

Senate File 2290

S-5058

1 Amend Senate File 2290 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. NEW SECTION. 537C.1 Short title.

5 This chapter shall be known and may be cited as the  
6 "*Peer-to-Peer Car Sharing Program Act*".

7 Sec. 2. NEW SECTION. 537C.2 Definitions.

8 As used in this chapter, unless the context otherwise  
9 requires:

10 1. "*Car sharing*" means the authorized use of a vehicle  
11 by an individual other than the vehicle's owner through a  
12 peer-to-peer car sharing program.

13 2. "*Car sharing delivery period*" means the time period in  
14 which a shared vehicle is being delivered to the location of a  
15 car sharing start time pursuant to a program agreement.

16 3. "*Car sharing period*" means the period of time commencing  
17 with either the car sharing delivery period, or, if there is no  
18 car sharing delivery period, the car sharing start time, and  
19 ending at the car sharing termination time as established in a  
20 program agreement.

21 4. "*Car sharing start time*" means the time at which a  
22 shared vehicle becomes subject to the control of the shared  
23 vehicle driver at or after a reservation of a shared vehicle is  
24 scheduled to begin pursuant to a program agreement.

25 5. "*Car sharing termination time*" means the earliest of any  
26 of the following events:

27 a. The expiration of the period of time established by the  
28 program agreement for the use of a shared vehicle by a shared  
29 vehicle driver, if the shared vehicle driver delivers the  
30 shared vehicle at the time and to the location agreed upon in  
31 the program agreement.

32 b. The time when the shared vehicle owner retakes possession  
33 or control of the shared vehicle from a shared vehicle driver.

34 c. The time when the shared vehicle is returned to an  
35 alternate location as agreed upon by the shared vehicle owner

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1 and shared vehicle driver and incorporated into the program  
2 agreement.

3 6. "*Peer-to-peer car sharing program*" or "*program*" means  
4 a business platform that connects shared vehicle owners with  
5 shared vehicle drivers for financial consideration pursuant  
6 to a program agreement. "*Peer-to-peer car sharing program*" or  
7 "*program*" does not include a rental car company as defined by  
8 section 516D.3.

9 7. "*Program agreement*" means a contract executed by a shared  
10 vehicle owner and a shared vehicle driver that contains the  
11 terms and conditions for the use of a shared vehicle through a  
12 peer-to-peer car sharing program. "*Program agreement*" does not  
13 include a rental agreement as defined by section 516D.3.

14 8. "*Shared vehicle*" means a vehicle that is available for  
15 sharing through a peer-to-peer car sharing program. "*Shared*  
16 *vehicle*" does not include a rental vehicle as that term is  
17 defined in section 516D.3.

18 9. "*Shared vehicle driver*" means an individual authorized to  
19 drive a shared vehicle pursuant to a program agreement.

20 10. "*Shared vehicle owner*" means a registered owner, or the  
21 registered owner's designee, of a vehicle made available for  
22 car sharing.

23 11. "*Vehicle*" means any self-propelled motor vehicle subject  
24 to registration under chapter 321, or under the laws of another  
25 state, that is designed primarily for carrying no more than  
26 nine passengers at any one time. "*Vehicle*" does not include a  
27 motorcycle or motorized bicycle.

28 Sec. 3. NEW SECTION. 537C.3 Program — assumption of  
29 liability.

30 1. Except as provided in subsection 2, a program shall  
31 assume liability for a shared vehicle owner for all bodily  
32 injuries or property damage to a third party during a car  
33 sharing period involving the shared vehicle owner's vehicle  
34 in the liability amount stated in the applicable program  
35 agreement, but not less than the liability amounts under

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1 section 321A.21. Notwithstanding the definition of "*car sharing*  
2 *termination time*" in section 537C.2, the assumption of liability  
3 shall apply to bodily injury and property damage losses by a  
4 damaged third party as required under section 321A.21.

5 2. The assumption of liability by a program pursuant to  
6 subsection 1 shall not apply to a shared vehicle owner if,  
7 prior to or during a car sharing period described in subsection  
8 1, the shared vehicle owner does any of the following:

9 a. Makes an intentional or fraudulent material  
10 misrepresentation or omission to the program.

11 b. Acts in concert with the shared vehicle driver to have  
12 the shared vehicle driver fail to return the shared vehicle  
13 according to the terms of the program agreement.

14 3. Notwithstanding any other provision of law to the  
15 contrary, a program and a shared vehicle owner shall not be  
16 liable under any state or local law that imposes liability  
17 based on vehicle ownership consistent with the provisions of  
18 49 U.S.C. §30106.

19 **Sec. 4. NEW SECTION. 537C.4 Motor vehicle liability**  
20 **insurance requirements — claims.**

21 1. a. A program shall ensure that, during a car sharing  
22 period, a shared vehicle owner and a shared vehicle driver are  
23 insured under a motor vehicle liability insurance policy that  
24 provides insurance coverage in an amount not less than the  
25 minimum amounts set forth in section 321A.21.

26 b. The liability policy under paragraph "a" must meet either  
27 of the following requirements:

28 (1) The liability policy recognizes that the vehicle  
29 covered by the liability policy is made available and used  
30 through a peer-to-peer car sharing program.

31 (2) The liability policy does not expressly prohibit the  
32 use of the vehicle covered by the liability policy as a shared  
33 vehicle.

34 2. The liability insurance coverage requirements under  
35 this section may be satisfied by any of the following, or a

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1 combination of any of the following:

2     *a.* A liability policy maintained by the shared vehicle  
3 owner.

4     *b.* A liability policy maintained by the shared vehicle  
5 driver.

6     *c.* A liability policy maintained by the program.

7     3. The motor vehicle liability insurance policy under  
8 subsection 1, paragraph "a", shall be primary during each  
9 car sharing period and if during the car sharing period a  
10 claim occurs in another state that requires minimum financial  
11 responsibility limits higher than the minimum limits required  
12 by subsection 1, paragraph "a", the coverage maintained under  
13 this section shall satisfy the difference in the required  
14 minimum coverage amounts, up to the applicable policy limit.

15     4. An insurer or program providing coverage under  
16 subsection 2 shall assume primary liability for a claim under  
17 the liability policy in all of the following circumstances:

18     *a.* There is a dispute as to the individual in control of  
19 the shared vehicle at the time of an event giving rise to a  
20 claim and the program is unable to comply with section 537C.12,  
21 subsection 2.

22     *b.* There is a dispute as to whether the shared vehicle was  
23 returned to the agreed location at the car sharing termination  
24 time pursuant to section 537C.2, subsection 5, paragraph "c".

25     5. If, at the time of a claim, the liability policy  
26 maintained by a shared vehicle owner or a shared vehicle driver  
27 has lapsed or does not provide the required coverage, the  
28 liability policy maintained by the program shall provide the  
29 required coverage beginning with the first dollar of the claim  
30 and the program shall defend such claim under the program's  
31 liability policy, not including a claim under section 537C.3,  
32 subsection 2.

33     6. Notwithstanding any other provision of law to the  
34 contrary, a program shall have an insurable interest in a  
35 shared vehicle during the car sharing period.

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1 7. A program may own and maintain, as the named insured, one  
2 or more motor vehicle liability policies that provide coverage  
3 for any of the following:

4 a. Liabilities assumed by the program under a car sharing  
5 agreement.

6 b. Liability of a shared vehicle owner or a shared vehicle  
7 driver.

8 c. Any damage to, or loss of, a shared vehicle.

9 8. Coverage under a liability insurance policy maintained  
10 by a program shall not be dependent on another insurer or  
11 another liability insurance policy first denying a claim.

12 9. This section shall not be construed to create liability  
13 on a program to maintain a liability insurance policy.

14 10. This section shall not be construed to limit the  
15 liability of a program for an act or omission of the program  
16 that results in injury to a person as a result of the use of a  
17 shared vehicle through a program.

18 11. This section shall not be construed to limit the ability  
19 of a program to contractually seek indemnification from a  
20 shared vehicle owner or a shared vehicle driver for economic  
21 loss sustained by the program resulting from a breach of the  
22 terms and conditions of the program agreement.

23 Sec. 5. NEW SECTION. 537C.5 Liability policy — exclusions.

24 1. A motor vehicle liability policy may exclude coverage  
25 for, and the duty to defend or indemnify, a shared vehicle  
26 owner for any claims arising out of the shared vehicle owner's  
27 participation in a program, including but not limited to the  
28 following:

29 a. Liability coverage for bodily injury and property damage.

30 b. Personal accident coverage.

31 c. Uninsured and underinsured motorist coverage.

32 d. Medical payments coverage.

33 e. Comprehensive physical damage coverage.

34 f. Collision physical damage coverage.

35 2. This chapter shall not be construed to invalidate, limit,

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1 or restrict an exclusion in a liability policy, including an  
2 exclusion of coverage for vehicles made available for rent,  
3 sharing, hire, or any business use.

4 3. This chapter shall not be construed to invalidate, limit,  
5 or restrict an insurance carrier's ability to underwrite an  
6 insurance policy, or to cancel or to not renew an insurance  
7 policy.

8 Sec. 6. NEW SECTION. 537C.6 Contribution against  
9 indemnification.

10 If an insurance carrier that issued a liability policy  
11 defends or indemnifies a claim against a shared vehicle owner  
12 or a shared vehicle driver for a loss or injury that occurs  
13 during a car sharing period, and the claim is excluded under  
14 the terms of the liability policy, the insurance carrier may  
15 seek recovery against the program's liability policy.

16 Sec. 7. NEW SECTION. 537C.7 Responsibility for physical  
17 equipment.

18 A program shall be exclusively responsible for any  
19 equipment, including a global positioning system or other  
20 special equipment, used to monitor or facilitate a car sharing  
21 transaction. A program shall agree to indemnify, and shall not  
22 hold responsible, a shared vehicle owner for any damage to,  
23 or theft of, any equipment placed in or on a shared vehicle  
24 during the car sharing period unless the damage to, or theft  
25 of, the equipment is the fault of the shared vehicle owner.  
26 The program may seek indemnity from the shared vehicle driver  
27 for loss or damage to such equipment that occurs during the car  
28 sharing period.

29 Sec. 8. NEW SECTION. 537C.8 Program agreements.

30 1. A program agreement shall disclose to a shared vehicle  
31 owner and shared vehicle driver all of the following:

32 a. That a shared vehicle owner's or the shared vehicle  
33 driver's motor vehicle liability insurance policy does not  
34 provide a defense or indemnification for a claim asserted by  
35 the program.

1     *b.* Any right the program has to seek indemnification from  
2 the shared vehicle owner or the shared vehicle driver for any  
3 economic losses incurred by the program as a result of a breach  
4 of the terms and conditions of the program agreement by the  
5 shared vehicle owner or the shared vehicle driver.

6     *c.* That the program's liability policy coverage for the  
7 shared vehicle owner and the shared vehicle driver is only  
8 in effect for the car sharing period and that the program's  
9 liability policy coverage does not cover the shared vehicle  
10 driver and the shared vehicle owner for any use of the shared  
11 vehicle by the shared vehicle driver outside of the car sharing  
12 period.

13     *d.* That the shared vehicle owner's motor vehicle liability  
14 insurance policy may not provide coverage for a shared vehicle.

15     *e.* An emergency telephone number for personnel capable  
16 of fielding roadside assistance, and a telephone number for  
17 customer service inquiries.

18     *f.* The daily rate, fees, and, if applicable, any costs for  
19 insurance or a protection package that is charged to the shared  
20 vehicle owner or the shared vehicle driver.

21     Sec. 9. NEW SECTION. 537C.9 Program agreement — approved  
22 parties.

23     A program shall only enter into a program agreement with the  
24 following persons:

25     1. A resident of this state who holds a driver's license  
26 issued in this state that authorizes the person to operate a  
27 vehicle of the class of the shared vehicle that is the subject  
28 of the program agreement.

29     2. A nonresident of this state who holds a driver's license  
30 issued by the state or country of the person's residence that  
31 authorizes the person to operate a vehicle of the class of the  
32 shared vehicle that is the subject of the program agreement,  
33 and is at least the minimum age required by this state to  
34 operate a vehicle of that class.

35     3. A person who is specifically authorized by this state to

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1 operate a vehicle of the class of the shared vehicle that is  
2 the subject of the program agreement.

3 4. A program shall keep permanent records of all of the  
4 following:

5 a. The names and address of each shared vehicle driver.

6 b. The driver's license number and place of issuance of each  
7 shared vehicle driver, and any other person who may operate a  
8 shared vehicle under a program agreement.

9 Sec. 10. NEW SECTION. 537C.10 Shared vehicles — safety  
10 recalls.

11 1. On the date a person registers as a shared vehicle owner,  
12 and prior to the time a shared vehicle owner makes a shared  
13 vehicle available for car sharing, the program shall do all of  
14 the following:

15 a. Verify that a safety recall has not been issued for the  
16 shared vehicle for which repairs have not been made.

17 b. Notify the shared vehicle owner of the requirements under  
18 subsection 2.

19 2. a. If a shared vehicle owner receives actual notice of a  
20 safety recall before the vehicle is made available as a shared  
21 vehicle, the person shall not make the vehicle available for  
22 car sharing until the safety repair has been made.

23 b. If a shared vehicle owner receives actual notice of a  
24 safety recall while the shared vehicle is available for car  
25 sharing, the shared vehicle owner shall remove the shared  
26 vehicle from the program as soon as practicably possible, and  
27 shall not make the vehicle available for car sharing until  
28 after the safety recall repair has been made.

29 c. If a shared vehicle owner receives actual notice of a  
30 safety recall on a shared vehicle while the shared vehicle is  
31 being used by, or is in the possession of, a shared vehicle  
32 driver, the shared vehicle owner shall, as soon as practicable,  
33 notify the program about the safety recall and the shared  
34 vehicle owner shall address the safety recall repair.

35 Sec. 11. NEW SECTION. 537C.11 Shared vehicles — liens.

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1 If there is a lien on a shared vehicle, the program shall  
2 notify the shared vehicle owner when the vehicle owner  
3 registers as a shared vehicle owner, and again immediately  
4 prior to the time the vehicle is made available for car  
5 sharing, that the vehicle's use as a shared vehicle may violate  
6 the terms of the contract with the lienholder.

7 Sec. 12. NEW SECTION. 537C.12 Recordkeeping.

8 1. A program shall collect and verify records relating to  
9 the use of each shared vehicle, including all of the following:

10 a. All dates and times that the shared vehicle is the  
11 subject of a program agreement.

12 b. The location of each car sharing start time and each car  
13 sharing termination time.

14 c. All fees paid by each shared vehicle driver.

15 d. All revenue received by the shared vehicle owner.

16 2. Upon request, a program shall provide the information  
17 collected pursuant to subsection 1 to the shared vehicle owner,  
18 the insurance carrier for the shared vehicle owner's liability  
19 policy, or the insurance carrier for the shared vehicle  
20 driver's liability policy, for purposes of a claim coverage  
21 investigation, settlement, negotiation, or litigation related  
22 to a claim incurred during a car sharing period.

23 3. A program shall retain the records under subsection 1 for  
24 the period required under section 614.1, subsection 2.>

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