
A BILL FOR AN ACT

RELATING TO PEER-TO-PEER CAR-SHARING.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to title 15 to be appropriately designated
3 and to read as follows:

4 **"CHAPTER**

5 **PEER-TO-PEER CAR-SHARING**

6 **§ -1 Definitions.** As used in this chapter:

7 "Car-sharing delivery period" means the period of time
8 during which a shared car is being delivered to the location of
9 the car-sharing start time, if applicable, as documented by the
10 governing car-sharing program agreement.

11 "Car-sharing period" means the period of time that
12 commences with the car-sharing delivery period or, if there is
13 no delivery period, that commences with the car-sharing start
14 time and, in either case, ends at the car-sharing termination
15 time.

16 "Car-sharing program agreement" means the terms and
17 conditions applicable to a shared car owner, a shared car



1 driver, and a peer-to-peer car-sharing platform, if
2 applicable, that govern the use of a shared car through a
3 peer-to-peer car-sharing program. "Car-sharing program
4 agreement" does not include a rental agreement as defined in
5 section 437D-3.

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

9 "Car-sharing termination time" means the latest 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
14 the shared car is delivered to the location agreed
15 upon in 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
18 and shared car driver as communicated through a
19 peer-to-peer car-sharing program;
- 20 (3) When a shared car is returned to the location agreed
21 upon in the car-sharing program agreement or



1 alternatively agreed upon by the shared car owner
2 and the shared car driver, as communicated through a
3 peer-to-peer car-sharing program, before the
4 expiration of the period of time established for the
5 use of a shared car according to the terms of the
6 car-sharing program agreement, and the shared car
7 driver notifies the peer-to-peer car-sharing program
8 of the location of the shared car;

9 (4) When a shared car, during the car-sharing period,
10 cannot safely or legally be operated and the shared
11 car driver notifies the peer-to-peer car-sharing
12 program that the shared car is inoperable and
13 identifies the location of the shared car;

14 (5) When the shared car driver receives notice of a
15 safety recall affecting the shared car and the
16 shared car driver returns the shared car to the
17 location agreed upon in the car-sharing program
18 agreement, or alternatively agreed upon by the
19 shared car owner and the shared car driver, and the
20 shared car driver notifies the peer-to-peer car-



1 sharing program of the location of the shared car;

2 or

3 (6) When the shared car owner or the shared car owner's
4 authorized designee takes possession and control of
5 the shared car.

6 "Peer-to-peer car-sharing" means the operation, use, or
7 control of a motor vehicle by an individual other than the
8 motor vehicle's owner through a peer-to-peer car-sharing
9 program. "Peer-to-peer car-sharing", for the purposes of
10 assessing a vehicle surcharge tax, does not mean the business
11 of providing rental motor vehicles to the public as that
12 phrase is used in section 251-3.

13 "Peer-to-peer car-sharing platform" means any person or
14 business that owns or operates a peer-to-peer car-sharing
15 program.

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

17 (1) Any person who enables a shared car driver to
18 identify, reserve, or use a shared car owned by a
19 shared car owner; or

20 (2) Any person who enables a shared car owner to
21 describe, list, or make available a shared car for



1 identification, reservation, or use by a shared car
2 driver.

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

4 (1) A transportation network company as defined in
5 section 431:10C-701;

6 (2) A car-sharing organization as defined in section
7 251-1;

8 (3) Any person registered and acting as a travel agency
9 pursuant to chapter 468L; or

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

12 "Shared car" means a motor vehicle that is registered
13 pursuant to chapter 286 and is not owned, controlled,
14 operated, maintained, or managed by or registered, directly
15 or indirectly through an affiliate, to the peer-to-peer car-
16 sharing program and is available for sharing through a peer-
17 to-peer car-sharing program. "Shared car" does not include a
18 rental motor vehicle or vehicle as those terms are 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



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

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

6 § -2 Notification of implications of lien. When a car
7 owner registers as a shared car owner on a peer-to-peer
8 car-sharing program and prior to when the shared car owner makes
9 a shared car available for peer-to-peer car-sharing on the peer-
10 to-peer car-sharing program, the peer-to-peer car-sharing
11 program shall notify the shared car owner that, if the shared
12 car has a lien against it, the use of the shared car through a
13 peer-to-peer car-sharing program, including use without physical
14 damage coverage, may violate the terms of the contract with the
15 lienholder.

16 § -3 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 shared car for each car-
19 sharing program agreement, including:



- 1 (1) Dates and times of the car-sharing start time and
- 2 the car-sharing termination time in the car-sharing
- 3 program agreement;
- 4 (2) Dates and times of the car-sharing start time and
- 5 car-sharing termination time;
- 6 (3) Itemized descriptions and amounts of all fees and
- 7 costs charged to the shared car driver;
- 8 (4) Itemized descriptions and amounts of all fees and
- 9 costs paid by the shared car driver;
- 10 (5) Itemized descriptions and amounts of all fees and
- 11 costs paid to the shared car owner;
- 12 (6) The name and contact information of the shared car
- 13 owner and the shared car driver; and
- 14 (7) The insurance policy number, effective date,
- 15 coverage, and coverage amounts of each insurance
- 16 policy that identifies the peer-to-peer car-sharing
- 17 program, shared car owner, or shared car driver as
- 18 the insured.

19 The peer-to-peer car-sharing program shall retain the
20 records for a time period of no less than six years. Upon
21 request, the peer-to-peer car-sharing program shall provide



1 the information required by this section and any information
2 relating to the peer-to-peer car-sharing agreement in its
3 possession and control to the shared car owner, shared car
4 owner's insurer, shared car driver, shared car driver's
5 insurer, persons who have sustained injury or property damage
6 involving a shared car, and police and other governmental
7 entities to facilitate accident or claim coverage
8 investigation.

9 **§ -4 Exemption; vicarious liability.** Consistent with
10 title 49 United States Code section 30106, a peer-to-peer
11 car-sharing program and shared car owner shall be exempt from
12 vicarious liability under any state or local law that imposes
13 liability solely based upon motor vehicle ownership.

14 **§ -5 Required disclosures and notices.** For each
15 shared car participating in a car-sharing program agreement,
16 a peer-to-peer car-sharing program shall:

- 17 (1) Provide, prior to the execution of a car-sharing
18 program agreement, the shared car owner and shared
19 car driver with the terms and conditions of the car-
20 sharing program agreement;



1 (2) Disclose to the shared car driver, prior to the
2 execution of a car-sharing program agreement, all
3 costs or fees that are charged to the shared car
4 driver under the car-sharing program agreement,
5 including all costs or fees for mandatory insurance
6 coverage charged by the peer-to-peer car-sharing
7 program;

8 (3) Disclose to the shared car owner, prior to the
9 execution of a car-sharing program agreement, all
10 costs or fees that are charged to the shared car
11 owner under the car-sharing program agreement,
12 including fees or costs for mandatory insurance
13 coverage charged by the peer-to-peer car-sharing
14 program;

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

18 (5) Disclose any right of the peer-to-peer car-sharing
19 program to seek indemnification from the shared car
20 owner or shared car driver for economic loss
21 sustained by the peer-to-peer car-sharing program



1 caused by a breach of the car-sharing program
2 agreement; provided that the peer-to-peer car-
3 sharing program shall require the shared car owner
4 and shared car driver to specifically and separately
5 acknowledge notice of the disclosure prior to
6 execution of a car-sharing program agreement;

7 (6) Disclose that a motor vehicle insurance policy
8 issued to the shared car owner for the shared car or
9 to the shared car driver may not provide a defense
10 or indemnification for any claim asserted by the
11 peer-to-peer car-sharing program; provided that the
12 peer-to-peer car-sharing program shall require the
13 shared car owner and shared car driver to
14 specifically and separately acknowledge notice of
15 the disclosure prior to execution of a car-sharing
16 program agreement;

17 (7) Disclose that the peer-to-peer car-sharing program's
18 insurance coverage on the shared car owner and
19 shared car driver is in effect only during each car-
20 sharing period and that the shared car may not have
21 insurance coverage for use of the shared car by the



1 shared car driver after the car-sharing termination
2 time; provided that the peer-to-peer car-sharing
3 program shall require the shared car owner and
4 shared car driver to specifically and separately
5 acknowledge notice of the disclosure prior to the
6 execution of a car-sharing program agreement;

7 (8) Disclose any insurance or protection package costs
8 that are charged to the shared car owner or shared
9 car driver; provided that the peer-to-peer car-
10 sharing program shall require the shared car owner
11 and shared car driver to specifically and separately
12 acknowledge notice of the disclosure prior to the
13 execution of a car-sharing program agreement;

14 (9) Disclose to the shared car driver any conditions in
15 which the shared car driver is required to maintain
16 a motor vehicle insurance policy as the primary
17 coverage for the shared car; and

18 (10) Disclose that a shared car owner shall be permitted
19 to obtain insurance that provides coverage for loss
20 of use of a shared car.



1 § -6 Driver's license verification and data retention.

2 (a) A peer-to-peer car-sharing program shall not enter into a
3 car-sharing program agreement with a shared car driver unless
4 the shared car driver:

5 (1) Holds a driver's license issued under section 286-102
6 that authorizes the shared car driver to operate
7 vehicles of the class of the shared car;

8 (2) Is a nonresident who:

9 (A) Has a driver's license issued by the state or
10 country of the driver's residence that authorizes
11 the shared car driver in that state or country to
12 drive vehicles of the class of the shared car;
13 and

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

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

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

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



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

§ -7 Responsibility for equipment. A peer-to-peer car-sharing program shall have sole responsibility for any equipment, such as a global positioning system or other special equipment, that is put in or on the shared car to monitor or facilitate the car-sharing transaction, and shall agree to indemnify and hold harmless the shared car owner for any damage to or theft of the equipment during the car-sharing period not caused by the shared car owner. The peer-to-peer car-sharing program shall have the right to seek indemnification from the shared car driver for any loss or damage to the equipment that occurs during the car-sharing period.

§ -8 Motor vehicle safety recalls. (a) At the time when a vehicle owner registers as a shared car owner on a peer-to-peer car-sharing program, prior to the time when the shared car owner makes a shared car available for peer-to-peer car-sharing on the peer-to-peer car-sharing program and no more than forty-eight hours before the car-sharing start time, the peer-to-peer car-sharing program shall:



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

4 (2) Notify the shared car owner of the requirements under
5 subsection (b); and

6 (3) Not make the shared car available for use through a
7 peer-to-peer car-sharing program if the shared car
8 owner or peer-to-peer car-sharing program has received
9 notice or is aware of a safety recall on the shared
10 car, until the safety repair has been made.

11 (b) A shared car owner shall:

12 (1) Remove any shared car listed for use through a
13 peer-to-peer car-sharing program upon receipt of a
14 notice of a safety recall as soon as practicably
15 possible but no longer than seventy-two hours after
16 receipt of notice of a safety recall; and

17 (2) Notify the peer-to-peer car-sharing program of a
18 safety recall when the shared car is in the possession
19 of a shared car driver so that the peer-to-peer
20 car-sharing program may notify the shared car driver
21 and the shared car may be removed from use until the



1 shared car owner effects the necessary safety recall
2 repair.

3 § -9 General excise tax; rental motor vehicle surcharge
4 tax; collection. The activity of peer-to-peer car-sharing shall
5 be subject to general excise tax under chapter 237 and the
6 rental motor vehicle surcharge tax pursuant to section 251-2(a);
7 provided that the peer-to-peer car-sharing program shall be
8 responsible for collecting and remitting any taxes and
9 surcharges to the department of taxation.

10 § -10 Relation to other laws. Chapter 437D shall not
11 apply to peer-to-peer car-sharing."

12 SECTION 2. Section 251-2, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) There is levied and shall be assessed and collected
15 each month a rental motor vehicle surcharge tax of \$5 a day, or
16 any portion of a day that a rental motor vehicle is rented or
17 leased. Beginning January 1, 2022, and each subsequent year on
18 January 1 until December 31, 2027, the rental motor vehicle
19 surcharge tax shall increase by \$0.50. The rental motor vehicle
20 surcharge tax shall be levied upon the lessor; provided that the
21 tax shall not be levied on the lessor if:



1 (1) The lessor is renting the vehicle to replace a vehicle
2 of the lessee that:

3 (A) Is being repaired; or

4 (B) Has been stolen and is unrecovered or will not be
5 repaired due to a total loss of the vehicle; and

6 (2) A record of the repair order, the stolen vehicle
7 record, or total loss vehicle claim for the vehicle is
8 retained either by the lessor for two years for
9 verification purposes or by a motor vehicle repair
10 dealer for two years as provided in section 437B-16.

11 In addition to the requirements imposed by section 251-4, a
12 lessor shall disclose, to the department, the portion of the
13 remittance attributed to the county in which the motor vehicle
14 was operated under rental or lease. A peer-to-peer car-sharing
15 program, as defined in chapter , shall be subject to the tax
16 imposed by this subsection and be subject to the other
17 requirements of this chapter."

18 SECTION 3. Section 251-3, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Each person as a condition precedent to engaging or
21 continuing in the business of providing rental motor vehicles to



1 the public, engaging or continuing in the tour vehicle operator
2 business, [~~or~~] engaging or continuing in a car-sharing
3 organization business, or engaging or continuing in a
4 peer-to-peer car-sharing program as defined in section -1
5 shall register with the director. A person required to so
6 register shall make a one-time payment of \$20, upon receipt of
7 which the director shall issue a certificate of registration in
8 such form as the director determines, attesting that the
9 registration has been made. The registration shall not be
10 transferable and shall be valid only for the person in whose
11 name it is issued and for the transaction of business at the
12 place designated therein. The registration, or in lieu thereof
13 a notice stating where the registration may be inspected and
14 examined, shall at all times be conspicuously displayed at the
15 place for which it is issued."

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect on July 1, 2022.



Report Title:

Department of Taxation; Peer-to-Peer Car-Sharing; GET; Rental Motor Vehicle Surcharge Tax; State Highway Fund

Description:

Authorizes and regulates peer-to-peer car-sharing programs. Imposes the general excise tax and rental motor vehicle surcharge tax on peer-to-peer car-sharing programs. Requires those persons engaging or continuing in a peer-to-peer car-sharing program to register with the department of taxation. (CD1)

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