

**Senate Study Bill 3091 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY CHAIRPERSON  
BOUSSELOT)

**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.