

**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:

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  
8 by an individual other than the vehicle's owner through a  
9 peer-to-peer 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 no  
15 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  
19 shared vehicle becomes subject to the control of the shared  
20 vehicle driver at or after a reservation of a shared vehicle is  
21 scheduled 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  
27 shared vehicle at the time and to the location agreed upon in  
28 the 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

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

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

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

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

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

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

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

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

1 damaged third party as required under section 321A.21.

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

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

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

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

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

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

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

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

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

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

34 a. A liability policy maintained by the shared vehicle  
35 owner.

1     *b.* A liability policy maintained by the shared vehicle  
2 driver.

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

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

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

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

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

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

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

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

1     *a.* Liabilities assumed by the program under a car sharing  
2 agreement.

3     *b.* Liability of a shared vehicle owner or a shared vehicle  
4 driver.

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

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

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

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

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

20    Sec. 5. NEW SECTION. 516C.5 Liability policy — exclusions.

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

26     *a.* Liability coverage for bodily injury and property damage.

27     *b.* Personal accident coverage.

28     *c.* Uninsured and underinsured motorist coverage.

29     *d.* Medical payments coverage.

30     *e.* Comprehensive physical damage coverage.

31     *f.* Collision physical damage coverage.

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

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

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

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

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

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

26 Sec. 8. NEW SECTION. 516C.8 Program agreements.

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

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

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

1 of the terms and conditions of the program agreement by the  
2 shared vehicle owner or the shared vehicle driver.

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

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

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

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

18 Sec. 9. NEW SECTION. 516C.9 Program agreement — approved  
19 parties.

20 A program shall only enter into a program agreement with the  
21 following persons:

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

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

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

35 4. A program shall keep permanent records of all of the

1 following:

2     *a.* The names and address of each shared vehicle driver.

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

6     Sec. 10. NEW SECTION. **516C.10 Shared vehicles — safety**  
7 **recalls.**

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

12     *a.* Verify that a safety recall has not been issued for the  
13 shared vehicle for which repairs have not been made.

14     *b.* Notify the shared vehicle owner of the requirements under  
15 subsection 2.

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

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

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

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

33     If there is a lien on a shared vehicle, the program shall  
34 notify the shared vehicle owner when the vehicle owner  
35 registers as a shared vehicle owner, and again immediately

1 prior to the time the vehicle is made available for car  
2 sharing, that the vehicle's use as a shared vehicle may violate  
3 the terms of the contract with the lienholder.

4 Sec. 12. NEW SECTION. 516C.12 Recordkeeping.

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

7 a. All dates and times that the shared vehicle is the  
8 subject of a program agreement.

9 b. The location of each car sharing start time and each car  
10 sharing termination time.

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

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

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

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

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

25 EXPLANATION

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

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

31 Under the bill, a program assumes liability to a shared  
32 vehicle owner (owner) for all bodily injuries or property  
33 damage to a third party during the car sharing period in the  
34 amount stated in the program agreement (agreement), but not  
35 less than the amounts provided in Code section 321A.21. The

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

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

1 under the program's liability policy. The bill creates an  
2 insurable interest for a program in a shared vehicle during  
3 the car sharing period. A program may maintain as the named  
4 insured one or more liability policies that provide coverage  
5 for liabilities assumed by the program under a car sharing  
6 agreement, liability of the owner or the driver, or any damage  
7 to, or loss of, a shared vehicle. Coverage under a policy  
8 maintained by a program shall not be dependent on another  
9 insurer or policy first denying a claim. Code section 516C.4  
10 shall not be construed to create liability on a program to  
11 maintain a liability insurance policy, to limit the liability  
12 of a program for an act or omission that results in injury to a  
13 person, or to limit the ability of a program to contractually  
14 seek indemnification from an owner or a driver.

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

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

1 vehicle owner. The program may seek indemnity from the shared  
2 vehicle driver for loss or damage to such equipment that occurs  
3 during the car sharing period.

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

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

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

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

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

24 The commissioner of insurance may adopt rules as necessary  
25 to administer the bill.