
A BILL FOR AN ACT

RELATING TO PEER-TO-PEER CAR-SHARING INSURANCE REQUIREMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that peer-to-peer car-
2 sharing programs, which are not rental car businesses, do not
3 have established requirements for insurance coverage. These
4 agreement-based car-sharing programs must ensure that cars in
5 their programs are properly insured specifically for peer-to-
6 peer car-sharing purposes.

7 The legislature further finds that it is in the public's
8 interest to establish requirements for peer-to-peer car-sharing
9 programs regarding mandatory insurance coverage.

10 Accordingly, the purpose of this Act is to establish
11 mandatory insurance terms for peer-to-peer car-sharing programs.

12 SECTION 2. Chapter 431, article 10C, Hawaii Revised
13 Statutes, is amended by adding a new part to be appropriately
14 designated and to read as follows:

15 "PART . PEER-TO-PEER CAR-SHARING INSURANCE

16 §431:10C-A Definitions. As used in this chapter:



1 "Car-sharing delivery period" means the period of time
2 during which a shared car is being delivered to the location
3 of the car-sharing start time, if applicable, as documented
4 by the governing car-sharing program agreement.

5 "Car-sharing period" means the period of time that
6 commences with the car-sharing delivery period or, if there
7 is no delivery period, that commences with the car-sharing
8 start time and, in either case, ends at the car-sharing
9 termination time.

10 "Car-sharing program agreement" means the terms and
11 conditions applicable to a shared car owner, a shared car
12 driver, and a peer-to-peer car-sharing platform, if
13 applicable, that govern the use of a shared car through a
14 peer-to-peer car-sharing program. "Car-sharing program
15 agreement" does not include a rental agreement as defined in
16 section 437D-3.

17 "Car-sharing start time" means the time the shared car
18 driver obtains operation, use, or control of a shared car
19 through a peer-to-peer car-sharing program.

20 "Car-sharing termination time" means the latest of the
21 following events:



- 1 (1) The expiration of the agreed upon period of time
2 established for the use of a shared car according to
3 the terms of the car-sharing program agreement if
4 the shared car is delivered to the location agreed
5 upon in the car-sharing program agreement;
- 6 (2) When the shared car is returned to a location as
7 alternatively agreed upon by the shared car owner
8 and shared car driver as communicated through a
9 peer-to-peer car-sharing program;
- 10 (3) When a shared car is returned to the location agreed
11 upon in the car-sharing program agreement or
12 alternatively agreed upon by the shared car owner
13 and the shared car driver, as communicated through a
14 peer-to-peer car-sharing program, before the
15 expiration of the period of time established for the
16 use of a shared car according to the terms of the
17 car-sharing program agreement, and the shared car
18 driver notifies the peer-to-peer car-sharing program
19 of the location of the shared car;
- 20 (4) When a shared car, during the car-sharing period,
21 cannot safely or legally be operated and the shared



1 car driver notifies the peer-to-peer car-sharing
2 program that the shared car is inoperable and
3 identifies the location of the shared car;

4 (5) When the shared car owner receives notice of a
5 safety recall affecting the shared car and the
6 shared car driver returns the shared car to the
7 location agreed upon in the car-sharing program
8 agreement, or alternatively agreed upon by the
9 shared car owner and the shared car driver, and the
10 shared car driver notifies the peer-to-peer car-
11 sharing program of the location of the shared car;
12 or

13 (6) When the shared car owner or the shared car owner's
14 authorized designee takes possession and control of
15 the shared car.

16 "Peer-to-peer car-sharing" means the operation, use, or
17 control of a motor vehicle by an individual other than the
18 motor vehicle's owner through a peer-to-peer car-sharing
19 program. "Peer-to-peer car-sharing", for the purposes of
20 assessing a vehicle surcharge tax, does not mean the business



1 of providing rental motor vehicles to the public as that
2 phrase is used in section 251-3.

3 "Peer-to-peer car-sharing platform" means any person or
4 business that owns or operates a peer-to-peer car-sharing
5 program.

6 "Peer-to-peer car-sharing program" means:

- 7 (1) Any person who enables a shared car driver to
8 identify, reserve, or use a shared car owned by a
9 shared car owner; or
10 (2) Any person who enables a shared car owner to
11 describe, list, or make available a shared car for
12 identification, reservation, or use by a shared car
13 driver.

14 "Peer-to-peer car-sharing program" does not include:

- 15 (1) A transportation network company as defined in
16 section 431:10C-701;
17 (2) A car-sharing organization as defined in section
18 251-1;
19 (3) Any person registered and acting as a travel agency
20 pursuant to chapter 468L; or



1 (4) Any person registered and acting as an activity desk
2 pursuant to chapter 468M.

3 "Shared car" means a motor vehicle that is registered
4 pursuant to chapter 286 and is not owned; controlled;
5 operated; maintained; or managed by or registered, directly
6 or indirectly through an affiliate, to the peer-to-peer car-
7 sharing program; and is available for sharing through a peer-
8 to-peer car-sharing program. "Shared car" does not include a
9 rental motor vehicle or vehicle as those terms are defined in
10 section 437D-3.

11 "Shared car driver" means an individual who has been
12 authorized to drive the shared car by the shared car owner
13 under a car-sharing program agreement. "Shared car driver"
14 does not include a lessee as defined in section 437D-3.

15 "Shared car owner" means the registered owner of a shared
16 car. "Shared car owner" does not include a lessor as defined
17 in section 437D-3.

18 **§431:10C-B Insurance coverage during car-sharing period.**

19 (a) A peer-to-peer car-sharing program shall ensure that
20 during each car-sharing period, the shared car shall be



1 insured under a motor vehicle insurance policy issued by an
2 admitted carrier that shall provide:

3 (1) Primary insurance coverage for each shared car
4 available and used through a peer-to-peer car-
5 sharing program in amounts not less than \$1,000,000
6 for death, bodily injury, and property damage per
7 accident, and costs of defense outside the limits;

8 (2) Primary insurance coverage for each shared car
9 available and used through a peer-to-peer car-
10 sharing program for personal injury protection
11 coverage that meets the minimum coverage amounts
12 required by section 431:10C-103.5; and

13 (3) The following optional coverages, which any shared
14 car driver may elect to reject or purchase, that
15 provides primary coverage for each shared car
16 available and used through a peer-to-peer car-
17 sharing program:

18 (A) Uninsured and underinsured motorist coverages
19 as provided in section 431:10C-301, which shall
20 be equal to the primary liability limits
21 specified in this section; provided that



1 uninsured and underinsured motorist coverage
2 offers shall provide for written rejection of
3 the coverages as provided in section 431:10C-
4 301;

5 (B) Uninsured and underinsured motorist coverage
6 stacking options as provided in section
7 431:10C-301; provided that the offer of the
8 stacking options shall provide for written
9 rejection as provided in section 431:10C-301;
10 and

11 (C) An offer of required optional additional
12 insurance coverages as provided in section
13 431:10C-302.

14 (b) If insurance maintained by a shared car owner or
15 shared car driver in accordance with subsection (a) has
16 lapsed, contains an exclusion for peer-to-peer car-sharing,
17 or does not provide the required coverage, insurance
18 maintained by a peer-to-peer car-sharing program shall
19 provide the coverage required by subsection (a) beginning
20 with the first dollar of a claim and shall have the duty to
21 defend the claim.



(c) Coverage under a motor vehicle insurance policy maintained by the peer-to-peer car-sharing program shall not be dependent on another motor vehicle insurer first denying a claim.

§431:10C-C Exclusions in motor vehicle insurance

policies. (a) Notwithstanding section 431:10C-B, an authorized insurer that writes motor vehicle insurance in the State may exclude any and all coverage and the duty to defend or indemnify any claim afforded under a shared car owner's motor vehicle insurance policy during the car-sharing period, including:

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

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

(3) Uninsured and underinsured motorist coverage;

(4) Medical payments coverage;

(5) Comprehensive physical damage coverage; and

(6) Collision physical damage coverage.

(b) Except as required under section 431:10C-B, nothing in this part shall invalidate or limit an exclusion contained



1 in a motor vehicle insurance policy, including any insurance
2 policy in use or approved for use that excludes coverage for
3 motor vehicles made available for rent, sharing, or hire.

4 **§431:10C-D Recordkeeping; use of vehicle in peer-to-peer**
5 **car-sharing.** A peer-to-peer car-sharing program shall
6 collect and verify records pertaining to the use of a shared
7 car for each car-sharing program agreement, including:

- 8 (1) Dates and times of the car-sharing start time and
9 the car-sharing termination time in the car-sharing
10 program agreement;
- 11 (2) Dates and times of the car-sharing start time and
12 car-sharing termination time;
- 13 (3) Itemized descriptions and amounts of all fees and
14 costs charged to the shared car driver;
- 15 (4) Itemized descriptions and amounts of all fees and
16 costs paid by the shared car driver;
- 17 (5) Itemized descriptions and amounts of all fees and
18 costs paid to the shared car owner;
- 19 (6) The name and contact information of the shared car
20 owner and the shared car driver; and



1 (7) The insurance policy number, effective date,
2 coverage, and coverage amounts of each insurance
3 policy that identifies the peer-to-peer car-sharing
4 program, shared car owner, or shared car driver as
5 the insured.

6 The peer-to-peer car-sharing program shall retain the
7 records for a time period of not less than six years. Upon
8 request, the peer-to-peer car-sharing program shall provide
9 the information required by this section and any information
10 relating to the peer-to-peer car-sharing agreement in its
11 possession and control to the shared car owner, shared car
12 owner's insurer, shared car driver, shared car driver's
13 insurer, persons who have sustained injury or property damage
14 involving a shared car, and police and other governmental
15 entities to facilitate accident or claim coverage
16 investigation.

17 **§431:10C-E Right of recovery from peer-to-peer car-**
18 **sharing program or its motor vehicle insurer.** (a) A motor
19 vehicle insurer that defends or indemnifies a liability claim
20 against a shared car owner or shared car driver that is
21 excluded under the terms of the shared car owner's or shared



1 car driver's policy shall have a right to seek to recover
2 from the peer-to-peer car-sharing program or its motor
3 vehicle insurer if the liability claim is made against the
4 shared car owner or shared car driver for injury or damage
5 that occurs during the car-sharing period.

6 (b) A motor vehicle insurer that pays personal injury
7 protection benefits for injury sustained by an occupant of,
8 or by a pedestrian when struck by, a shared car when the
9 obligation to pay personal injury protection benefits is
10 excluded under the shared car owner's or shared car driver's
11 policy shall have the right to seek to recover from the peer-
12 to-peer car-sharing program or its motor vehicle insurer if
13 the injury occurs during the car-sharing period.

14 (c) A motor vehicle insurer that pays uninsured motorist
15 benefits or underinsured motorist benefits for injury
16 sustained by an occupant of a shared car when the obligation
17 to pay uninsured motorist benefits or underinsured motorist
18 benefits is excluded under the shared car owner's or shared
19 car driver's policy shall have the right to seek to recover
20 from the peer-to-peer car-sharing program or its motor



1 vehicle insurer if the injury occurs during the car-sharing
2 period.

3 (d) A motor vehicle insurer that pays a shared car owner
4 for loss or damage to a shared car that is excluded under the
5 comprehensive physical damage coverage or collision physical
6 damage coverage of the shared car owner's or shared car
7 driver's policy shall have the right to seek to recover from
8 the peer-to-peer car-sharing program or its motor vehicle
9 insurer if the loss or damage to the shared car occurs during
10 the car-sharing period.

11 **§431:10C-F Insurable interest.** (a) Notwithstanding any
12 law to the contrary, a peer-to-peer car-sharing program shall
13 have an insurable interest in a shared car during the car-
14 sharing period.

15 (b) In addition to the insurance coverage mandated by
16 section 431:10C-B, a peer-to-peer car-sharing program may own
17 and maintain as the named insured one or more policies of
18 motor vehicle insurance that provides coverage for:

19 (1) Liabilities assumed by the peer-to-peer car-sharing
20 program under a car-sharing program agreement;

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



1 (3) Damage or loss to the shared car or any liability of
2 the shared car driver.

3 **§431:10C-G Required disclosures and notices.** For each
4 shared car participating in a car-sharing program agreement,
5 a peer-to-peer car-sharing program shall:

6 (1) Before the execution of a car-sharing program
7 agreement, provide the shared car owner and shared
8 car driver with the terms and conditions of the car-
9 sharing program agreement;

10 (2) Before the execution of a car-sharing program
11 agreement, disclose to the shared car driver, all
12 costs or fees that are charged to the shared car
13 driver under the car-sharing program agreement,
14 including all costs or fees for mandatory insurance
15 coverage charged by the peer-to-peer car-sharing
16 program;

17 (3) Before the execution of a car-sharing program
18 agreement, disclose to the shared car owner, all
19 costs or fees that are charged to the shared car
20 owner under the car-sharing program agreement,
21 including fees or costs for mandatory insurance



1 coverage charged by the peer-to-peer car-sharing
2 program;

3 (4) Provide a twenty-four hour emergency telephone
4 number for a person capable of facilitating roadside
5 assistance for the shared car driver;

6 (5) Disclose any right of the peer-to-peer car-sharing
7 program to seek indemnification from the shared car
8 owner or shared car driver for economic loss
9 sustained by the peer-to-peer car-sharing program
10 caused by a breach of the car-sharing program
11 agreement; provided that the peer-to-peer car-
12 sharing program shall require the shared car owner
13 and shared car driver to specifically and separately
14 acknowledge notice of the disclosure before
15 execution of a car-sharing program agreement;

16 (6) Disclose that a motor vehicle insurance policy
17 issued to the shared car owner for the shared car or
18 to the shared car driver may not provide a defense
19 or indemnification for any claim asserted by the
20 peer-to-peer car-sharing program; provided that the
21 peer-to-peer car-sharing program shall require the



1 shared car owner and shared car driver to
2 specifically and separately acknowledge notice of
3 the disclosure before execution of a car-sharing
4 program agreement;

5 (7) Disclose that the peer-to-peer car-sharing program's
6 insurance coverage of the shared car owner and
7 shared car driver is in effect only during each car-
8 sharing period and that the shared car may not have
9 insurance coverage for use of the shared car by the
10 shared car driver after the car-sharing termination
11 time; provided that the peer-to-peer car-sharing
12 program shall require the shared car owner and
13 shared car driver to specifically and separately
14 acknowledge notice of the disclosure before the
15 execution of a car-sharing program agreement;

16 (8) Disclose any insurance or protection package costs
17 that are charged to the shared car owner or shared
18 car driver; provided that the peer-to-peer car-
19 sharing program shall require the shared car owner
20 and shared car driver to specifically and separately



1 acknowledge notice of the disclosure before the
2 execution of a car-sharing program agreement;

3 (9) Disclose to the shared car driver any conditions in
4 which the shared car driver is required to maintain
5 a motor vehicle insurance policy as the primary
6 coverage for the shared car; and

7 (10) Disclose that a shared car owner shall be permitted
8 to obtain insurance that provides coverage for loss
9 of use of a shared car."

10 SECTION 3. In codifying the new sections added by section
11 2 of this Act, the revisor of statutes shall substitute
12 appropriate section numbers for the letters used in designating
13 the new sections in this Act.

14 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Peer-to-Peer Car-Sharing; Peer-to-Peer Car-Sharing Programs;
Motor Vehicle Insurance; Insurance Requirements

Description:

Establishes peer-to-peer car-sharing insurance requirements.
(SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

