

House Bill 3186

Sponsored by COMMITTEE ON BUSINESS AND LABOR (at the request of Turo)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires insurance coverage for motor vehicles made available as part of peer-to-peer car sharing arrangement. Specifies coverage requirements and apportions responsibility for coverage among car sharing program operator, shared vehicle owner and shared vehicle driver.

Requires certain disclosures to shared vehicle owner and shared vehicle driver in car sharing program agreement. Requires shared vehicle owner to address recall notices for defects that affect safety of shared vehicle.

A BILL FOR AN ACT

1
2 Relating to peer-to-peer car sharing arrangements; creating new provisions; and repealing ORS
3 742.585, 742.590, 742.595 and 742.600.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 to 15 of this 2023 Act are added to and made a part of ORS**
6 **chapter 742.**

7 **SECTION 2. As used in sections 2 to 15 of this 2023 Act:**

8 (1) **“Car sharing delivery period” means the time during which a shared vehicle is being**
9 **delivered to a location where a car sharing period begins.**

10 (2) **“Car sharing period” means a period of time that:**

11 (a) **Begins when a car sharing delivery period begins or, in the absence of a car sharing**
12 **delivery period, when a shared vehicle arrives at the location in which the shared vehicle**
13 **will become subject to the control of a shared vehicle driver at or after the time specified in**
14 **a reservation for the shared vehicle; and**

15 (b) **Ends at the car sharing termination time.**

16 (3)(a) **“Car sharing program agreement” means the terms and conditions that set forth**
17 **the duties of a shared vehicle owner and a shared vehicle driver with respect to use of a**
18 **shared vehicle through a peer-to-peer car sharing program.**

19 (b) **“Car sharing program agreement” does not include a rental agreement, as defined in**
20 **ORS 646A.140.**

21 (4) **“Car sharing program operator” means a person that owns and engages in the busi-**
22 **ness of operating a peer-to-peer car sharing program for use by residents of this state.**

23 (5) **“Car sharing termination time” means the time at which the earliest of the following**
24 **events occurs:**

25 (a) **A shared vehicle driver delivers a shared vehicle to a location specified in a car**
26 **sharing program agreement after the expiration of the period during which the shared vehi-**
27 **cle driver may use the shared vehicle under the terms and conditions of the car sharing**
28 **program agreement;**

29 (b) **A shared vehicle driver delivers a shared vehicle to a location other than the location**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 specified in the car sharing program agreement if the shared vehicle owner and the shared
2 vehicle driver agree upon the alternative location through the peer-to-peer car sharing pro-
3 gram; or

4 (c) The shared vehicle owner, or a designee of the shared vehicle owner, takes possession
5 and control of the shared vehicle.

6 (6)(a) "Peer-to-peer car sharing arrangement" means a motor vehicle owner's authori-
7 zation for another person to use the motor vehicle under the terms and conditions of a car
8 sharing program agreement that is communicated through a peer-to-peer car sharing pro-
9 gram.

10 (b) "Peer-to-peer car sharing arrangement" does not include leasing a motor vehicle or
11 renting a motor vehicle from a car rental company, as defined in ORS 803.219.

12 (7)(a) "Peer-to-peer car sharing program" means a method by which, for consideration,
13 an owner of a motor vehicle can communicate with and authorize another person to use the
14 motor vehicle under the terms and conditions of a car sharing program agreement.

15 (b) "Peer-to-peer car sharing program" does not include business in which a rental
16 company, as defined in ORS 646A.140, or a car rental company, as defined in ORS 803.219,
17 engages.

18 (8)(a) "Shared vehicle" means a motor vehicle that a shared vehicle owner makes avail-
19 able for use under the terms and conditions of a car sharing program agreement and through
20 a peer-to-peer car sharing program.

21 (b) "Shared vehicle" does not include a motor vehicle that a car rental company, as de-
22 fined in ORS 803.219, rents or makes available for rent.

23 (9)(a) "Shared vehicle driver" means an individual who has authorization from a shared
24 vehicle owner to drive a shared vehicle under the terms and conditions of a car sharing
25 program agreement.

26 (b) "Shared vehicle driver" does not mean authorized driver or renter, both as defined
27 in ORS 646A.140.

28 (10)(a) "Shared vehicle owner" means the registered owner of a motor vehicle who makes
29 the motor vehicle available for sharing under the terms and conditions of a car sharing
30 program agreement and communicates the availability of the motor vehicle by means of a
31 peer-to-peer car sharing program, or a designee of the registered owner that the registered
32 owner authorizes to make the motor vehicle available for sharing as described in this sub-
33 section.

34 (b) "Shared vehicle owner" does not include a rental company, as defined in ORS
35 646A.140, or a car rental company, as defined in ORS 803.219.

36 **SECTION 3.** (1)(a) Except as provided in subsection (2) of this section, a car sharing
37 program operator during a car-sharing period shall:

38 (A) Assume a shared vehicle owner's liability for bodily injury to other persons and for
39 damage to the property of other persons;

40 (B) Provide uninsured motorist coverage, as defined in ORS 742.500, to the shared vehicle
41 owner; and

42 (C) Provide personal injury protection benefits to the shared vehicle driver.

43 (b) A car sharing program agreement between a shared vehicle owner and a car sharing
44 program operator governs the limits of the liability and coverage described in paragraph (a)
45 of this subsection, except that the limits of liability and the coverage must comply with the

1 financial responsibility requirements specified in the Oregon Vehicle Code.

2 (c) A car sharing program operator's assumption of liability under paragraph (a) of this
3 subsection must, at a minimum, require the minimum payments specified in ORS 806.070.

4 (2) Except to the extent that the financial responsibility provisions of the Oregon Vehicle
5 Code require otherwise, the duties of a car sharing program operator under subsection (1)(a)
6 of this section do not apply if:

7 (a) A shared vehicle owner makes an intentional or fraudulent misrepresentation or
8 omission with respect to a material provision in a car sharing program agreement or to a
9 car sharing program operator before the car-sharing period in which a loss occurs; or

10 (b) A shared vehicle owner acts in concert with a shared vehicle driver in failing to re-
11 turn a shared vehicle in accordance with the provisions of the car sharing program agree-
12 ment.

13 (3)(a) A car sharing program operator shall ensure that a motor vehicle liability insur-
14 ance policy covers a shared vehicle owner and a shared vehicle driver during each car shar-
15 ing period and:

16 (A) Provides primary coverage;

17 (B) Provides the coverages described at the amounts described in subsection (1) of this
18 section;

19 (C) Recognizes that the motor vehicle that the motor vehicle liability insurance policy
20 covers is a shared vehicle that is available to and used by persons other than the shared
21 vehicle owner under a peer-to-peer car sharing arrangement; and

22 (D) Does not exclude a shared vehicle driver's use of the shared vehicle.

23 (b) A car sharing program operator meets the requirement set forth in paragraph (a) of
24 this subsection if:

25 (A) A shared vehicle owner or a shared vehicle driver maintains a motor vehicle liability
26 insurance policy with the required coverage;

27 (B) The car sharing program operator maintains a motor vehicle liability insurance policy
28 with the required coverage; or

29 (C) The motor vehicle liability insurance policies that two or more of the persons de-
30 scribed in subparagraphs (A) and (B) of this paragraph maintain combine to provide the re-
31 quired coverage.

32 (c) In addition to providing coverages described at the amounts described in subsection
33 (1) of this section, the motor vehicle insurance policy must include coverage that pays the
34 difference between the minimum payment amounts set forth in ORS 806.070 and the mini-
35 mum payments due under the financial responsibility laws of another state if:

36 (A) The other state's financial responsibility laws require higher minimum payments; and

37 (B) An event that gives rise to a claim occurs in the other state during a car sharing
38 period.

39 (4)(a) Subject to subsection (2)(a) and (b) of this section, a car sharing program operator
40 or an insurer shall assume primary liability for a claim if the car sharing program operator
41 provides the motor vehicle liability insurance policy required under subsection (3) of this
42 section, in whole or in part, and:

43 (A) A dispute exists as to who controlled the shared vehicle at the time of a loss and the
44 car sharing program operator does not have available, did not retain or fails to provide the
45 information required under section 7 of this 2023 Act; or

1 (B) A dispute exists as to whether the shared vehicle was returned to a location, other
2 than the location specified in the car sharing program agreement, upon which the shared
3 vehicle owner and the shared vehicle driver agreed through the peer-to-peer car sharing
4 program.

5 (b) Except under the circumstances described in subsection (2) of this section, the car
6 sharing program operator shall provide coverage under the car sharing program operator's
7 motor vehicle liability insurance policy beginning with the first dollar of a claim, and shall
8 defend against the claim, if the shared vehicle owner's or the shared vehicle driver's motor
9 vehicle liability insurance policy has lapsed or does not provide the coverage required under
10 subsection (3) of this section.

11 (5) Coverage under a motor vehicle liability insurance policy that a car sharing program
12 operator provides may not require as a condition of coverage that another insurer first deny
13 a claim.

14 **SECTION 4.** Sections 2 to 15 of this 2023 Act do not:

15 (1) Limit the liability of a car sharing program operator for any act or omission by the
16 car sharing program operator or liability for an injury to a person that arises as a result of
17 using a shared vehicle through a car sharing program agreement; or

18 (2) Limit a car sharing program operator's ability to seek by contract indemnification
19 from a shared vehicle owner or shared vehicle driver for economic losses that the car shar-
20 ing program operator suffers as a result of a shared vehicle owner's or shared vehicle
21 driver's breach of a car sharing program agreement.

22 **SECTION 5.** At the time a vehicle owner agrees with a car sharing program operator to
23 make the owner's vehicle available for use as a shared vehicle through a peer-to-peer car
24 sharing program and again before the vehicle owner makes the vehicle available for use as
25 a shared vehicle, the car sharing program operator shall notify the vehicle owner that use
26 of a shared vehicle against which another person has a lien, including use as part of a peer-
27 to-peer car sharing arrangement or without insurance coverage for physical damage to the
28 shared vehicle, might violate the terms of the shared vehicle owner's contract with the
29 lienholder.

30 **SECTION 6.** (1) An authorized insurer that issues motor vehicle liability insurance in this
31 state may exclude any and all coverage under, and the duty to defend or indemnify any claim
32 made under, a motor vehicle liability insurance policy in which the insured is a shared ve-
33 hicle owner including, but not limited to:

- 34 (a) Liability coverage for bodily injury and property damage;
- 35 (b) Personal injury protection coverage under ORS 742.518 to 742.542;
- 36 (c) Uninsured and underinsured motorist coverage under ORS 742.500 to 742.506;
- 37 (d) Medical payments coverage;
- 38 (e) Comprehensive physical damage coverage; and
- 39 (f) Collision physical damage coverage.

40 (2) This section does not limit, invalidate or restrict:

41 (a) An exclusion, including an exclusion of coverage for motor vehicles made available for
42 rent, sharing or hire or for a business use, in any motor vehicle liability policy, including an
43 existing motor vehicle liability policy or a motor vehicle liability policy approved for use in
44 this state; or

45 (b) An insurer's ability to underwrite, cancel or decline to renew any insurance policy.

1 **SECTION 7.** A car sharing program operator shall collect and verify records of each use
 2 of a shared vehicle during a car sharing period and shall retain the records for at least two
 3 years. The car sharing program operator shall make the records available to the shared ve-
 4 hicle owner and to insurers that issued motor vehicle liability insurance policies to the
 5 shared vehicle owner or the shared vehicle driver for the purposes of investigating, adjusting,
 6 negotiating, settling or litigating a claim. The records must include, at a minimum:

- 7 (1) The times in which a shared vehicle driver used the shared vehicle;
- 8 (2) The locations at which the shared vehicle driver picked up and dropped off the shared
 9 vehicle during a car sharing period;
- 10 (3) The fees that the shared vehicle driver paid; and
- 11 (4) The revenue that the shared vehicle owner received from use of the shared vehicle.

12 **SECTION 8.** The protection from liability that is set forth in 49 U.S.C. 30106 for owners
 13 of motor vehicles that rent or lease the motor vehicle to other persons applies in this state
 14 to shared vehicle owners and to car sharing program operators.

15 **SECTION 9.** An insurer that defends against or indemnifies a claim against a shared ve-
 16 hicle owner under a motor vehicle liability insurance policy that excludes coverage for the
 17 claim may seek contribution against the insurer that issued a motor vehicle liability insur-
 18 ance policy to a car sharing program operator if:

- 19 (1) The claim is against the shared vehicle owner or the shared vehicle driver for a loss
 20 or injury that occurs during a car sharing period; and
- 21 (2) The motor vehicle liability insurance policy that the insurer issued to the car sharing
 22 program operator excludes coverage for the claim.

23 **SECTION 10.** (1) Notwithstanding any other law to the contrary, a car sharing program
 24 operator has an insurable interest in a shared vehicle during a car sharing period.

25 (2) A car sharing program operator may be a named insured in one or more motor ve-
 26 hicle liability insurance policies with coverage for:

- 27 (a) Liabilities that the car sharing program operator assumes under a car sharing pro-
 28 gram agreement;
- 29 (b) Any liability of a shared vehicle owner or shared vehicle driver; or
- 30 (c) Damage or loss with respect to a shared vehicle.

31 (3) This section does not create liability for a car sharing program operator to maintain
 32 the coverage described in section 3 of this 2023 Act.

33 **SECTION 11.** A car sharing program agreement must disclose to a shared vehicle owner
 34 and a shared vehicle driver:

35 (1) Whether a car sharing program operator has any right to seek indemnification from
 36 the shared vehicle owner or shared vehicle driver for economic loss that the car sharing
 37 program operator suffers as a result of a breach of the terms and conditions of the car
 38 sharing program agreement;

39 (2) Whether the motor vehicle liability insurance policy an insurer issues to a shared
 40 vehicle owner or shared vehicle driver defends against or indemnifies a claim the car sharing
 41 program operator may assert against the shared vehicle owner or shared vehicle driver;

42 (3) That the insurance coverage a car sharing program operator has for shared vehicles
 43 is in effect only during car sharing periods and that the shared vehicle owner and shared
 44 vehicle driver may not have insurance coverage for any use of the shared vehicle after the
 45 car sharing termination time;

1 (4) The daily or hourly rate and fees for use of the shared vehicle, along with any insur-
2 ance costs or other costs that the shared vehicle owner or shared vehicle driver must pay;

3 (5) That the shared vehicle owner's motor vehicle liability insurance policy might not
4 cover use of the shared vehicle as part of a peer-to-peer car sharing arrangement;

5 (6) An emergency telephone number the shared vehicle owner or shared vehicle driver
6 can use for roadside assistance or customer service; and

7 (7) Any conditions under which a shared vehicle driver must maintain a motor vehicle
8 liability insurance policy with specified primary coverage limits in order to participate in a
9 peer-to-peer car sharing arrangement.

10 **SECTION 12.** (1) A car sharing program operator may not enter into a car sharing pro-
11 gram agreement with an individual unless the individual is 18 years of age or older and:

12 (a) Has a driver license issued in this state or another state or country that authorizes
13 the individual to operate vehicles in the same class as the shared vehicle the individual will
14 operate under the car sharing program agreement; or

15 (b) Has a specific authorization under ORS 807.020 to drive vehicles in the same class as
16 the shared vehicle the individual will operate under the car sharing program agreement.

17 (2) A car sharing program operator shall keep a record of the name, address, driver li-
18 cense number and state that issued the driver license of the shared vehicle driver and of any
19 other person who operates the shared vehicle.

20 **SECTION 13.** A car sharing program operator has sole responsibility for equipment the
21 car sharing program operator installed in a shared vehicle and uses to facilitate or monitor
22 the shared vehicle during a car sharing period and shall agree to indemnify and hold harm-
23 less the shared vehicle owner for damage to or theft of the equipment that the shared vehicle
24 owner did not cause. A car sharing program operator may require indemnity from a shared
25 vehicle driver for damage to or loss of the equipment that occurs during the car sharing
26 period.

27 **SECTION 14.** (1) At the time a vehicle owner agrees with a car sharing program operator
28 to make the owner's vehicle available for use as a shared vehicle through a peer-to-peer car
29 sharing program and again before the vehicle owner makes the vehicle available for use as
30 a shared vehicle, a car sharing program operator shall verify that the motor vehicle that the
31 owner will make available does not have any recalls for defects affecting the safety of the
32 shared vehicle that the owner has not had repaired. An owner that receives actual notice
33 of a recall for a defect that affects the motor vehicle's safety may not make the motor ve-
34 hicle available as part of a peer-to-peer car sharing arrangement until the owner repairs the
35 defect.

36 (2) A shared vehicle owner who receives actual notice of a recall for a defect that affects
37 the safety of a shared vehicle that the shared vehicle owner has made available as part of a
38 peer-to-peer car sharing arrangement shall, as soon as practicable, remove the shared vehi-
39 cle from availability and may not make the shared vehicle available again until the shared
40 vehicle owner has had the defect repaired.

41 (3) If a shared vehicle owner receives actual notice of a recall for a defect that affects
42 the safety of a shared vehicle that is in the possession of a shared vehicle driver, the shared
43 vehicle owner shall notify the car sharing program operator of the recall in order to have
44 the defect repaired.

45 **SECTION 15.** The Director of the Department of Consumer and Business Services may

1 **adopt rules necessary to carry out the provisions of sections 2 to 15 of this 2023 Act.**

2 **SECTION 16. ORS 742.585, 742.590, 742.595 and 742.600 are repealed.**

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