

House Bill 4066

Sponsored by Representative OWENS (Pre-session filed.)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Requires insurance for cars shared for money and that some information be given to the shared car owner and the shared car driver. (Flesch Readability Score: 61.4).

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

Requires certain disclosures to the shared vehicle owner and shared vehicle driver in a car sharing program agreement. Requires the shared vehicle owner to address recall notices for defects that affect the safety of a 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 2024 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 2024 Act:**

8 (1)(a) **“Car sharing program operator” means a person that owns and engages in the**
9 **business of operating a peer-to-peer car sharing program for use by residents of this state.**

10 (b) **“Car sharing program operator” does not include a rental company, as defined in ORS**
11 **646A.140 or 744.850, or a car rental company, as defined in ORS 803.219.**

12 (2) **“Delivery period” means the time during which a shared vehicle is being delivered to**
13 **a location where the start time specified in the program agreement will commence.**

14 (3)(a) **“Peer-to-peer car sharing” means authorizing, for consideration, an individual**
15 **other than the owner of a shared vehicle to use the shared vehicle.**

16 (b) **“Peer-to-peer car sharing” does not include leasing a motor vehicle or renting a mo-**
17 **tor vehicle from a rental company, as defined in ORS 646A.140 or 744.850, or from a car**
18 **rental company, as defined in ORS 803.219.**

19 (4)(a) **“Peer-to-peer car sharing program” means software or another method by which,**
20 **for consideration, an owner of a shared vehicle can communicate with and authorize another**
21 **person to use the shared vehicle.**

22 (b) **“Peer-to-peer car sharing program” does not include business in which a rental**
23 **company, as defined in ORS 646A.140 or 744.850, or a car rental company, as defined in ORS**
24 **803.219, engages.**

25 (5)(a) **“Program agreement” means the terms and conditions that set forth the duties**
26 **of a shared vehicle owner and a shared vehicle driver with respect to use of a shared vehicle**
27 **by means of a peer-to-peer car sharing program.**

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 (b) "Program agreement" does not include a rental agreement, as defined in ORS
2 646A.140 or 744.850.

3 (6)(a) "Shared vehicle" means a motor vehicle that a shared vehicle owner makes avail-
4 able for peer-to-peer car sharing under the terms and conditions of a program agreement
5 and by means of a peer-to-peer car sharing program.

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

8 (7)(a) "Shared vehicle driver" means an individual who has authorization from a shared
9 vehicle owner to drive a shared vehicle under the terms and conditions of a program agree-
10 ment.

11 (b) "Shared vehicle driver" does not include an authorized driver or renter, both as de-
12 fined in ORS 646A.140.

13 (8)(a) "Shared vehicle owner" means the registered owner of a shared vehicle who makes
14 the shared vehicle available for peer-to-peer car sharing under the terms and conditions of
15 a program agreement and communicates the availability of the shared vehicle by means of
16 a peer-to-peer car sharing program, or a designee of the registered owner that the registered
17 owner authorizes to make the shared vehicle available for sharing as described in this sub-
18 section.

19 (b) "Shared vehicle owner" does not include a rental company, as defined in ORS 646A.140
20 or 744.850, or a car rental company, as defined in ORS 803.219.

21 (9) "Sharing period" means a period of time that:

22 (a) Begins when a delivery period begins or, in the absence of a delivery period, at the
23 start time; and

24 (b) Ends at the termination time.

25 (10) "Start time" means the time at which a shared vehicle becomes subject to the con-
26 trol of a shared vehicle driver, either at the time specified for a reservation of the shared
27 vehicle in the records of a car sharing program operator or after the time specified in the
28 reservation.

29 (11) "Termination time" means the time at which the earliest of the following events
30 occurs:

31 (a) The period during which a shared vehicle driver is authorized to use a shared vehicle
32 under the terms and conditions of a program agreement expires, if the shared vehicle driver
33 delivers the shared vehicle to a location specified in a car sharing program agreement;

34 (b) A shared vehicle driver delivers a shared vehicle to a location other than the location
35 originally specified in the program agreement if through the peer-to-peer car sharing pro-
36 gram the shared vehicle owner and the shared vehicle driver agree upon the alternative lo-
37 cation and incorporate the agreement into the program agreement; or

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

40 **SECTION 3.** (1)(a) Except as provided in subsection (2) of this section, a car sharing
41 program operator shall assume a shared vehicle owner's liability that arises during a sharing
42 period if the liability involves:

43 (A) Bodily injury to another person;

44 (B) Damage to the property of another person;

45 (C) Uninsured motorist coverage, as defined in ORS 742.500; or

1 (D) Personal injury protection losses.

2 (b) A program agreement between a shared vehicle owner and a car sharing program
3 operator governs the limits of liability that the car sharing program operator assumes, ex-
4 cept that the limits of liability may not be less than the minimum required payments set
5 forth in ORS 806.070.

6 (2) The duties of a car sharing program operator under subsection (1)(a) of this section
7 do not apply if a shared vehicle owner:

8 (a) Makes an intentional or fraudulent misrepresentation or omission with respect to a
9 material provision of a program agreement or to a car sharing program operator before a
10 sharing period in which a loss occurs; or

11 (b) Acts in concert with a shared vehicle driver in failing to return a shared vehicle in
12 accordance with the provisions of the program agreement.

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

16 (A) Provides the coverages that the financial responsibility provisions of the Oregon Ve-
17 hicle Code require, including the minimum required payments set forth in ORS 806.070; and

18 (B) Recognizes that the motor vehicle that the motor vehicle liability insurance policy
19 covers is a shared vehicle that is available to and used by persons other than the shared
20 vehicle owner by means of peer-to-peer car sharing or does not exclude a shared vehicle
21 driver's use of the shared vehicle.

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

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

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

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

31 (c) The insurance described in paragraph (b) of this subsection that satisfies the re-
32 quirements specified in paragraph (a) of this subsection is primary during each sharing pe-
33 riod. If a claim occurs in another state that has minimum financial responsibility limits
34 higher than the limits specified in ORS 806.070, during each sharing period the coverage in
35 the insurance described in paragraph (b) of this subsection must satisfy the difference be-
36 tween the minimum coverage amount in the state in which the claim occurs and the mini-
37 mum coverage amount specified in ORS 806.070, up to the applicable policy limits.

38 (4)(a) A car sharing program operator that under subsection (3) of this section provides
39 coverage under a motor vehicle liability insurance policy, or an insurer that issues a motor
40 vehicle liability insurance policy required under subsection (3) of this section, shall assume
41 primary liability for a claim if:

42 (A) A dispute exists as to who controlled the shared vehicle at the time of a loss and the
43 car sharing program operator does not have available, did not retain or fails to provide the
44 information required under section 7 of this 2024 Act; or

45 (B) A dispute exists as to whether the shared vehicle was returned to a location specified

1 in the program agreement or to an alternative location upon which the shared vehicle owner
 2 and the shared vehicle driver agreed through the peer-to-peer car sharing program.

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

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

12 **SECTION 4.** Sections 2 to 15 of this 2024 Act do not:

13 (1) Limit a car sharing program operator's liability for the car sharing program
 14 operator's own act or omission with respect to the use of a shared vehicle through a pro-
 15 gram agreement if the act or omission results in an injury to another person; or

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

20 **SECTION 5.** At the time a vehicle owner registers as a shared vehicle owner on a peer-
 21 to-peer car sharing program and before the owner makes the owner's vehicle available for
 22 use as a shared vehicle, the car sharing program operator shall notify the owner that use
 23 by means of peer-to-peer car sharing of a shared vehicle against which another person has
 24 a lien, including use without coverage for physical damage to the shared vehicle, might vio-
 25 late the terms of the shared vehicle owner's contract with the lienholder.

26 **SECTION 6.** (1) An authorized insurer that issues motor vehicle liability insurance in this
 27 state may exclude any and all coverage under, and the duty to defend or indemnify any claim
 28 made under, a shared vehicle owner's motor vehicle liability insurance policy including, but
 29 not limited to:

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

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

37 (a) An exclusion, including an exclusion of coverage for motor vehicles made available for
 38 rent, sharing or hire or for a business use, in any motor vehicle liability insurance policy,
 39 including an existing motor vehicle liability insurance policy or a motor vehicle liability in-
 40 surance policy approved for use in this state; or

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

42 **SECTION 7.** A car sharing program operator shall collect and verify records of each use
 43 of a shared vehicle during a sharing period and shall retain the records for at least two
 44 years. The car sharing program operator shall make the records available to the shared ve-
 45 hicle owner and to insurers that issued motor vehicle liability insurance policies to the

1 shared vehicle owner or the shared vehicle driver for the purposes of investigating, adjusting,
2 negotiating, settling or litigating a claim. The records must include, at a minimum:

3 (1) The times in which a shared vehicle driver used the shared vehicle;

4 (2) The locations at which the shared vehicle driver picked up and dropped off the shared
5 vehicle;

6 (3) The fees that the shared vehicle driver paid; and

7 (4) The revenue that the shared vehicle owner received from use of the shared vehicle.

8 **SECTION 8.** A car sharing program operator and a shared vehicle driver are exempt from
9 vicarious liability under a law of this state or a local law that imposes liability solely on the
10 basis of vehicle ownership to the same extent provided for owners and affiliates under 49
11 U.S.C. 30106.

12 **SECTION 9.** An insurer that defends against or indemnifies a claim against a shared ve-
13 hicle owner or shared vehicle driver under a motor vehicle liability insurance policy that
14 excludes coverage for the claim may seek contribution against the insurer that issued a
15 motor vehicle liability insurance policy to a car sharing program operator if the claim is
16 against the shared vehicle owner or the shared vehicle driver for a loss or injury that occurs
17 during a sharing period.

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

20 (2) A car sharing program operator may have and maintain as a named insured one or
21 more motor vehicle liability insurance policies with coverage for:

22 (a) Liabilities that the car sharing program operator assumes under a program agree-
23 ment;

24 (b) Any liability of a shared vehicle owner or shared vehicle driver; or

25 (c) Damage or loss with respect to a shared vehicle.

26 (3) This section does not create liability for a car sharing program operator to maintain
27 the coverage described in section 3 of this 2024 Act.

28 **SECTION 11.** A program agreement must disclose to a shared vehicle owner and a shared
29 vehicle driver:

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

34 (2) That a motor vehicle liability insurance policy an insurer issues to a shared vehicle
35 owner for the shared vehicle or to a shared vehicle driver does not provide a defense against
36 or indemnify a claim the car sharing program operator may assert;

37 (3) That the insurance coverage a car sharing program operator has for shared vehicles
38 is in effect only during sharing periods and that the shared vehicle owner and shared vehicle
39 driver may not have insurance coverage for any use of the shared vehicle after the termi-
40 nation time;

41 (4) The daily fees for use of the shared vehicle and, if applicable, the costs of any insur-
42 ance or protection package that the shared vehicle owner or shared vehicle driver has
43 elected to receive;

44 (5) That the shared vehicle owner's motor vehicle liability insurance policy might not
45 cover use of the shared vehicle by means of peer-to-peer car sharing;

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

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

6 **SECTION 12.** (1) A car sharing program operator may not enter into a program agree-
7 ment with an individual unless the individual is 18 years of age or older and:

8 (a) Has a driver license issued in this state that authorizes the individual to operate ve-
9 hicles in the same class as the shared vehicle the individual will operate as a shared vehicle
10 driver;

11 (b) Has a driver license issued in another state or nation that authorizes the individual
12 to operate vehicles in the same class as the shared vehicle that the individual will operate
13 as a shared vehicle driver; or

14 (c) Has a specific authorization under ORS 807.020 to drive vehicles of the same class as
15 the shared vehicle the individual will operate as a shared vehicle driver.

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

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

25 **SECTION 14.** (1) At the time a vehicle owner agrees with a car sharing program operator
26 to make the owner's vehicle available for use as a shared vehicle by means of a peer-to-peer
27 car sharing program and again before the vehicle owner makes the vehicle available for use
28 as a shared vehicle, a car sharing program operator shall:

29 (a) Verify that the shared vehicle does not have any defects that were identified in a
30 safety recall and not repaired; and

31 (b) Notify the shared vehicle owner of the requirements set forth in subsection (2) of this
32 section.

33 (2) An owner that receives actual notice of a safety recall for the owner's motor vehicle:

34 (a) May not make the motor vehicle available for peer-to-peer car sharing until the defect
35 identified in the safety recall is repaired.

36 (b) Shall, as soon as practicable, remove the motor vehicle from peer-to-peer car sharing
37 until the defect is repaired, if the motor vehicle is a shared vehicle.

38 (c) Shall notify the car sharing program operator of the recall as soon as practicable af-
39 ter receiving notice of the safety recall so that the shared vehicle owner may have the defect
40 repaired, if the motor vehicle is a shared vehicle that is in the possession of a shared vehicle
41 driver.

42 **SECTION 15.** The Director of the Department of Consumer and Business Services may
43 adopt rules necessary to carry out the provisions of sections 2 to 15 of this 2024 Act.

44 **SECTION 16.** ORS 742.585, 742.590, 742.595 and 742.600 are repealed.
45