

Stricken language would be deleted from and underlined language would be added to present law.
Act 686 of the Regular Session

State of Arkansas
94th General Assembly
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As Engrossed: S4/3/23
A Bill

SENATE BILL 388

By: Senators Hill, Irvin
By: Representatives Maddox, Perry

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING MOTOR CARRIERS; TO REGULATE GROUND TRANSPORTATION AT MUNICIPAL AIRPORTS AND REGIONAL AIRPORTS; TO REGULATE PEER-TO-PEER CAR-SHARING PROGRAMS; TO ESTABLISH THE PEER-TO-PEER CAR-SHARING PROGRAM ACT; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE GROUND TRANSPORTATION AT MUNICIPAL AIRPORTS AND REGIONAL AIRPORTS; TO REGULATE PEER-TO-PEER CAR-SHARING PROGRAMS; AND TO ESTABLISH THE PEER-TO-PEER CAR-SHARING PROGRAM ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 13, Subchapter 8 is amended to read as follows:

Subchapter 8 – ~~Peer-to-Peer Car-sharing Program Act~~ Regulation of Ground Transportation at Municipal Airports and Regional Airports Act

23-13-801. Title.

This subchapter shall be known and may be cited as the ~~“Peer-to-Peer Car-sharing Program Act”~~ “Regulation of Ground Transportation at Municipal Airports and Regional Airports Act”.



23-13-802. Airport authority – Definition.

(a) As used in this subchapter, “peer-to-peer car-sharing program” means a business platform that connects a motor vehicle owner with a motor vehicle driver to enable the sharing of a motor vehicle for financial consideration under the Peer-to-Peer Car-Sharing Program Act, § 27-25-101 et seq.

(b) A municipal airport created under the Airport Commission Act, § 14-359-101 et seq., may impose regulations, tolls, and fees on a peer-to-peer car-sharing program as authorized under § 14-359-109.

(c) A regional airport authority under the Regional Airport Act, § 14-362-101 et seq., may impose regulations, tolls, and fees on a peer-to-peer car-sharing program as authorized under § 14-362-109.

SECTION 2. Arkansas Code Title 23, Chapter 89, Subchapter 2, is amended to add an additional section to read as follows:

23-89-217. Insurance coverage for peer-to-peer car-sharing programs – Scope – Definitions.

(a) As used in this section:

(1) "Car-sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location designated in a peer-to-peer car-sharing program agreement of the car-sharing start time, if applicable, as documented by a peer-to-peer car-sharing program agreement;

(2) "Car-sharing period" means a period of time:

(A) That commences with the car-sharing delivery period and ends at the car-sharing termination time; or

(B) If there is no car-sharing delivery period, that commences with the car-sharing start time and ends at the car-sharing termination time;

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

(4) "Car-sharing termination time" means the earliest of the following events:

(A) The expiration of the agreed-upon period of time

established for the use of a shared vehicle according to the terms of the peer-to-peer car-sharing program agreement if the shared vehicle is delivered to the location agreed to in the peer-to-peer car-sharing program agreement;

(B) The return of the shared vehicle to an alternative location agreed upon by the shared-vehicle owner and the shared-vehicle driver communicated through a peer-to-peer car-sharing program agreement, which alternatively-agreed-upon-location shall be incorporated into the peer-to-peer car-sharing program agreement; or

(C) The taking of possession and control of the shared vehicle by the shared-vehicle owner or an authorized designee of the shared-vehicle owner;

(5)(A) "Peer-to-peer car sharing" means the authorized use of a motor vehicle by an individual other than the owner of the motor vehicle through a peer-to-peer car-sharing program.

(B) "Peer-to-peer car sharing" does not mean the:

(i) Services offered by a rental company that provides a rental vehicle under a rental agreement under § 23-64-202;

(ii) Services provided under the Transportation Network Company Services Act, § 23-13-701 et seq.; or

(iii) Renting of a motor vehicle to another under § 27-16-605;

(6)(A) "Peer-to-peer car-sharing program" means a business platform that connects an owner of a motor vehicle with a driver to enable the sharing of a motor vehicle for financial consideration.

(B) "Peer-to-peer car-sharing program" does not mean:

(i) A rental company as defined in § 23-64-202;

(ii) A person or entity renting a motor vehicle to another person or entity under § 27-16-605;

(iii) A provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle; or

(iv) Service provided under the Transportation Network Company Services Act, § 23-13-701 et seq.;

(7)(A) "Peer-to-peer car-sharing program agreement" means the 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.

(B) "Peer-to-peer car-sharing program agreement" does not mean:

(i) A rental agreement as defined in § 23-64-202; or

(ii) Any agreement for the rental or use of a vehicle with a person or entity engaged in the business of renting a motor vehicle without a driver;

(8)(A) "Shared vehicle" means a motor vehicle that is available for sharing through a peer-to-peer car-sharing program.

(B) "Shared vehicle" does not mean a:

(i) Vehicle or rental vehicle as defined in § 23-64-202; or

(ii) Motor vehicle that is rented under § 27-16-605;

(9) "Shared-vehicle driver" means an individual who is authorized to drive a shared vehicle by a shared-vehicle owner under a peer-to-peer car-sharing program agreement; and

(10)(A) "Shared-vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a motor vehicle made available for sharing to a shared-vehicle driver through a peer-to-peer car-sharing program.

(B) "Shared-vehicle owner" does not mean a:

(i) Rental company as defined in § 23-64-202;

(ii) Person or entity renting a motor vehicle to another under § 27-16-605;

(iii) Provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle; or

(iv) Service provided under the Transportation Network Company Services Act, § 23-13-701 et seq.

(b)(1) An insurer that is licensed to write motor vehicle liability insurance in this state may exclude coverage and deny the duty to defend or indemnify for a claim under a shared-vehicle owner's motor vehicle liability insurance policy.

(2)(A) The right to exclude all coverage under subdivision (b)(1) of this section may apply to any coverage included in a shared-vehicle owner's motor vehicle liability insurance policy, including without

limitation:

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

(ii) Uninsured and underinsured motorist coverage;

(iii) Medical payments coverage;

(iv) Comprehensive physical damage coverage; and

(v) Collision physical damage coverage.

(B) The exclusions in subdivision (b)(2)(A) of this section apply notwithstanding any requirement of the:

(i) Insurance laws of this state; or

(ii) Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.

(c) This section and the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., do not invalidate or limit an exclusion contained in an motor vehicle liability insurance policy, including without limitation a policy in use or approved for use in this state before the effective date of this section, that excludes coverage for a motor vehicle that is rented or that is engaged in commercial use.

(d) This section and the Peer-to-Peer Car-Sharing Program Act, § 27-25-101 et seq., do not invalidate, limit, or restrict an insurer's ability under existing law to:

(1) Underwrite any insurance policy; or

(2) Cancel or decline to renew any insurance policy.

(e)(1) Notwithstanding any other law to the contrary, a peer-to-peer car-sharing program has an insurable interest in a shared vehicle during a car-sharing period.

(2) A peer-to-peer car-sharing program may own and maintain as the named insured one (1) or more policies of motor vehicle liability insurance that provides coverage for any:

(A) Liability assumed by a peer-to-peer car-sharing program under a peer-to-peer car-sharing program agreement;

(B) Liability of a shared-vehicle owner;

(C) Liability of a shared-vehicle driver; or

(D) Damage or loss to a shared vehicle.

(f) This section does not impose liability on a peer-to-peer car-sharing program to maintain insurance coverage beyond the extent mandated by

§ 27-25-103.

(g) This chapter is intended to govern the intersection of peer-to-peer car services and the state-regulated business of insurance.

(h) This chapter shall not be construed to extend beyond insurance or have any implications for other Arkansas laws, including without limitation laws related to motor vehicle registration, airport regulation, or taxation.

SECTION 3. Arkansas Code Title 27 is amended to add an additional chapter to read as follows:

CHAPTER 25PEER-TO-PEER CAR-SHARING PROGRAM ACT27-25-101. Title.

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

27-25-102. Definitions.

(1) "Car-sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location designated in a peer-to-peer car-sharing program agreement of the car-sharing start time, if applicable, as documented by a peer-to-peer car-sharing program agreement;

(2) "Car-sharing period" means a period of time:

(A) That commences with the car-sharing delivery period and ends at the car-sharing termination time; or

(B) If there is no car-sharing delivery period, that commences with the car-sharing start time and ends at the car-sharing termination time;

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

(4) "Car-sharing termination time" means the earliest of the following events:

(A) The expiration of the agreed-upon period of time established for the use of a shared vehicle according to the terms of the

peer-to-peer car-sharing program agreement if the shared vehicle is delivered to the location agreed to in the peer-to-peer car-sharing program agreement;

(B) The return of the shared vehicle to an alternative location agreed upon by the shared-vehicle owner and the shared-vehicle driver as communicated through a peer-to-peer car-sharing program agreement, which alternatively-agreed-upon-location shall be incorporated into the peer-to-peer car-sharing program agreement; or

(C) The taking of possession and control of the shared vehicle by the shared-vehicle owner or an authorized designee of the shared-vehicle owner;

(5)(A) "Peer-to-peer car sharing" means the authorized use of a motor vehicle by an individual other than the owner of the motor vehicle through a peer-to-peer car-sharing program.

(B) "Peer-to-peer car sharing" does not include the:

(i) Services offered by a rental company that provides a rental vehicle under a rental agreement under § 23-64-202;

(ii) Services provided under the Transportation Network Company Services Act, § 23-13-701 et seq.; or

(iii) Renting of a motor vehicle to another under § 27-16-605;

(6)(A) "Peer-to-peer car-sharing program" means a business platform that connects an owner of a motor vehicle with a driver to enable the sharing of a motor vehicle for financial consideration.

(B) "Peer-to-peer car-sharing program" does not include a:

(i) Rental company as defined in § 23-64-202;

(ii) Person or entity renting a motor vehicle to another person or entity under § 27-16-605;

(iv) Provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle; or

(v) Service provided under the Transportation Network Company Services Act, § 23-13-701 et seq.;

(7)(A) "Peer-to-peer car-sharing program agreement" means the 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.

(B) "Peer-to-peer car-sharing program agreement" does not mean:

(i) A rental agreement as defined in § 23-64-202; or
(ii) Any agreement for the rental or use of a vehicle with a person or entity engaged in the business of renting a motor vehicle without a driver;

(8)(A) "Shared vehicle" means a motor vehicle that is available for sharing through a peer-to-peer car-sharing program.

(B) "Shared vehicle" does not mean a:

(i) Vehicle or rental vehicle as defined in § 23-64-202; or

(ii) Motor vehicle that is rented under § 27-16-605;

(9) "Shared-vehicle driver" means an individual who is authorized to drive a shared vehicle by a shared-vehicle owner under a peer-to-peer car-sharing program agreement; and

(10)(A) "Shared-vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a motor vehicle made available for sharing to a shared-vehicle driver through a peer-to-peer car-sharing program.

(B) "Shared-vehicle owner" does not mean a:

(i) Rental car company as defined in § 23-64-202;
(ii) Person or entity engaged in the business of renting a motor vehicle without a driver;

(iii) Provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle; or

(iv) Service provided under the Transportation Network Company Services Act, § 23-13-701 et seq.

27-25-103. Insurance coverage during car-sharing period – Scope.

(a) Except as provided in subsection (b) of this section, a peer-to-peer car-sharing program assumes liability for a shared-vehicle owner for bodily injury or property damage to third parties, uninsured and underinsured motorist, or personal injury protection losses during the car-sharing period in an amount, as stated in the peer-to-peer car-sharing program agreement, which shall not be less than the amount stated in § 27-22-104.

(b) Notwithstanding the car-sharing termination time, the assumption of liability under subsection (a) of this section does not apply to a shared-vehicle owner if the shared-vehicle owner:

(1) Makes an intentional or fraudulent material misrepresentation or omission concerning coverage of the shared vehicle to the peer-to-peer car-sharing program before the car-sharing period in which the loss occurred; or

(2) Acts in concert with a shared-vehicle driver who fails to return the shared vehicle under the terms of the peer-to-peer car-sharing program agreement.

(c) Notwithstanding the car-sharing termination time, the assumption of liability under subsection (a) of this section applies to bodily injury, property damage, uninsured and underinsured motorist coverage, or personal injury protection losses suffered by damaged third parties as required in § 27-22-104.

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

(1) Provides insurance coverage in amounts no less than the minimum coverage required in § 27-22-104; and

(2) Either:

(A) Recognizes that the shared vehicle insured under the motor vehicle liability insurance policy is made available and used through a peer-to-peer car-sharing program; or

(B) Does not exclude the use of a shared vehicle by a shared-vehicle driver.

(e) The insurance requirement described in subsection (d) of this section may be satisfied by motor vehicle liability insurance maintained by:

(1) A shared-vehicle owner;

(2) A shared-vehicle driver;

(3) A peer-to-peer car-sharing program; or

(4) Any combination of the persons or entities described in subdivisions (e)(1)-(3) of this section.

(f) Except as otherwise provided in this section:

(1) The insurance described in subsection (e) of this section that is used to satisfy the insurance requirement of subsection (d) of this

section shall be the primary insurance policy during each car-sharing period; and

(2) If a claim occurs in another state with minimum financial responsibility limits higher than the minimum coverage required in § 27-22-104 during the car-sharing period, the coverage maintained under subsection (e) of this section shall satisfy the difference in minimum coverage amounts, up to the applicable policy limits.

(g) An insurer or a peer-to-peer car-sharing program providing coverage under subsections (d) and (e) of this section shall assume primary liability for a claim if a dispute exists as to:

(1) Who was in control of the shared vehicle at the time of the loss and a peer-to-peer car-sharing program does not have available, did not retain, or fails to provide the information required by § 27-25-105; or

(2) Whether the shared vehicle was returned to the alternatively agreed-upon location.

(h) If motor vehicle liability insurance maintained by a shared-vehicle owner or a shared-vehicle driver according to subsection (e) of this section has lapsed or does not provide the coverage required by subsection (d) of this section, then:

(1) Insurance maintained by a peer-to-peer car-sharing program shall provide the coverage required in subsection (d) of this section beginning with the first one dollar (\$1.00) of a claim; and

(2) Except under circumstances described in subsection (b) of this section, a peer-to-peer car-sharing program has the duty to defend a claim.

(i) Coverage under a motor vehicle liability insurance policy maintained by a peer-to-peer car-sharing program is not dependent on:

(1) Another insurer first denying a claim; or

(2) The requirement that a claim first be denied under a motor vehicle liability insurance policy.

(j) This section does not limit the:

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

(2) Ability of a peer-to-peer car-sharing program to, by

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

(k) This chapter is intended to govern the intersection of peer-to-peer car services and the state-regulated business of insurance.

(l) This chapter does not extend beyond insurance or have any implications for other Arkansas laws including without limitation laws related to motor vehicle registration, airport regulation, or taxation.

27-25-104. Notification of implications of lien.

At the time a motor vehicle owner registers as a shared-vehicle owner in a peer-to-peer car-sharing program and before the time a shared-vehicle owner makes a motor vehicle available as a shared vehicle for car sharing in a peer-to-peer car-sharing program, a peer-to-peer car-sharing program shall notify the shared-vehicle owner that if the motor vehicle is subject to a lien, then the use of the motor vehicle as the shared 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.

27-25-105. Record keeping – Use of shared vehicle in car-sharing program.

(a) A peer-to-peer car-sharing program shall collect and verify records pertaining to the use of a shared vehicle, including without limitation:

- (1) The car-sharing start time and car-sharing termination time;
- (2) The car-sharing period pick-up and drop-off location;
- (3) Fees paid by the shared-vehicle driver; and
- (4) Revenues received by the shared-vehicle owner.

(b) Upon request by a shared-vehicle owner, the insurer of a shared-vehicle owner, or the insurer of the shared-vehicle driver, the peer-to-peer car-sharing program shall provide the information maintained under subsection (a) of this section to facilitate a claim coverage investigation, settlement, negotiation, or litigation.

(c) The peer-to-peer car-sharing program shall retain the records for a time period not less than the applicable personal injury statute of

limitations.

27-25-106. Exemption – Vicarious liability.

A peer-to-peer car-sharing program and a shared-vehicle owner are exempt from vicarious liability consistent with 49 U.S.C. § 30106, as it existed on January 1, 2023, and under any state law or local ordinance that imposes liability based solely on motor vehicle ownership.

27-25-107. Contribution against indemnification.

A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy shall have the right to seek recovery against the motor vehicle insurer of the peer-to-peer car-sharing program if the claim is:

- (1) Made against the shared-vehicle owner or the shared-vehicle driver for loss or injury that occurs during the car-sharing period; and
- (2) Excluded under the terms of its policy.

27-25-108. Consumer protection disclosures.

A peer-to-peer car-sharing program agreement made in this state shall disclose to a shared-vehicle owner and a shared-vehicle driver:

(1) Any right of the peer-to-peer car-sharing program to seek indemnification from a shared-vehicle owner or a 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;

(2) That a motor vehicle liability insurance policy issued to a shared-vehicle owner for the shared vehicle or to a shared-vehicle driver does not provide a defense or indemnification for a claim asserted by a peer-to-peer car-sharing program;

(3) That a peer-to-peer car-sharing program's insurance coverage of a shared-vehicle owner and a shared-vehicle driver is in effect only during each car-sharing period and that, for any use of the shared vehicle by the shared-vehicle driver after the car-sharing termination time, the shared-vehicle driver and the shared-vehicle owner may not have insurance coverage;

(4) The daily rate, fees, and, if applicable, any insurance or protection package costs that are charged to a shared-vehicle owner or a

shared-vehicle driver;

(5) That a shared-vehicle owner's motor vehicle liability insurance policy may not provide coverage for a shared vehicle;

(6) An emergency telephone number to personnel capable of fielding matters related to roadside assistance and other customer service inquiries; and

(7) Whether or not there are conditions under which a shared-vehicle driver shall maintain a personal motor vehicle liability insurance policy with certain applicable coverage limits on a primary basis in order to reserve or book a shared vehicle.

27-25-109. Driver's license verification – Data retention.

(a) A peer-to-peer car-sharing program shall not enter into a peer-to-peer car-sharing program agreement with a driver unless the driver who operates a shared vehicle:

(1) Holds a driver's license issued under the laws of this state that authorizes the driver to operate a motor vehicle of the class of the shared vehicle;

(2) Is a nonresident who:

(A) Holds a driver's license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive a motor vehicle of the class of the shared vehicle; and

(B) Is at least the same age as that required of a resident of this state to drive; or

(3) Otherwise is specifically authorized by the laws of this state to drive a motor vehicle of the class of the shared vehicle.

(b) A peer-to-peer car-sharing program shall keep a record of the:

(1) Name and address of a shared-vehicle driver;

(2) Number of the driver's license of a shared-vehicle driver and each other person, if any, who will operate the shared vehicle; and

(3) Place of issuance of the driver's license of the shared-vehicle driver.

27-25-110. Responsibility for equipment.

(a)(1) A peer-to-peer car-sharing program has sole responsibility for any equipment, including without limitation a global positioning device or

other special equipment, that is installed by the peer-to-peer car-sharing program in or on the shared vehicle to monitor or facilitate a car-sharing transaction.

(2) A peer-to-peer car-sharing program shall agree to indemnify and hold harmless a shared-vehicle owner for any damage to or theft of any equipment installed by the peer-to-peer car-sharing program in or on the shared vehicle during the car-sharing period not caused by the shared-vehicle owner.

(b) A peer-to-peer car-sharing program may seek indemnity from a shared-vehicle driver for any loss or damage to the equipment installed by the peer-to-peer car-sharing program in or on the shared vehicle that occurs during the car-sharing period.

27-25-111. Motor vehicle safety recalls.

(a) At the time a motor vehicle owner registers as a shared-vehicle owner in a peer-to-peer car-sharing program and before the time a shared-vehicle owner makes a motor vehicle available as a shared vehicle for car sharing through the peer-to-peer car-sharing program, the peer-to-peer car-sharing program shall:

(1) Verify that the motor vehicle that is to be offered as a shared vehicle does not have any safety recalls for which the repairs have not been made; and

(2) Notify the shared-vehicle owner of the requirements under subsection (b) of this section.

(b)(1) If a shared-vehicle owner has received an actual notice of a safety recall on a motor vehicle, then a shared-vehicle owner shall not make that motor vehicle available as a shared vehicle through a peer-to-peer car-sharing program until the safety recall repair has been made.

(2)(A) If a shared-vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is available through the peer-to-peer car-sharing program, then the shared-vehicle owner shall remove the shared vehicle from the peer-to-peer car-sharing program as soon as practicably possible after receiving the notice of the safety recall.

(B) Until the safety recall repair has been completed, a shared-vehicle owner shall not make a motor vehicle available as a shared vehicle through a peer-to-peer car-sharing program.

(3) If a shared-vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used and is in the possession of the shared-vehicle driver, then, as soon as practicably possible after receiving the notice of the safety recall, the shared-vehicle owner shall notify the peer-to-peer car-sharing program about the safety recall so that the shared-vehicle owner may address the safety recall repair.

27-25-112. Construction.

This chapter shall not be construed to extend beyond insurance or have any implications for other Arkansas laws, including without limitation laws related to motor vehicle registration, airport regulation, or taxation.

27-25-113. Rules.

The Insurance Commissioner may promulgate rules to implement this chapter.

/s/Hill

APPROVED: 4/11/23