

1 driver that govern the use of a shared car through a peer-to-
2 peer car-sharing program. "Car-sharing program agreement" does
3 not mean a "rental agreement" as defined in section 437D-3.

4 "Car-sharing start time" means the time when the shared car
5 becomes subject to the control of the shared car driver at or
6 after the time the reservation of a shared car is scheduled to
7 begin as documented in the records of a peer-to-peer car sharing
8 program.

9 "Car-sharing termination time" means the earliest of the
10 following events:

- 11 (1) The expiration of the agreed upon period of time
12 established for the use of a shared car according to
13 the terms of the car-sharing program agreement if the
14 shared car is delivered to the location agreed upon in
15 the car-sharing program agreement;
- 16 (2) When the shared car is returned to a location as
17 alternatively agreed upon by the shared car owner and
18 shared car driver as communicated through a peer-to-
19 peer car-sharing program; or



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1 (3) When the shared car owner or the shared car owner's
2 authorized designee takes possession and control of
3 the shared vehicle.

4 "Peer-to-peer car-sharing" means the authorized use of a
5 vehicle by an individual other than the vehicle's owner through
6 a peer-to-peer car-sharing program. "Peer-to-peer car-sharing"
7 does not mean the "business of providing rental motor vehicles
8 to the public" as the phrase is used in section 251-3 or the
9 business of a "lessor" as defined in section 437D-3.

10 "Peer-to-peer car-sharing program" means a business
11 platform that connects vehicle owners with drivers to enable the
12 sharing of vehicles for financial consideration. "Peer-to-peer
13 car-sharing program" does not mean "lessor" as defined in
14 section 437D-3. "Peer-to-peer car-sharing program" is not a
15 "car-sharing organization" as defined in section 251-1.

16 "Shared car" means a vehicle that is available for sharing
17 through a peer-to-peer car-sharing program. "Shared car" does
18 not mean a "rental motor vehicle" or "vehicle" as defined in
19 section 437D-3.

20 "Shared car driver" means an individual who has been
21 authorized to drive the shared car by the shared car owner under



1 a car-sharing program agreement. "Shared car driver" does not
2 mean "lessee" as defined in section 437D-3.

3 "Shared car owner" means the registered owner, or a person
4 or entity designated by the registered owner, of a vehicle made
5 available for sharing to shared vehicle drivers through a peer-
6 to-peer car-sharing program. "Shared car owner" is not a
7 "lessor" as defined in section 437D-3.

8 § -2 Insurance coverage during car-sharing period. (a)
9 A peer-to-peer car-sharing program shall assume liability,
10 except as provided in subsection (b), of a shared car owner for
11 bodily injury or property damage to third parties or uninsured
12 and underinsured motorist or personal injury protection losses
13 during the car-sharing period in an amount stated in the peer-
14 to-peer car-sharing program agreement which amount may not be
15 less than those set forth in section 431:10C-301.

16 (b) Notwithstanding the definition of "car-sharing
17 termination time" as set forth in section -1, the assumption
18 of liability under subsection (a) shall not apply to any shared
19 vehicle owner when:

20 (1) A shared car owner makes an intentional or fraudulent
21 material misrepresentation or omission to the peer-to-



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1 peer car-sharing program before the car-sharing period
2 in which the loss occurred; or

3 (2) Acting in concert with a shared vehicle driver who
4 fails to return the shared vehicle pursuant to the
5 terms of program agreement.

6 (c) Notwithstanding the definition of "car-sharing
7 termination time" in section -1, the assumption of liability
8 under subsection (a) shall apply to bodily injury, property
9 damage, uninsured and underinsured motorist or personal injury
10 protection losses by damaged third parties as required by
11 section 431:10C-301.

12 (d) A peer-to-peer car-sharing program shall ensure that,
13 during each car-sharing period, the shared car owner and the
14 shared car driver shall be insured under a motor vehicle
15 insurance policy that provides insurance coverage in amounts no
16 less than the minimum amounts required under section 431:10C-301
17 and:

18 (1) Recognizes that the shared vehicle insured under the
19 policy is made available and used through a peer-to-
20 peer car-sharing program; or



1 (2) Does not exclude use of a shared car by a shared car
2 driver.

3 (e) The insurance described under subsection (d) may be
4 satisfied by the motor vehicle insurance maintained by:

5 (1) A shared car owner;

6 (2) A shared car driver;

7 (3) A peer-to-peer car-sharing program; or

8 (4) Both a shared car owner, a shared car driver, and a
9 peer-to-peer car-sharing program.

10 (f) Insurance described in subsection (e) that satisfies
11 the insurance requirement of subsection (d) shall be primary
12 during each car-sharing period.

13 (g) If the peer-to-peer car-sharing program, in whole or
14 in part, provides the insurance required under subsections (d)
15 and (e), it shall assume primary liability for a claim when:

16 (1) A dispute exists as to who was in control of the
17 shared car at the time of the loss; and

18 (2) The peer-to-peer car-sharing program does not have
19 available, did not retain, or fails to provide the
20 information required by section -5.



1 The shared car's insurer shall indemnify the car-sharing
2 program to the extent of its obligation under, if any, the
3 applicable insurance policy, if it is determined that the shared
4 car's owner was in control of the shared car at the time of the
5 loss.

6 (h) If insurance maintained by a shared car owner or
7 shared car driver in accordance with subsection (e) has lapsed
8 or does not provide the required coverage, insurance maintained
9 by a peer-to-peer car-sharing program shall provide the coverage
10 required by subsection (d) beginning with the first dollar of a
11 claim and have the duty to defend the claim except under
12 circumstances as set forth in section -2(b).

13 (i) Coverage under a motor vehicle insurance policy
14 maintained by the peer-to-peer car-sharing program shall not be
15 dependent upon another motor vehicle insurer first denying a
16 claim nor shall another motor vehicle insurance policy be
17 required to first deny a claim.

18 (j) Nothing in this chapter shall:

19 (1) Limit the liability of the peer-to-peer car-sharing
20 program for any act or omission of the peer-to-peer
21 car-sharing program itself that results in injury to



1 any person as a result of the use of a shared car
2 through a peer-to-peer car-sharing program; or
3 (2) Limit the ability of the peer-to-peer car-sharing
4 program to, by contract, indemnification from the
5 shared vehicle owner or the shared car driver for
6 economic loss sustained by the peer-to-peer car-
7 sharing program resulting from a breach of the terms
8 and conditions of the car-sharing program agreement.

9 § -3 Notification of implications of lien. When a car
10 owner registers as a shared car owner on a peer-to-peer car-
11 sharing program and prior to when the shared car owner makes a
12 shared car available for car-sharing on the peer-to-peer car-
13 sharing program, the peer-to-peer car-sharing program shall
14 notify the shared car owner that, if the shared car has a lien
15 against it, the use of the shared car through a peer-to-peer
16 car-sharing program, including use without physical damage
17 coverage, may violate the terms of the contract with the
18 lienholder.

19 § -4 Exclusions in motor vehicle insurance policies.
20 (a) An authorized insurer that writes motor vehicle insurance
21 in the State may exclude any and all coverage and the duty to



1 defend or indemnify any claim afforded under a shared car
2 owner's motor vehicle insurance policy, including:

3 (1) Liability coverage for bodily injury and property
4 damage;

5 (2) Personal injury protection coverage as set forth in
6 section 431:10C-304;

7 (3) Uninsured and underinsured motorist coverage;

8 (4) Medical payments coverage;

9 (5) Comprehensive physical damage coverage; and

10 (6) Collision physical damage coverage.

11 (b) Nothing in this chapter shall invalidate or limit an
12 exclusion contained in a motor vehicle insurance policy,
13 including any insurance policy in use or approved for use that
14 excludes coverage for motor vehicles made available for rent,
15 sharing, or hire or for any business use.

16 § -5 Recordkeeping; use of vehicle in car-sharing. A
17 peer-to-peer car-sharing program shall collect and verify
18 records pertaining to the use of a vehicle, including times
19 used, fees paid by the shared car driver, and revenues received
20 by the shared car owner, and provide that information upon
21 request to the shared car owner, the shared car owner's insurer,



1 or the shared car driver's insurer to facilitate a claim
2 coverage investigation. The peer-to-peer car-sharing program
3 shall retain the records for a time period not less than the
4 six-year statute of limitations period set forth under section
5 657-1(4).

6 **§ -6 Exemption; vicarious liability.** Consistent with
7 title 49 United States Code section 30106, a peer-to-peer car-
8 sharing program and a shared car owner shall be exempt from
9 vicarious liability under any state or local law that imposes
10 liability solely based upon motor vehicle ownership.

11 **§ -7 Contribution against indemnification.** A motor
12 vehicle insurer that defends or indemnifies a claim against a
13 shared car that is excluded under the terms of its policy shall
14 have the right to seek contribution against the motor vehicle
15 insurer of the peer-to-peer car-sharing program if the claim is:

16 (1) Made against the shared car owner or the shared car
17 driver for loss or injury that occurs during the car-
18 sharing period; and

19 (2) Excluded under the terms of its policy.

20 **§ -8 Insurable interest.** (a) Notwithstanding any other
21 law, statute, or rule to the contrary, a peer-to-peer car-



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1 sharing program shall have an insurable interest in a shared car
2 during the car-sharing period.

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

6 (1) Liabilities assumed by the peer-to-peer car-sharing
7 program under a peer-to-peer car-sharing program
8 agreement;

9 (2) Any liability of the shared car owner; or

10 (3) Damage or loss to the shared car or any liability of
11 the shared car driver.

12 § -9 **Required disclosures and notices.** For each shared
13 car participating in a car-sharing agreement on its platform, a
14 peer-to-peer car-sharing program shall:

15 (1) Provide the shared car owner and shared car driver
16 with the terms and conditions of the car-sharing
17 agreement;

18 (2) Disclose to the shared car driver any costs or fees
19 that are charged to the shared car driver under the
20 car-sharing agreement;



- 1 (3) Disclose to the shared car owner any costs or fees
2 that are charged to the shared car owner under the
3 peer-to-peer car-sharing agreement;
- 4 (4) Provide an emergency telephone number for a person
5 capable of facilitating roadside assistance to the
6 shared car driver;
- 7 (5) Disclose any right of the peer-to-peer car-sharing
8 program to seek indemnification from the shared car
9 owner or the shared car driver for economic loss
10 sustained by the car-sharing program caused by a
11 breach of the car-sharing program agreement;
- 12 (6) Disclose that a motor vehicle insurance policy issued
13 to the shared car owner for the shared car or to the
14 shared car driver does not provide a defense or
15 indemnification for any claim asserted by the peer-to-
16 peer car-sharing program;
- 17 (7) Disclose that the peer-to-peer car-sharing program's
18 insurance coverage on the shared car owner and the
19 shared car driver is in effect only during each
20 sharing period and that the shared car may not have



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- 1 insurance coverage for use of the shared car by the
2 shared car driver after the sharing termination time;
- 3 (8) Disclose any insurance or protection package costs
4 that are charged to the shared car owner or the shared
5 car driver;
- 6 (9) Disclose that the shared car owner's motor vehicle
7 insurance policy may not provide coverage for a shared
8 car; and
- 9 (10) Disclose to the shared car driver any conditions in
10 which the shared car driver is required to maintain a
11 motor vehicle insurance policy as the primary coverage
12 for the shared car in order to drive a shared car.

13 **§ -10 Driver's license verification and data retention.**

- 14 (a) A peer-to-peer car-sharing program shall not enter into a
15 car-sharing program agreement with a shared car driver unless
16 the shared car driver:
- 17 (1) Holds a driver's license issued under section 286-102
18 that authorizes the shared car driver to operate
19 vehicles of the class of the shared car;
- 20 (2) Is a nonresident who:



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1 (A) Has a driver's license issued by the state or
2 country of the driver's residence that authorizes
3 the shared car driver in that state or country to
4 drive vehicles of the class of the shared car;
5 and

6 (B) Is at least the same age as that required of a
7 resident to drive; or

8 (3) Otherwise is specifically authorized to drive vehicles
9 of the class of the shared car.

10 (b) A peer-to-peer car-sharing program shall record:

11 (1) The name and address of the shared car driver; and

12 (2) The place of issuance and number of the driver's
13 license of the shared car driver and each other
14 person, if any, who will operate the shared car.

15 § -11 **Responsibility for equipment.** A peer-to-peer car-
16 sharing program shall have sole responsibility for any
17 equipment, such as a global positioning system or other special
18 equipment that is put in or on the shared car to monitor or
19 facilitate the car-sharing transaction, and shall agree to
20 indemnify and hold harmless the shared car owner for any damage
21 to or theft of the equipment during the sharing period not



1 caused by the shared car owner. The peer-to-peer car-sharing
2 program has the right to seek indemnity from the shared car
3 driver for any loss or damage to the equipment that occurs
4 during the sharing period.

5 § -12 Motor vehicle safety recalls. (a) At the time
6 when a vehicle owner registers as a shared car owner on a peer-
7 to-peer car-sharing program and prior to the time when the
8 shared car owner makes a shared car available for car-sharing on
9 the peer-to-peer car-sharing program, the peer-to-peer car-
10 sharing program shall:

11 (1) Verify that no safety recalls exist for the make and
12 model of the shared car for which repairs have not
13 been made; and

14 (2) Notify the shared car owner of the requirements under
15 subsection (b).

16 (b) A shared car owner shall:

17 (1) Not make the shared car available for use through a
18 peer-to-peer car-sharing program if the shared car
19 owner has received notice of a safety recall on the
20 shared car, until the safety repair has been made;



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1 (2) Remove any vehicle listed for use through a peer-to-
 2 peer car-sharing program upon receipt of notice of a
 3 safety recall as soon as practicably possible but no
 4 longer than seventy-two hours after receipt of notice
 5 of a safety recall; and

6 (3) Notify the peer-to-peer car-sharing program of a
 7 safety recall within seventy-two hours of receipt of a
 8 safety recall when the vehicle is in the possession of
 9 a shared car driver so that the peer-to-peer car-
 10 sharing program may notify the shared car driver and
 11 the shared car may be removed from use until the
 12 shared car owner effects the necessary safety recall
 13 repair.

14 § -13 Relation to other laws. Chapter 437D shall not
 15 apply to peer-to-peer car-sharing."

16 SECTION 2. Chapter 251, Hawaii Revised Statutes, is
 17 amended by adding a new section to be appropriately designated
 18 and to read as follows:

19 "§251-_____ Peer-to-peer car-sharing surcharge tax. (a)
 20 There is levied, assessed, and collected each month a peer-to-
 21 peer car-sharing tax of \$ _____ per day, or any portion of a day,



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1 that a shared vehicle is shared pursuant to a car-sharing
 2 program agreement. Notwithstanding any law to the contrary,
 3 neither the tax levied pursuant to section 251-2(a) for rental
 4 motor vehicles rented or leased by rental motor vehicle lessors,
 5 nor the tax provided for pursuant to section 251-2.5 on car-
 6 sharing organizations is applicable to peer-to-peer car sharing.

7 (b) For purposes of this section:

8 "Car-sharing program agreement" has the same meaning as in
 9 section -1.

10 "Peer-to-peer car-sharing program" has the same meaning as
 11 in section -1.

12 "Shared car" has the same meaning as in section -1."

13 SECTION 3. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on July 1, 2021.

15

INTRODUCED BY: 
 JAN 22 2021



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Report Title:

Department of Taxation; Peer-to-Peer Car-Sharing; Authorized;
Surcharge Tax; State Highway Fund

Description:

Authorizes peer-to-peer car-sharing. Establishes the peer-to-peer car sharing surcharge tax.

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