
ENGROSSED SUBSTITUTE HOUSE BILL 2384

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By House Business & Financial Services (originally sponsored by Representatives Hudgins, Bailey, Kirby, Condotta, Pedersen, Ryu, Fitzgibbon, Moscoso, Stanford, Upthegrove, Billig, Lias, and Ladenburg)

READ FIRST TIME 01/30/12.

1 AN ACT Relating to personal vehicle sharing programs; adding a new
2 chapter to Title 48 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** For the purposes of this chapter, unless the
5 context otherwise requires:

6 (1) "Owner's insurance policy" means an automobile liability
7 insurance policy, as defined in RCW 48.22.005, that includes:

8 (a) All coverage necessary to comply with the requirements of
9 chapter 46.30 RCW; and

10 (b) Any optional coverage selected by the registered owner,
11 including:

12 (i) Personal injury protection coverage as defined in RCW
13 48.22.005;

14 (ii) Underinsured coverage as defined in RCW 48.22.030;

15 (iii) Comprehensive property damage coverage for the vehicle; and

16 (iv) Collision property damage coverage for the vehicle.

17 (2) "Personal vehicle sharing" means the operation and use of a
18 private passenger motor vehicle, by persons other than the vehicle's
19 registered owner in connection with a personal vehicle sharing program.

1 (3) "Personal vehicle sharing program" or "program" means a legal
2 entity qualified to do business in this state engaged in the business
3 of facilitating the sharing of private passenger motor vehicles for
4 noncommercial use by individuals within this state. For the purposes
5 of this subsection, "noncommercial use" means use other than that for
6 a "commercial vehicle" as defined in RCW 46.04.140.

7 (4) "Private passenger motor vehicle" means a four-wheel passenger
8 motor vehicle insured under an automobile liability insurance policy
9 covering a single individual or individuals residing in the same
10 household as the named insured.

11 (5) "Program insurance policy" means an automobile liability
12 insurance policy that is obtained by the personal vehicle sharing
13 program and that:

14 (a) Includes all coverage needed to comply with the requirements of
15 chapter 46.30 RCW;

16 (b) Includes the following optional coverages:

17 (i) Comprehensive property damage coverage for the vehicle; and

18 (ii) Collision property damage coverage for the vehicle;

19 (c) Offers to the named insured on the program policy underinsured
20 coverage as defined in RCW 48.22.030;

21 (d) Offers to the named insured on the program policy underinsured
22 coverage as defined in RCW 48.22.005; and

23 (e) Does not include any other optional coverage selected by the
24 owner of the vehicle and included in the owner's insurance policy.

25 NEW SECTION. **Sec. 2.** For each vehicle that the program
26 facilitates the use of, a program must:

27 (1) Provide a program insurance policy with coverage for the
28 vehicle and all persons who, with the consent of the program, use the
29 motor vehicle insured while in control of the vehicle in the program.
30 The limits for any coverage included in the program insurance policy
31 may not provide liability coverage that is less than three times the
32 limits specified in chapter 46.30 RCW and may not provide collision or
33 comprehensive coverage that is less than the actual cash value of the
34 vehicle.

35 (2) Prior to the first use of a vehicle in a program, and upon
36 renewal, cancellation, or change in insurance by the program, provide
37 the vehicle's registered owner with a proof of compliance with the

1 insurance requirements of this section and the requirements of chapter
2 46.30 RCW, underinsured motorist coverage elections made by the sharing
3 program under RCW 48.22.030 and personal injury protection coverage
4 elections made by the sharing program under RCW 48.22.085. A copy of
5 the proof of compliance must be maintained in the vehicle by the
6 vehicle's registered owner at all times when the vehicle is operated by
7 any person other than the vehicle's registered owner pursuant to the
8 program.

9 (3) Collect, maintain, and make available to the vehicle's
10 registered owner, the vehicle's registered owner's primary automobile
11 liability insurer, and any government agency as required by law, at the
12 cost of the program, the following:

13 (a) Verifiable records that identify the date and duration that the
14 vehicle is under the control of a person other than the vehicle's
15 registered owner pursuant to the program. For vehicles with an
16 electronic tracking device, verifiable electronic records of the time,
17 initial and final locations of the vehicle, and miles driven when the
18 vehicle is under the control of a person other than the vehicle's
19 registered owner pursuant to the program; and

20 (b) In instances where an insurance claim has been filed, any and
21 all information, including payments to the registered owner by the
22 program, concerning accidents, damages, or injuries arising out of
23 personal vehicle sharing pursuant to the program.

24 (4) Not knowingly permit the vehicle to be operated as a commercial
25 vehicle by a personal vehicle sharing user while engaged in personal
26 vehicle sharing. For the purposes of this subsection, "commercial
27 vehicle" has the meaning given that term in RCW 46.04.140.

28 (5) Ensure that the vehicle is a private passenger motor vehicle.

29 (6) Facilitate the installation, operation, and maintenance of its
30 own signage and computer hardware and software, if and when requested
31 by the vehicle owner, necessary for the vehicle to be used in the
32 program.

33 (7) Indemnify and hold harmless the vehicle's registered owner for
34 the cost of damage or theft of equipment installed by the program under
35 subsection (6) of this section and any damage caused to the vehicle by
36 the installation, operation, or maintenance of the equipment.

37 (8)(a) Prior to the first use of a vehicle in a program, and upon

1 renewal, cancellation, or change in insurance by the program, provide
2 the vehicle's registered owner and any person operating the vehicle
3 pursuant to the program with a disclosure that contains:

4 (i) Information explaining the requirements of this section;

5 (ii) Full and clear disclosure of the coverages and coverage limits
6 provided under the program insurance policy;

7 (iii) Notice that the vehicle owner's insurer has no duty to defend
8 or indemnify any person or organization for liability for any loss that
9 occurs during use of the vehicle pursuant to a program; and

10 (iv) Notice that the vehicle owner or any person operating the
11 vehicle pursuant to the program may have liability for claims that
12 exceed the limits of the program insurance policy.

13 (b) The information in (a) of this subsection must be made
14 available to the vehicle owner's insurer upon the insurer's request.

15 NEW SECTION. **Sec. 3.** (1) Notwithstanding any provision in the
16 owner's insurance policy and notwithstanding chapter 46.29 RCW, in the
17 event of any loss or injury that occurs at any time when the vehicle is
18 under the operation or control of a person, other than the vehicle's
19 registered owner, pursuant to a program, or is otherwise under the
20 control of a program, the program shall assume all liability of the
21 vehicle owner and shall be considered the vehicle owner for all
22 purposes.

23 (2) Nothing in subsection (1) of this section:

24 (a) Limits the liability of a program for any acts or omissions by
25 the program that result in injury to any persons as a result of the use
26 or operation of the program; or

27 (b) Limits the ability of the program to, by contract, seek
28 indemnification from the vehicle's registered owner for any claims paid
29 by the program for any loss or injury resulting from fraud or material
30 intentional misrepresentation by the vehicle's registered owner,
31 provided that the vehicle sharing program disclose in the contract
32 that:

33 (i) The program is entitled to seek indemnification in these
34 circumstances; and

35 (ii) The registered owner's insurance policy does not provide
36 defense or indemnification for any loss or injury resulting from fraud
37 or material intentional misrepresentation.

1 (3) A program continues to be liable under subsection (1) of this
2 section until:

3 (a) The vehicle is returned to a location designated by the
4 program, as set forth in the contract between the registered owner and
5 the program; and

6 (b)(i) The expiration of the time period established for the
7 vehicle occurs;

8 (ii) The intent to terminate the vehicle's personal vehicle sharing
9 use is verifiably communicated to the program, as set forth in the
10 contract between the registered owner and the program; or

11 (iii) The vehicle's registered owner takes possession and control
12 of the vehicle.

13 (4)(a) A program shall assume liability, including the costs of
14 defense and indemnification, for a claim in which a dispute exists as
15 to who was in control of a private passenger motor vehicle when the
16 loss giving rise to the claim occurred.

17 (b) The insurer of the vehicle shall indemnify the program to the
18 extent of the insurer's obligation under the owner's insurance policy,
19 if it is determined that the vehicle's registered owner was in control
20 of the vehicle at the time of the loss.

21 (5) If a private passenger motor vehicle's registered owner is
22 named as a defendant in a civil action for any loss or injury that
23 occurs at any time when the vehicle is under the operation or control
24 of a person, other than the vehicle's registered owner, pursuant to a
25 program, or is otherwise under the control of a program, the program
26 shall have the duty to defend and indemnify the vehicle's registered
27 owner.

28 (6)(a) Notwithstanding any provision in the owner's insurance
29 policy, while the vehicle is under the operation or control of a
30 person, other than the vehicle's registered owner, pursuant to a
31 program, or is otherwise under the control of a program:

32 (i) The insurer providing coverage to the owner of a private
33 passenger motor vehicle may exclude any and all coverage afforded under
34 the owner's insurance policy; and

35 (ii) A primary or excess insurer of the vehicle owner may notify an
36 insured that the insurer has no duty to defend or indemnify any person
37 or organization for liability for any loss that occurs during use of
38 the vehicle pursuant to a program;

1 (b) In order to exclude such coverage, the exclusion allowed in
2 (a)(i) of this subsection and the notification required in (a)(ii) of
3 this subsection are not required for a policy that otherwise does not
4 provide such coverages.

5 (7) An owner's insurance policy for a private passenger motor
6 vehicle may not be canceled, voided, terminated, rescinded, or
7 nonrenewed solely on the basis that the vehicle has been made available
8 for personal vehicle sharing pursuant to a program that is in
9 compliance with the provisions of this chapter.

10 NEW SECTION. **Sec. 4.** A private passenger motor vehicle insured by
11 the vehicle's registered owner under an owner's insurance policy may
12 not be classified as a commercial motor vehicle or for-hire motor
13 vehicle solely because the vehicle's registered owner allows the
14 vehicle to be used for personal vehicle sharing if:

15 (1) The personal vehicle sharing is conducted under a program.

16 (2) The annual revenue received by the vehicle's registered owner
17 that was generated by the personal vehicle sharing does not exceed the
18 annual expenses of owning and operating the vehicle, including
19 depreciation, interest, lease payments, motor vehicle loan payments,
20 insurance, maintenance, parking, fuel, cleaning, automobile repair and
21 costs associated with personal vehicle sharing, including but not
22 limited to the installation, operation, and maintenance of computer
23 hardware and software, signage identifying the vehicle as a personal
24 vehicle sharing vehicle, and any fees charged by a program.

25 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute
26 a new chapter in Title 48 RCW.

27 NEW SECTION. **Sec. 6.** This act applies to automobile liability
28 insurance policies issued or renewed on or after January 1, 2013.

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