
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 and shared car



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

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

10 "Car-sharing termination time" means the latest of the
11 following events:

12 (1) The expiration of the agreed upon period of time
13 established for the use of a shared car according to
14 the terms of the car-sharing program agreement, if the
15 shared car is delivered to the location agreed upon in
16 the car-sharing program agreement;

17 (2) When the shared car is returned to a location as
18 alternatively agreed upon by the shared car owner and
19 shared car driver as communicated through a
20 peer-to-peer car-sharing program; or



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

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 include the business of providing rental motor vehicles
8 to the public as that 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 a lessor as defined in
14 section 437D-3. "Peer-to-peer car-sharing program" does not
15 include a 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 include a rental motor vehicle or vehicle as those terms are
19 defined in 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 include a 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 car drivers through a
6 peer-to-peer car-sharing program. "Shared car owner" does not
7 include a lessor as defined in section 437D-3.

8 § -2 Insurance coverage during car-sharing period.

9 (a) A peer-to-peer car-sharing program shall ensure that
10 during each car-sharing period, the shared car shall be
11 insured under a motor vehicle insurance policy that provides
12 primary insurance coverage for each shared car available and
13 used through a peer-to-peer car-sharing program in amounts no
14 less than the minimum amounts required under section
15 431:10C-301 and does not exclude use of a shared car by a
16 shared car driver.

17 (b) If insurance maintained by a shared car owner or
18 shared car driver in accordance with subsection (a) has
19 lapsed, contains an exclusion for peer-to-peer car-sharing,
20 or does not provide the required coverage, insurance
21 maintained by a peer-to-peer car-sharing program shall



1 provide the coverage required by subsection (a) beginning
2 with the first dollar of a claim and shall have the duty to
3 defend such claim.

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

8 § -3 **Notification of implications of lien.** When a car
9 owner registers as a shared car owner on a peer-to-peer
10 car-sharing program and prior to when the shared car owner makes
11 a shared car available for peer-to-peer car-sharing on the peer-
12 to-peer car-sharing program, the peer-to-peer car-sharing
13 program shall notify the shared car owner that, if the shared
14 car has a lien against it, the use of the shared car through a
15 peer-to-peer car-sharing program, including use without physical
16 damage coverage, may violate the terms of the contract with the
17 lienholder.

18 § -4 **Exclusions in motor vehicle insurance policies.**

19 (a) Notwithstanding section -2, an authorized insurer
20 that writes motor vehicle insurance in the State may exclude
21 any and all coverage and the duty to defend or indemnify any



1 claim afforded under a shared car owner's motor vehicle
2 insurance policy during the car-sharing period, 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) Except as required under section -2, nothing in
12 this chapter shall invalidate or limit an exclusion contained
13 in a motor vehicle insurance policy, including any insurance
14 policy in use or approved for use that excludes coverage for
15 motor vehicles made available for rent, sharing, or hire.

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



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

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



1 the information required by this section and any information
2 relating to the car-sharing program 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 § -6 **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 § -7 **Right of recovery from peer-to-peer car-sharing**
15 **program or its motor vehicle insurer.** (a) A motor vehicle
16 insurer that defends or indemnifies a liability claim against
17 a shared car owner or a shared car driver that is excluded
18 under the terms of the shared car owner's or shared car
19 driver's policy shall have a right to seek to recover from
20 the peer-to-peer car-sharing program or its motor vehicle
21 insurer if the liability claim is made against the shared car



1 owner or the shared car driver for injury or damage that
2 occurs during the car-sharing period.

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

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

20 (d) A motor vehicle insurer that pays a shared-car owner
21 for loss or damage to a shared car that is excluded under the



1 comprehensive physical damage coverage or collision physical
2 damage coverage of the shared car owner's or shared car
3 driver's policy shall have the right to seek to recover from
4 the peer-to-peer car-sharing program or its motor vehicle
5 insurer if the loss or damage to the shared car occurs during
6 the car-sharing period.

7 § **-8 Insurable interest.** (a) Notwithstanding any
8 other law or rule to the contrary, a peer-to-peer car-sharing
9 program shall have an insurable interest in a shared car
10 during the car-sharing period.

11 (b) In addition to the insurance coverage mandated by
12 section -2, a peer-to-peer car-sharing program may own and
13 maintain as the named insured one or more policies of motor
14 vehicle insurance that provides coverage for:

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

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

18 (3) Damage or loss to the shared car or any liability of
19 the shared car driver.



1 § -9 **Required disclosures and notices.** For each
2 shared car participating in a car-sharing program agreement,
3 a peer-to-peer car-sharing program shall:

4 (1) Provide, prior to the execution of a car-sharing
5 program agreement, the shared car owner and shared
6 car driver with the terms and conditions of the car-
7 sharing program agreement;

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

15 (3) Disclose to the shared car owner, prior to the
16 execution of a car-sharing program agreement, all
17 costs or fees that are charged to the shared car
18 owner under the car-sharing program agreement,
19 including fees or costs for mandatory insurance
20 coverage charged by the peer-to-peer car-sharing
21 program;



- 1 (4) Provide a twenty-four hour emergency telephone
2 number for a person capable of facilitating roadside
3 assistance for the shared car driver;
- 4 (5) Disclose any right of the peer-to-peer car-sharing
5 program to seek indemnification from the shared car
6 owner or shared car driver for economic loss
7 sustained by the peer-to-peer car-sharing program
8 caused by a breach of the car-sharing program
9 agreement; 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
13 execution of a car-sharing program agreement;
- 14 (6) Disclose that a motor vehicle insurance policy
15 issued to the shared car owner for the shared car or
16 to the shared car driver may not provide a defense
17 or indemnification for any claim asserted by the
18 peer-to-peer car-sharing program; provided that the
19 peer-to-peer car-sharing program shall require the
20 shared car owner and shared car driver to
21 specifically and separately acknowledge notice of



1 the disclosure prior to execution of a car-sharing
2 program agreement;

3 (7) Disclose that the peer-to-peer car-sharing program's
4 insurance coverage on the shared car owner and
5 shared car driver is in effect only during each car-
6 sharing period and that the shared car may not have
7 insurance coverage for use of the shared car by the
8 shared car driver after the car-sharing termination
9 time; provided that the peer-to-peer car-sharing
10 program shall require the shared car owner and
11 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 (8) Disclose any insurance or protection package costs
15 that are charged to the shared car owner or shared
16 car driver; provided that the peer-to-peer car-
17 sharing program shall require the shared car owner
18 and shared car driver to specifically and separately
19 acknowledge notice of the disclosure prior to the
20 execution of a car-sharing program agreement;



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

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

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

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

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

(2) Is a nonresident who:

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



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

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

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

(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.

§ -11 **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.



1 § **-12 Motor vehicle safety recalls.** (a) At the time
2 when a vehicle owner registers as a shared car owner on a
3 peer-to-peer car-sharing program, prior to the time when the
4 shared car owner makes a shared car available for peer-to-peer
5 car-sharing on the peer-to-peer car-sharing program, and at the
6 car-sharing start time, the peer-to-peer car-sharing program
7 shall:

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

11 (2) Notify the shared car owner of the requirements under
12 subsection (b).

13 (b) A shared car owner shall:

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

18 (2) Remove any shared car listed for use through a
19 peer-to-peer car-sharing program upon receipt of a
20 notice of a safety recall as soon as practicably



possible but no longer than seventy-two hours after receipt of notice of a safety recall; and

(3) Notify the peer-to-peer car-sharing program of a safety recall when the shared car is in the possession of a shared car driver so that the peer-to-peer car-sharing program may notify the shared car driver and the shared car may be removed from use until the shared car owner effects the necessary safety recall repair.

§ -13 **General excise tax; rental motor vehicle surcharge tax; collection.** The activity of peer-to-peer car-sharing shall be subject to general excise tax under chapter 237 and the rental motor vehicle surcharge tax pursuant to section 251-2(a); provided that the peer-to-peer car-sharing program shall be responsible for collecting and remitting any taxes and surcharges to the department of taxation.

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

SECTION 2. Section 251-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:



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

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect on July 1, 2050.



H.B. NO. 1971 H.D. 2

Report Title:

DoTAX; Peer-to-Peer Car-sharing; GET; Rental Motor Vehicle
Surcharge Tax; State Highway Fund

Description:

Authorizes and regulates peer-to-peer car-sharing, including establishing insurance requirements. 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. Effective 7/1/2050. (HD2)

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