

CHAPTER 1020

PEER-TO-PEER CAR SHARING PROGRAMS

H.F. 2497

AN ACT relating to peer-to-peer car sharing programs.

Be It Enacted by the General Assembly of the State of Iowa:

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

This chapter shall be known and may be cited as the “*Peer-to-Peer Car Sharing Program Act*”.

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

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

1. “*Car sharing*” means the authorized use of a vehicle by an individual other than the vehicle’s owner through a peer-to-peer car sharing program.

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

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

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

5. “*Car sharing termination time*” means the earliest of any of the following events:

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

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

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

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

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

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

9. “*Shared vehicle driver*” means an individual authorized to drive a shared vehicle pursuant to a program agreement.

10. “*Shared vehicle owner*” means a registered owner, or the registered owner’s designee, of a vehicle made available for car sharing.

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

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

1. Except as provided in subsection 2, a program shall assume liability for a shared

vehicle owner for all bodily injuries or property damage to a third party during a car sharing period involving the shared vehicle owner's vehicle in the liability amount stated in the applicable program agreement, but not less than the liability amounts under section 321A.21. Notwithstanding the definition of "car sharing termination time" in section 537C.2, the assumption of liability shall apply to bodily injury and property damage losses by a damaged third party as required under section 321A.21.

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

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

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

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

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

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

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

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

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

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

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

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

c. A liability policy maintained by the program.

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

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

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

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

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

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

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

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

- b. Liability of a shared vehicle owner or a shared vehicle driver.
- c. Any damage to, or loss of, a shared vehicle.

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

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

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

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

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

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

- a. Liability coverage for bodily injury and property damage.
- b. Personal accident coverage.
- c. Uninsured and underinsured motorist coverage.
- d. Medical payments coverage.
- e. Comprehensive physical damage coverage.
- f. Collision physical damage coverage.

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

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

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

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

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

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

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

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

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

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

c. That the program's liability policy coverage for the shared vehicle owner and the

shared vehicle driver is only in effect for the car sharing period and that the program's liability policy coverage does not cover the shared vehicle driver and the shared vehicle owner for any use of the shared vehicle by the shared vehicle driver outside of the car sharing period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. All fees paid by each shared vehicle driver.

d. All revenue received by the shared vehicle owner.

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

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

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