle owner has received an actual
8 notice of a safety recall on the vehicle, a shared vehicle
9 owner may not make the vehicle available as a shared vehicle
10 on a peer-to-peer car sharing program until the safety recall
11 repair has been made.

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

19 (3) If a shared vehicle owner receives an actual notice
20 of a safety recall while the shared vehicle is being used in
21 the possession of a shared vehicle driver, as soon as
22 practicably possible after receiving the notice of the safety
23 recall, the shared vehicle owner shall notify the peer-to-
24 peer car sharing program about the safety recall so that the
25 shared vehicle owner may address the safety recall repair.

26 § 1109. Regulations.

27 The Insurance Commissioner may promulgate rules and
28 regulations that are not inconsistent with and necessary to
29 administer and enforce the provisions of this chapter.

30 Amend Bill, page 18, line 12, by striking out "private
31 vehicle rental" and inserting
32 peer-to-peer car sharing

33 Amend Bill, page 18, line 14, by striking out "private
34 vehicle rental" and inserting
35 peer-to-peer car sharing

36 Amend Bill, page 18, lines 16 through 18, by striking out "§
37 1114" in line 16, all of line 17 and "programs)" in line 18 and
38 inserting

39 § 1104 (relating to insurance)

40 Amend Bill, page 18, line 18, by striking out "a" and
41 inserting
42 the

1 Amend Bill, page 18, lines 18 through 20, by striking out
2 "renters and" in line 18, all of line 19 and "program" in line
3 20 and inserting

4 shared vehicle driver

5 Amend Bill, page 18, line 21, by striking out "private
6 vehicle rental" and inserting

7 peer-to-peer car sharing

8 Amend Bill, page 18, line 24, by striking out "\$ 1114" and
9 inserting

10 \$ 1104

11 Amend Bill, page 18, line 28, by striking out "private
12 vehicle rental" and inserting

13 peer-to-peer car sharing

14 Amend Bill, page 18, line 30; page 19, line 1; by striking
15 out "private vehicle" in line 30 on page 18 and "rental" in line
16 1 on page 19 and inserting

17 peer-to-peer car sharing

18 Amend Bill, page 19, lines 10 and 11, by striking out all of
19 said lines and inserting

20 "Peer-to-peer car-sharing program." As defined in 40 Pa.C.S.
21 \$ 1103 (relating to definitions).

22 Amend Bill, page 19, line 12, by striking out "As defined in
23 40 Pa.C.S. \$ 1102." and inserting

24 The entity that operates, facilitates or administers
25 transactions from a peer-to-peer car sharing program.

26 Amend Bill, page 19, lines 13 through 15, by striking out all
27 of said lines and inserting

28 "Shared vehicle." As defined in 40 Pa.C.S. \$ 1103.

29 "Shared vehicle driver." As defined in 40 Pa.C.S. \$ 1103.

30 Section 3. This act shall take effect in 180 days.