

House File 2497 - Introduced

HOUSE FILE 2497
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 602)

A BILL FOR

- 1 An Act relating to peer-to-peer car sharing programs.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **516C.1 Short title.**

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

4 Sec. 2. NEW SECTION. **516C.2 Definitions.**

5 As used in this chapter, unless the context otherwise
6 requires:

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

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

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

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

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

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

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

31 c. The time when the shared vehicle is returned to an
32 alternate location as agreed upon by the shared vehicle owner
33 and shared vehicle driver and incorporated into the program
34 agreement.

35 6. *"Peer-to-peer car sharing program"* or *"program"* means a

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

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

10 8. "*Shared vehicle*" means a vehicle that is available for
 11 sharing through a peer-to-peer car sharing program. "*Shared*
 12 *vehicle*" does not include a rental vehicle as that term is
 13 defined in section 516D.3.

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

16 10. "*Shared vehicle owner*" means a registered owner, or the
 17 registered owner's designee, of a vehicle made available for car
 18 sharing.

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

24 Sec. 3. NEW SECTION. **516C.3 Program — assumption of**
 25 **liability.**

26 1. Except as provided in subsection 2, a program shall
 27 assume liability for a shared vehicle owner for all bodily
 28 injuries or property damage to a third party during a car
 29 sharing period involving the shared vehicle owner's vehicle in
 30 the liability amount stated in the applicable program agreement,
 31 but not less than the liability amounts under section 321A.21.
 32 Notwithstanding the definition of "*car sharing termination time*"
 33 in section 516C.2, the assumption of liability shall apply to
 34 bodily injury and property damage losses by a damaged third party
 35 as required under section 321A.21.

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

5 a. Makes an intentional or fraudulent material
6 misrepresentation or omission to the program.

7 b. Acts in concert with the shared vehicle driver to have the
8 shared vehicle driver fail to return the shared vehicle according
9 to the terms of the program agreement.

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

15 Sec. 4. NEW SECTION. **516C.4 Motor vehicle liability**
16 **insurance requirements — claims.**

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

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

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

27 (2) The liability policy does not expressly prohibit the
28 use of the vehicle covered by the liability policy as a shared
29 vehicle.

30 2. The liability insurance coverage requirements under this
31 section may be satisfied by any of the following, or a
32 combination of any of the following:

33 a. A liability policy maintained by the shared vehicle owner.

34 b. A liability policy maintained by the shared vehicle
35 driver.

1 c. A liability policy maintained by the program.

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

10 4. An insurer or program providing coverage under subsection
11 2 shall assume primary liability for a claim under the liability
12 policy in all of the following circumstances:

13 a. There is a dispute as to the individual in control of the
14 shared vehicle at the time of an event giving rise to a claim and
15 the program is unable to comply with section 516C.12, subsection
16 2.

17 b. There is a dispute as to whether the shared vehicle was
18 returned to the agreed location at the car sharing termination
19 time pursuant to section 516C.2, subsection 5, paragraph "c".

20 5. If, at the time of a claim, the liability policy
21 maintained by a shared vehicle owner or a shared vehicle driver
22 has lapsed or does not provide the required coverage, the
23 liability policy maintained by the program shall provide the
24 required coverage beginning with the first dollar of the claim
25 and the program shall defend such claim under the program's
26 liability policy, not including a claim under section 516C.3,
27 subsection 2.

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

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

34 a. Liabilities assumed by the program under a car sharing
35 agreement.

1 b. Liability of a shared vehicle owner or a shared vehicle
2 driver.

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

4 8. Coverage under a liability insurance policy maintained by
5 a program shall not be dependent on another insurer or another
6 liability insurance policy first denying a claim.

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

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

13 11. This section shall not be construed to limit the ability
14 of a program to contractually seek indemnification from a shared
15 vehicle owner or a shared vehicle driver for economic loss
16 sustained by the program resulting from a breach of the terms and
17 conditions of the program agreement.

18 Sec. 5. NEW SECTION. **516C.5 Liability policy —**
19 **exclusions.**

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

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

26 b. Personal accident coverage.

27 c. Uninsured and underinsured motorist coverage.

28 d. Medical payments coverage.

29 e. Comprehensive physical damage coverage.

30 f. Collision physical damage coverage.

31 2. This chapter shall not be construed to invalidate, limit,
32 or restrict an exclusion in a liability policy, including an
33 exclusion of coverage for vehicles made available for rent,
34 sharing, hire, or any business use.

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

1 or restrict an insurance carrier's ability to underwrite an
2 insurance policy, or to cancel or to not renew an insurance
3 policy.

4 Sec. 6. NEW SECTION. **516C.6 Contribution against**
5 **indemnification.**

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

12 Sec. 7. NEW SECTION. **516C.7 Responsibility for physical**
13 **equipment.**

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

24 Sec. 8. NEW SECTION. **516C.8 Program agreements.**

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

27 a. That a shared vehicle owner's or the shared vehicle
28 driver's motor vehicle liability insurance policy does not
29 provide a defense or indemnification for a claim asserted by the
30 program.

31 b. Any right the program has to seek indemnification from
32 the shared vehicle owner or the shared vehicle driver for any
33 economic losses incurred by the program as a result of a breach
34 of the terms and conditions of the program agreement by the
35 shared vehicle owner or the shared vehicle driver.

1 c. That the program's liability policy coverage for the
2 shared vehicle owner and the shared vehicle driver is only
3 in effect for the car sharing period and that the program's
4 liability policy coverage does not cover the shared vehicle
5 driver and the shared vehicle owner for any use of the shared
6 vehicle by the shared vehicle driver outside of the car sharing
7 period.

8 d. That the shared vehicle owner's motor vehicle liability
9 insurance policy may not provide coverage for a shared vehicle.

10 e. An emergency telephone number for personnel capable of
11 fielding roadside assistance, and a telephone number for customer
12 service inquiries.

13 f. The daily rate, fees, and, if applicable, any costs for
14 insurance or a protection package that is charged to the shared
15 vehicle owner or the shared vehicle driver.

16 Sec. 9. NEW SECTION. **516C.9 Program agreement — approved**
17 **parties.**

18 A program shall only enter into a program agreement with the
19 following persons:

20 1. A resident of this state who holds a driver's license
21 issued in this state that authorizes the person to operate a
22 vehicle of the class of the shared vehicle that is the subject
23 of the program agreement.

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

30 3. A person who is specifically authorized by this state to
31 operate a vehicle of the class of the shared vehicle that is the
32 subject of the program agreement.

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

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

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

4 Sec. 10. NEW SECTION. **516C.10 Shared vehicles — safety**
5 **recalls.**

6 1. On the date a person registers as a shared vehicle owner,
7 and prior to the time a shared vehicle owner makes a shared
8 vehicle available for car sharing, the program shall do all of
9 the following:

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

12 b. Notify the shared vehicle owner of the requirements under
13 subsection 2.

14 2. a. If a shared vehicle owner receives actual notice of a
15 safety recall before the vehicle is made available as a shared
16 vehicle, the person shall not make the vehicle available for car
17 sharing until the safety repair has been made.

18 b. If a shared vehicle owner receives actual notice of a
19 safety recall while the shared vehicle is available for car
20 sharing, the shared vehicle owner shall remove the shared vehicle
21 from the program as soon as practicably possible, and shall not
22 make the vehicle available for car sharing until after the safety
23 recall repair has been made.

24 c. If a shared vehicle owner receives actual notice of a
25 safety recall on a shared vehicle while the shared vehicle is
26 being used by, or is in the possession of, a shared vehicle
27 driver, the shared vehicle owner shall, as soon as practicable,
28 notify the program about the safety recall and the shared vehicle
29 owner shall address the safety recall repair.

30 Sec. 11. NEW SECTION. **516C.11 Shared vehicles — liens.**

31 If there is a lien on a shared vehicle, the program shall
32 notify the shared vehicle owner when the vehicle owner registers
33 as a shared vehicle owner, and again immediately prior to the
34 time the vehicle is made available for car sharing, that the
35 vehicle's use as a shared vehicle may violate the terms of the

1 contract with the lienholder.

2 Sec. 12. NEW SECTION. **516C.12 Recordkeeping.**

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

5 a. All dates and times that the shared vehicle is the subject
6 of a program agreement.

7 b. The location of each car sharing start time and each car
8 sharing termination time.

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

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

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

18 3. A program shall retain the records under subsection 1 for
19 the period required under section 614.1, subsection 2.

20 Sec. 13. RULES. The commissioner of insurance may adopt
21 rules pursuant to chapter 17A as necessary to administer this
22 Act.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to peer-to-peer car sharing programs.
27 "Peer-to-peer car sharing program" (program) is defined in the
28 bill.

29 Under the bill, a program assumes liability to a shared
30 vehicle owner (owner) for all bodily injuries or property damage
31 to a third party during the car sharing period in the amount
32 stated in the program agreement (agreement), but not less than
33 the amounts provided in Code section 321A.21. The assumption
34 of liability shall apply to bodily injury and property damage
35 losses by a damaged third party as required under Code section

1 321A.21. "Shared vehicle owner", "car sharing period", and
2 "program agreement" are defined in the bill. The assumption of
3 liability by a program shall not apply if the owner makes an
4 intentional or fraudulent material misrepresentation or omission
5 to the program prior to the car sharing period, or acts in
6 concert with a shared vehicle driver (driver) to have the driver
7 fail to return the shared vehicle according to the terms of the
8 agreement. "Shared vehicle driver" is defined in the bill.
9 Under the bill, a program and an owner shall be exempt from
10 liability under any state or local law that imposes liability
11 based on vehicle ownership consistent with 49 U.S.C. §30106.

12 The bill requires a program to ensure that a motor vehicle
13 liability policy (liability policy) is in effect during each car
14 sharing period, and the policy may be maintained by the owner,
15 the driver, the program, or any combination of the three. "Motor
16 vehicle liability policy" is defined in the bill. The liability
17 policy must either recognize that the shared vehicle will be made
18 available and used through a program, or not expressly exclude
19 the use of the vehicle as a shared vehicle. The liability
20 policy shall be primary during each car sharing period and if
21 during the car sharing period a claim occurs in another state
22 that requires minimum financial responsibility limits higher than
23 required by the bill, the coverage shall satisfy the difference
24 in the required minimum coverage amounts, up to the policy limit.
25 The insurer or program providing coverage under a liability
26 policy assumes primary liability for a claim under the policy in
27 the circumstances described in the bill. If, at the time of a
28 claim, the liability policy maintained by the owner or the driver
29 has lapsed or does not provide coverage, the liability policy
30 maintained by the program shall provide the necessary coverage
31 for the claim, and the program shall defend a claim under
32 the program's liability policy. The bill creates an insurable
33 interest for a program in a shared vehicle during the car sharing
34 period. A program may maintain as the named insured one or more
35 liability policies that provide coverage for liabilities assumed

1 by the program under a car sharing agreement, liability of the
2 owner or the driver, or any damage to, or loss of, a shared
3 vehicle. Coverage under a policy maintained by a program shall
4 not be dependent on another insurer or policy first denying a
5 claim. Code section 516C.4 shall not be construed to create
6 liability on a program to maintain a liability insurance policy,
7 to limit the liability of a program for an act or omission that
8 results in injury to a person, or to limit the ability of a
9 program to contractually seek indemnification from an owner or a
10 driver.

11 A liability policy may exclude coverage, and the duty to
12 defend or indemnify an owner, for any claims arising out
13 of a program, including liability coverage for bodily injury
14 and property damage, personal accident coverage, uninsured
15 and underinsured motorist coverage, medical payments coverage,
16 comprehensive physical damage coverage, and collision physical
17 damage coverage. The bill shall not be construed to invalidate,
18 limit, or restrict an exclusion in a liability policy, including
19 an exclusion of coverage for vehicles made available for rent,
20 sharing, hire, or any business use. The bill shall not
21 be construed to invalidate, limit, or restrict an insurance
22 carrier's ability to underwrite an insurance policy or to cancel
23 or not to renew an insurance policy.

24 A liability policy that defends or indemnifies a claim made
25 against an owner or a driver for loss or injury that occurred
26 during a car sharing period, where the claim is excluded under
27 the terms of the liability policy, may seek recovery against
28 the program's liability policy. A program shall be exclusively
29 responsible for any equipment placed in or on a shared vehicle to
30 monitor or facilitate the car sharing transaction, unless damage
31 to or theft of such equipment is the fault of the shared vehicle
32 owner. The program may seek indemnity from the shared vehicle
33 driver for loss or damage to such equipment that occurs during
34 the car sharing period.

35 The bill requires an agreement to disclose to the owner and

1 the driver (1) that the applicable liability policy does not
2 provide a defense or indemnification for a claim asserted by the
3 program; (2) any right of the program to seek indemnification
4 from the owner or driver for economic loss resulting from a
5 breach of the terms and conditions of the program; (3) that
6 the program's liability policy coverage of the owner and driver
7 terminates upon the car sharing termination time; (4) that the
8 owner's liability policy may not cover a shared vehicle; (5)
9 emergency telephone numbers for personnel capable of fielding
10 roadside assistance and for customer service; and (6) the daily
11 rate, fees, and any costs of insurance or protection packages
12 that are charged to the owner or driver. An agreement shall also
13 include an emergency telephone number for roadside assistance
14 and a telephone number for other customer service inquiries.
15 A program shall only enter into an agreement with any person
16 who holds a driver's license issued in this state to operate
17 a vehicle of the class of the shared vehicle, hold a driver's
18 license issued by another state or country that authorizes the
19 person to operate a vehicle of the class of the shared vehicle
20 and who is at least the minimum age required for a resident
21 of this state to operate a vehicle of the class of the shared
22 vehicle, or a person who is otherwise specifically authorized by
23 this state to drive vehicles of the class of the shared vehicle.

24 The bill requires a program, prior to the time an owner makes
25 a shared vehicle available for car sharing, to verify that the
26 shared vehicle does not have any safety recalls for which repairs
27 have not been made, and to notify the owner of the requirements
28 to make safety repairs as detailed in the bill. The bill details
29 additional requirements related to safety recalls.

30 The bill requires a program to notify an owner at the time of
31 registration, and prior to the owner making a vehicle available
32 for car sharing, that if there are any liens against the shared
33 vehicle the vehicle's use through the program may violate the
34 terms of the owner's contract with the lienholder.

35 The bill requires a program to collect and verify records

1 relating to the use of a shared vehicle, including all dates and
2 times that a shared vehicle is used, locations of a car sharing
3 start time and car sharing termination time, fees paid by the
4 driver, and revenues received by the owner, and to retain such
5 records as required by the bill. Upon request, a program shall
6 provide such information to the owner, the insurance carrier
7 for the owner's liability policy, or the insurance carrier for
8 the driver's liability policy for purposes of a claim coverage
9 investigation, settlement, negotiation, or litigation. A program
10 shall keep permanent records of the names and addresses of each
11 driver and the driver's license number and place of issuance
12 of each driver and any other person who may operate the shared
13 vehicle under the program agreement.

14 The bill does not limit the liability of a program for any
15 act or omission of the program that results in injury to a person
16 from the use of a shared vehicle.

17 The commissioner of insurance may adopt rules as necessary to
18 administer the bill.