

HOUSE BILL 1187

C4, R5

3lr3037
CF 3lr1913

By: **Delegates Fraser–Hidalgo, Amprey, and Solomon**

Introduced and read first time: February 10, 2023

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Peer-to-Peer Car Sharing Programs – Insurance and Liability**

3 FOR the purpose of repealing certain provisions of law authorizing a peer-to-peer car
4 sharing program's motor vehicle liability insurance policy on a replacement vehicle
5 to be secondary coverage for a shared vehicle driver; altering certain motor vehicle
6 liability insurance requirements applicable to peer-to-peer car sharing programs;
7 requiring certain insurance coverage to satisfy the difference in minimum coverage
8 amounts if a claim arises out of an occurrence during the car sharing period in
9 another state that has higher minimum financial responsibility limits; authorizing
10 a peer-to-peer car sharing program to transfer monetary liability and charge a
11 shared vehicle driver for certain tolls, fees, charges, or fines imposed under certain
12 circumstances; excluding a peer-to-peer car sharing program from the definition of
13 "owner" for purpose of citations issued for violations recorded by a traffic control
14 signal monitoring system; and generally relating to peer-to-peer car sharing
15 programs.

16 BY repealing and reenacting, with amendments,
17 Article – Insurance
18 Section 19–520
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2022 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Transportation
23 Section 18.5–102, 18.5–108, and 21–202.1(a)(3)
24 Annotated Code of Maryland
25 (2020 Replacement Volume and 2022 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article – Transportation
28 Section 21–202.1(a)(1) and (5) and (d)(1)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Insurance

19–520.

(a) (1) In this section the following words have the meanings indicated.

(2) “Car sharing delivery period” means the period of time during which a shared motor vehicle is being delivered to the location of the car sharing start time, as documented by the shared vehicle owner under a peer-to-peer car sharing program agreement.

(3) “Car sharing period” means the period of time that commences with the car sharing delivery period and ends at the car sharing termination time.

(4) “Car sharing start time” means the time when a shared motor vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared motor vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program.

(5) “Car sharing termination time” means:

(i) the time when the shared motor vehicle is returned to the location designated by the shared vehicle owner through a peer-to-peer car sharing program; and

(ii) the earliest of the following occurs:

1. the expiration of the agreed period of time established for the use of the shared motor vehicle;

2. the intent to terminate the use of the shared motor vehicle is verifiably communicated to the peer-to-peer car sharing program; or

3. the shared vehicle owner, or the shared vehicle owner’s authorized designee, takes possession and control of the shared motor vehicle.

(6) “Intentional or fraudulent material misrepresentation” means an affirmative statement or an omission by a shared vehicle owner that misrepresents material facts about the shared vehicle owner or the shared motor vehicle.

(7) “Motor vehicle” has the meaning stated in § 11–135 of the Transportation Article.

(8) “Peer-to-peer car sharing” means the authorized use of a motor vehicle by an individual other than the vehicle’s owner through a peer-to-peer car sharing program.

(9) “Peer-to-peer car sharing program” means a platform that is in the business of connecting vehicle owners with drivers to enable the sharing of motor vehicles for financial consideration.

(10) “Peer-to-peer car sharing program agreement” means the written terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program under the provisions of this section and Title 18.5 of the Transportation Article.

(11) “Shared motor vehicle” means a motor vehicle that is available for sharing through a peer-to-peer car sharing program.

(12) “Shared vehicle driver” means an individual who has:

(i) reserved the use of a shared motor vehicle through a peer-to-peer car sharing program; and

(ii) been authorized to drive the shared motor vehicle by the peer-to-peer car sharing program.

(13) “Shared vehicle owner” means the registered owner of a motor vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

(b) (1) Solely on the basis that a motor vehicle is shared through a peer-to-peer car sharing program:

(i) a peer-to-peer car sharing program may not be considered to have rented the vehicle under Title 18, Subtitle 1 of the Transportation Article;

(ii) the shared vehicle owner may not be considered to have rented a vehicle under Title 18, Subtitle 1 of the Transportation Article; and

(iii) a peer-to-peer car sharing program may not be considered to be:

1. a rental vehicle company under § 18–108 of the Transportation Article; or

2. a motor vehicle rental company under Title 10, Subtitle 6 of this article.

(2) Subject to subsection (e)(1) of this section, the use of a shared motor vehicle through a peer-to-peer car sharing program does not constitute a commercial use solely on the basis that the motor vehicle is available for sharing or used through a peer-to-peer car sharing program.

(c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, a peer-to-peer car sharing program shall assume the liability of a shared vehicle owner for any bodily injury or property damage to third parties or uninsured and underinsured motorist or personal injury protection losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement, which amount may not be less than the minimum amount of security required under § 17-103 of the Transportation Article.

(ii) Except for the minimum security required under § 17-103 of the Transportation Article for any injured person who did not make the intentional or fraudulent misrepresentation, the assumption of liability under paragraph (1) of this subsection does not apply if the shared vehicle owner made an intentional or fraudulent material misrepresentation to the peer-to-peer car sharing program before the car sharing period in which the loss occurred.

(2) Nothing in paragraph (1) of this subsection:

(i) limits the liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared motor vehicle through a peer-to-peer car sharing program; or

(ii) limits the ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the peer-to-peer car sharing program agreement.

(3) Each peer-to-peer car sharing program agreement made with respect to a car sharing arrangement in the State shall disclose to the shared vehicle owner and the shared vehicle driver:

(i) any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the peer-to-peer car sharing program agreement;

(ii) that a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared motor vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program under item (i) of this paragraph;

(iii) that the peer-to-peer car sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each car sharing period and that, for any use of the shared motor vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and the shared vehicle owner should contact the shared vehicle driver's or the shared vehicle owner's insurer about insurance coverage; **AND**

(iv) [that the peer-to-peer car sharing program's motor vehicle liability insurance policy may be exclusive for the shared vehicle owner and is primary for the shared vehicle driver, but may be secondary for the shared vehicle driver if the shared motor vehicle is used as a replacement vehicle, as defined in § 18.5-102(a)(2)(i) of the Transportation Article; and

(v)] the daily rate, fees, any insurance costs, and any protection package costs that are charged to the shared vehicle owner or the shared vehicle driver.

(4) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared motor vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall notify the shared vehicle owner that, if the shared motor vehicle has a lien against it, the use of the shared motor vehicle through a peer-to-peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

(d) (1) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that:

(I) PROVIDES COVERAGE IN AMOUNTS NOT LESS THAN THOSE REQUIRED UNDER § 17-103 OF THE TRANSPORTATION ARTICLE; AND

[(i)] (II) 1. recognizes that the vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; **[and] OR**

[(ii)] 2. [provides the minimum security required under § 17-103 of the Transportation Article] **DOES NOT EXCLUDE THE USE OF THE SHARED MOTOR VEHICLE BY A SHARED VEHICLE DRIVER.**

(2) The insurance described under paragraph (1) of this subsection may be satisfied by motor vehicle liability insurance maintained by:

(i) a shared vehicle owner;

(ii) **A SHARED VEHICLE DRIVER;**

(III) a peer-to-peer car sharing program; or

1 [(iii)] (IV) [both] ANY COMBINATION OF a shared vehicle owner, A
2 SHARED VEHICLE DRIVER, and a peer-to-peer car sharing program.

3 (3) (i) A peer-to-peer car sharing program shall have an insurable
4 interest in a shared motor vehicle during the car sharing period.

5 (ii) A peer-to-peer car sharing program may own and maintain as
6 the named insured one or more policies of motor vehicle liability insurance that provides
7 coverage in the amount of, in excess of, or optional to the minimum amount of coverage
8 required to be provided under paragraph (1) of this subsection, including coverage for:

9 1. liabilities assumed by the peer-to-peer car sharing
10 program under a peer-to-peer car sharing program agreement;

11 2. any liability of the shared vehicle owner;

12 3. damage or loss to the shared motor vehicle; and

13 4. any liability of the shared vehicle driver.

14 (iii) An offer by a peer-to-peer car sharing program to provide
15 coverage to a shared vehicle driver in the amount of, in excess of, or optional to the
16 minimum amount of coverage required to be provided under paragraph (1) of this
17 subsection, whether on a stand-alone basis or as part of a financial protection package,
18 shall be considered the sale or offer of insurance under Title 10, Subtitle 6A of this article.

19 (4) The insurance described under paragraph (1) of this subsection or
20 authorized under paragraph (3) of this subsection shall:

21 (i) as to coverage of the shared vehicle driver, pay claims on a first
22 dollar basis; and

23 (ii) be issued by:

24 1. an insurer authorized to do business in the State; or

25 2. solely with respect to insurance maintained by a
26 peer-to-peer car sharing program under paragraph (3) of this subsection, an eligible
27 surplus lines insurer:

28 A. in accordance with the requirements of Title 3, Subtitle 3
29 of this article; and

30 B. having an A.M. Best financial strength rating of A- or
31 better.

1 (5) (i) The insurance described under paragraph (1) of this subsection
2 shall, as to coverage of the shared vehicle owner, pay claims on a first dollar basis.

3 (ii) This paragraph may not apply to the terms and conditions under
4 the insurance policy applicable to the peer-to-peer car sharing program.

5 (6) Consumer complaints concerning claims against a surplus lines policy
6 issued in connection with, and incidental to, a peer-to-peer car sharing program agreement
7 are subject to the Commissioner's authority under § 27-303 of this article.

8 (7) [(i) Except as provided in subparagraph (ii) of this paragraph, the
9 motor vehicle liability insurance policy described in paragraph (1) of this subsection shall
10 be primary with respect to the shared vehicle driver, but may be secondary to the shared
11 vehicle driver's motor vehicle liability insurance policy if the shared motor vehicle is used
12 by the shared vehicle driver as a replacement vehicle, as defined in § 18.5-102(a)(2)(i) of
13 the Transportation Article.

14 (ii)] If the insurance maintained by [the] A shared vehicle driver has
15 lapsed, or is otherwise not in force, the peer-to-peer car sharing program's insurance
16 coverage required under paragraph (1) of this subsection shall be primary.

17 (8) **IF A CLAIM THAT ARISES OUT OF AN OCCURRENCE DURING THE**
18 **CAR SHARING PERIOD OCCURRED IN ANOTHER STATE WITH MINIMUM FINANCIAL**
19 **RESPONSIBILITY LIMITS HIGHER THAN THOSE REQUIRED UNDER § 17-103 OF THE**
20 **TRANSPORTATION ARTICLE, THE COVERAGE REQUIRED UNDER PARAGRAPH (1) OF**
21 **THIS SUBSECTION SHALL SATISFY THE DIFFERENCE IN MINIMUM COVERAGE**
22 **AMOUNTS, UP TO THE APPLICABLE POLICY LIMITS.**

23 (e) (1) An authorized insurer that writes motor vehicle liability insurance in
24 the State and the Maryland Automobile Insurance Fund may exclude any and all coverage
25 and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's
26 personal motor vehicle liability insurance policy for any loss or injury that occurs during
27 the car sharing period.

28 (2) A motor vehicle insurer that defends or indemnifies a claim against a
29 driver that is excluded under the terms of its policy shall have the right to seek contribution
30 against the motor vehicle insurer of the peer-to-peer car sharing program if the claim is:

31 (i) made against the shared vehicle owner or the shared vehicle
32 driver for loss or injury that occurs during the car sharing period; and

33 (ii) excluded under the terms of its policy.

34 (3) Nothing in this section invalidates or limits an exclusion contained in a
35 motor vehicle liability insurance policy, including any insurance policy in use or approved

for use before October 1, 2018, that excludes coverage for motor vehicles made available for rent, sharing, or hire or for any business use.

(4) The right to exclude any and all coverage and the duty to defend under paragraph (1) of this subsection applies to any coverage included in a motor vehicle liability insurance policy, including:

(i) liability coverage for bodily injury and property damage;

(ii) uninsured and underinsured motorist coverage;

(iii) medical payments coverage;

(iv) personal injury protection coverage;

(v) comprehensive physical damage coverage; and

(vi) collision physical damage coverage.

(f) (1) Except as provided in paragraph (2) of this subsection, a motor vehicle insurer may not deny, cancel, void, terminate, rescind, or nonrenew a personal motor vehicle liability insurance policy of a shared vehicle owner solely on the basis that a motor vehicle covered under the policy has been made available for sharing through a peer-to-peer car sharing program.

(2) A motor vehicle insurer may deny, cancel, void, terminate, rescind, or nonrenew a personal motor vehicle liability insurance policy covering a motor vehicle that has been made available for sharing through a peer-to-peer car sharing program if the applicant or policyholder of the personal motor vehicle liability insurance fails to provide complete and accurate information about the use of a shared motor vehicle through the peer-to-peer car sharing program as requested by the motor vehicle insurer during the application or renewal process of the motor vehicle liability insurance policy.

(g) [Nothing in this section:

(1) requires any shared vehicle owner's personal motor vehicle liability insurance policy to provide primary or excess coverage during the car sharing period;

(2) may be interpreted to imply that any shared vehicle owner's personal motor vehicle liability insurance policy provides coverage for a motor vehicle during the car sharing period; or

(3) precludes a motor vehicle insurer from providing coverage for a shared vehicle owner's vehicle while the vehicle is made available or used through a peer-to-peer car sharing program if the motor vehicle insurer elects to do so by contract or endorsement.

(h) (1) Coverage under a motor vehicle liability insurance policy maintained by a peer-to-peer car sharing program may not be dependent on the denial of a claim by another motor vehicle insurer.

(2) A motor vehicle insurer of a personal motor vehicle liability insurance policy may not be required to first deny a claim.

(i) (H) A peer-to-peer car sharing program and a shared vehicle owner shall be exempt from vicarious liability in accordance with 49 U.S.C. § 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

(j) (I) In a claim coverage investigation following a vehicular accident, a peer-to-peer car sharing program shall cooperate to facilitate the exchange of information with directly involved parties and any motor vehicle insurer of a shared vehicle owner regarding the vehicle's use in a peer-to-peer car sharing program.

Article – Transportation

18.5–102.

(a) (1) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy in accordance with § 19–520 of the Insurance Article.

(2) (i) In this paragraph, “replacement vehicle” means a motor vehicle that is used in a peer-to-peer car sharing program while a motor vehicle owned by the individual is not in use because of loss, as “loss” is defined in that individual's applicable private passenger automobile insurance policy, or because of breakdown, repair, service, or damage.

(ii) Subject to subparagraph (iii) of this paragraph, a replacement vehicle **OR SHARED MOTOR VEHICLE** that is made available through a peer-to-peer car sharing program may be deemed to have satisfied the requirement of paragraph (1) of this subsection by maintaining the minimum amount of security required under § 17–103 of this article that is secondary to any other valid and collectible coverage and that extends coverage to the owner's motor vehicle in amounts required under § 17–103(b) of this article while it is used as a replacement vehicle **OR SHARED MOTOR VEHICLE**.

(iii) For a replacement vehicle that is made available through a peer-to-peer car sharing program, the peer-to-peer car sharing program agreement for the replacement vehicle to be signed by a shared vehicle owner and a shared vehicle driver shall contain a provision on the face of the peer-to-peer car sharing program agreement, in at least 10 point bold type, that informs the shared vehicle driver and the shared vehicle owner that [the coverage on the vehicle being serviced or repaired is primary coverage for the replacement vehicle and] the coverage maintained by the peer-to-peer car sharing

1 program on the replacement vehicle is ~~[secondary]~~ **PRIMARY COVERAGE FOR THE**
2 **REPLACEMENT VEHICLE.**

3 (b) Notwithstanding any provision of a peer-to-peer car sharing program
4 agreement to the contrary, the security required under this section shall cover the shared
5 vehicle owner and each person driving or using the shared motor vehicle with the
6 permission of the owner or the peer-to-peer car sharing program.

7 18.5–108.

8 (a) **(1)** A peer-to-peer car sharing program may charge a shared vehicle driver
9 a separately stated fee to recover the following costs incurred by the peer-to-peer car
10 sharing program:

11 ~~[(1)]~~ **(I)** Any concession fees paid to a government-owned or
12 government-operated:

13 ~~[(i)]~~ **1.** Airport; or

14 ~~[(ii)]~~ **2.** Other entity; and

15 ~~[(2)]~~ **(II)** Any other fee or charge imposed by a governmental entity.

16 ~~[(b)]~~ **(2)** If a peer-to-peer car sharing program advertises the rate available for
17 a shared motor vehicle in the State, the fees authorized under this ~~[section]~~ **SUBSECTION**
18 shall be clearly disclosed in the advertisement.

19 **(B) A PEER-TO-PEER CAR SHARING PROGRAM MAY TRANSFER MONETARY**
20 **LIABILITY AND CHARGE A SHARED VEHICLE DRIVER FOR ANY TOLL, FEE, CHARGE,**
21 **OR FINE IMPOSED FOR ANY ACT OR OMISSION INVOLVING THE SHARED MOTOR**
22 **VEHICLE THAT OCCURRED WHILE THE VEHICLE WAS UNDER THE CONTROL OR**
23 **POSSESSION OF THE SHARED VEHICLE DRIVER DURING THE CAR SHARING PERIOD.**

24 21–202.1.

25 (a) (1) In this section the following words have the meanings indicated.

26 (3) (i) “Owner” means the registered owner of a motor vehicle or a
27 lessee of a motor vehicle under a lease of 6 months or more.

28 (ii) “Owner” does not include **[a]**:

29 **1. A motor vehicle rental or leasing company [or a];**

1 **2.** A holder of a special registration plate issued under Title
2 13, Subtitle 9, Part III of this article; **OR**

3 **3.** **A PEER-TO-PEER CAR SHARING PROGRAM UNDER §**
4 **19-520 OF THE INSURANCE ARTICLE.**

5 (5) “Traffic control signal monitoring system” means a device with one or
6 more motor vehicle sensors working in conjunction with a traffic control signal to produce
7 recorded images of motor vehicles entering an intersection against a red signal indication.

8 (d) (1) Unless the driver of the motor vehicle received a citation from a police
9 officer at the time of the violation, the owner or, in accordance with subsection (g)(5) of this
10 section, the driver of a motor vehicle is subject to a civil penalty if the motor vehicle is
11 recorded by a traffic control signal monitoring system while being operated in violation of
12 § 21-202(h) of this subtitle.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2023.