
**Consumer Protection & Business
Committee**

HB 2773

Brief Description: Concerning transportation.

Sponsors: Representatives Kirby and Vick.

Brief Summary of Bill

- Prescribes regulations for peer-to-peer vehicle sharing programs.

Hearing Date: 2/5/20

Staff: Robbi Kesler (786-7153).

Background:

Insurance. Every person in this state who operates a private passenger motor vehicle must be insured under an insurance liability policy, a liability bond, a certificate of deposit, or be self-insured. The minimum amounts of liability coverage required by the financial responsibility statutes are:

- \$10,000 in coverage for damage to another's property;
- \$25,000 in coverage for injuries to any one other person; and
- \$50,000 in aggregate coverage for injuries to all other persons involved.

There are mandatory offerings of personal injury protection coverage and underinsured automobile coverage. There are a number of other types of coverage that can be offered by an automobile insurer. Insurers may offer any type of coverage in any amount that is filed with and approved by the Insurance Commissioner (Commissioner). Automobile insurance rates and forms are filed with the Commissioner and must be approved by the Commissioner prior to use by an insurer. If the Commissioner determines that filed rates are not excessive, inadequate, or unfairly discriminatory, then the Commissioner must approve them.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Since 2012, Washington state has regulated car sharing businesses. A "Personal vehicle sharing program" (program) is a legal entity qualified to do business that facilitates the sharing of private passenger motor vehicles for noncommercial use by individuals within this state. The regulations include insurance requirements, legal requirements, liability, disclosures, and recordkeeping.

Washington's Consumer Protection Act.

The Consumer Protection Act (CPA) prohibits unfair methods of competition and unfair or deceptive practices in the conduct of any trade or commerce. The Attorney General may investigate and prosecute claims under the CPA on behalf of the state or individuals in the state.

Summary of Bill:

Definitions.

A "Peer-to-peer vehicle sharing program" or "program" is a person or entity that connects peer-to-peer vehicle owners with peer-to-peer vehicle drivers to facilitate the sharing of peer-to-peer vehicles for consideration. The program is not a transportation network company.

"Peer-to-peer vehicle" or "vehicle" is a personal motor vehicle that is available for use through a peer-to-peer vehicle sharing program for a sharing period of thirty days or less that is registered as a private passenger vehicle under the laws of this or another state.

"Peer-to-peer vehicle sharing period" or "sharing period" is the period of time that commences with a peer-to-peer vehicle delivery period or, if there is no peer-to-peer vehicle delivery period, that commences with a peer-to-peer vehicle sharing start time and, in either case, ends at a peer-to-peer vehicle sharing termination time.

Insurance.

A peer-to-peer sharing program is subject to several requirements and terms related to insurance. Key points include a requirement the program assumes the liability of an owner for any bodily injury or property damage to third parties, uninsured and underinsured motorist benefits, and personal injury protection losses during the sharing period in an amount stated in an agreement, and must assure that the amount provided for is not less than the statutorily defined minimums. The program assumes liability irrespective of a lapse in, or otherwise absence of, any coverage under which the program is insured. Financial responsibility may be maintained by the owner, the driver, the program, or any combination.

The program is not liable when an owner makes a material, intentional, or fraudulent misrepresentation, or material, intentional, or fraudulent omission, to the program before the sharing period in which the loss occurred; or acts in concert with the driver who fails to return the vehicle pursuant to the terms of the agreement.

The program must provide primary financial responsibility for a claim when it is in whole or in part providing the financial responsibility required under this section if a dispute exists regarding who was in control of the vehicle at the time of the loss, the program does not have required records maintained. If insurance maintained by the owner or driver in accordance has lapsed or does not provide the required financial responsibility, the program, or its insurer, shall provide the coverage required beginning with the first dollar of a claim and have the duty to defend such claim unless there is an express exemption.

The program will be indemnified by the owner's personal policy of motor vehicle liability insurance if it is determined that the owner was in control of the vehicle at the time of the loss. The program is not limited in seeking indemnification from an owner or driver for economic loss sustained by the program resulting from a breach of the terms and conditions of an agreement.

The program is responsible in the event insurance, which covers the owner or driver, has lapsed or does not provide the required financial responsibility.

An insurer that writes motor vehicle liability insurance in this state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under an owner's motor vehicle liability insurance policy. Programs must be provided an insurable interest in a vehicle during the sharing period.

Disclosure requirements.

The program's agreement include disclosures related to insurance, including liability, indemnification, and a notice that additional insurance may be required, financial responsibility, rates and fees, emergency contact information for roadside assistance and inquiries, and notice that insurance may end when sharing period has ended. Recordkeeping, agreements, and disclosures may be made electronically and are not subjected to font or style requirements.

Notices and Record Keeping.

Prior to making a vehicle available through the program, the program must notify the owner that participation may violate the terms of the owner's contract with a lienholder, if any.

The program is required to keep records for three years and abide by all state and federal privacy laws. The program must provide records to the owner or owner's insurer to facilitate claims processing in the event of any claims.

Additional Conditions.

The program is responsible for any equipment, such as a global positioning system or other special equipment that is put in or on a vehicle to monitor or facilitate sharing and must agree to indemnify and hold harmless an owner for any damage to or theft of such system or equipment during the sharing period not caused by an owner. The program has the right to seek indemnity from a driver for any loss or damage to such system or equipment that occurs during the sharing period.

The program must verify that the vehicle does not have any safety recalls for which the repairs have not been made and must also monitor for new recalls no less than once in each 72 hour period the vehicle is in use through the program. Upon receipt of notice of a safety recall on a vehicle available for use through the program, the vehicle must be removed from availability as soon as practicably possible, and in no case more than forty-eight hours, after receiving the notice of the safety recall and the vehicle must be kept out of the program until the safety recall repair has been made.

The program may not enter into an agreement with a driver unless the driver holds a driver's license authorizing the driver to operate vehicles of the class of the vehicle the driver will be using through the program.

Any violation is deemed an unfair or deceptive act in violation of the Consumer Protection Act. A person injured by a violation of this chapter has a cause of action and is entitled to the relief. A program is not liable for a violation of the Consumer Protection Act when the violation is the result of false, misleading, or inaccurate information provided to a program by an owner or driver, and the program reasonably relied on that information in good faith.

A provision stating there is no effect on the taxability of peer-to-peer vehicle sharing pursuant to the state's excise taxes is included.

A program, owner using a program, or motor vehicle rental company may be required to enter into an agreement, which may be a concession agreement, prior to operating at an airport.

Appropriation: None.

Fiscal Note: Requested on February 3, 2020.

Effective Date: January 1, 2021