

2020 Regular Session

HOUSE BILL NO. 532

BY REPRESENTATIVE JORDAN

INSURANCE: Provides relative to Peer-to-Peer Car Sharing

1 AN ACT

2 To enact Subpart B-1 of Part IV of Chapter 4 of Title 22 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 22:1300.1 through 1300.13, relative to the
4 regulation of peer-to-peer car sharing programs; to provide for the assumption of
5 liability; to provide for the duties of peer-to-peer car sharing programs; to provide
6 for liability policy requirements; to provide for primary liability; to provide for
7 indemnification; to provide for the notification of the effect of liens; to provide for
8 policy exclusions; to provide for the maintenance and disclosure of records; to
9 provide for the exemption of vicarious liability in certain circumstances; to provide
10 for a peer-to-peer car sharing program to have insurable interest; to provide
11 consumer protection disclosures; to provide for the responsibility of special
12 equipment; to provide for safety recall repairs; to provide for definitions; to provide
13 for an effective date; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. Subpart B-1 of Part IV of Chapter 4 of Title 22 of the Louisiana Revised
16 Statutes of 1950, comprised of R.S. 22:1300.1 through 1300.13, is hereby enacted to read
17 as follows:

1 SUBPART B-1. PEER-TO-PEER CAR SHARING PROGRAM ACT2 §1300.1. Short Title

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

5 §1300.2. Definitions

6 Except when a different meaning is expressly stated or clearly indicated by
7 the context, the following terms, as used in this Subpart, have the following
8 meanings:

9 (1) "Car sharing delivery period" means the period of time during which a
10 shared vehicle is being delivered to the location of the car sharing start time, if
11 applicable, as documented by the governing car sharing program agreement.

12 (2) "Car sharing period" means the period of time that commences with the
13 car sharing delivery period or, if there is no car sharing delivery period, that
14 commences with the car sharing start time and, in either case, ends at the car sharing
15 termination time. "Car sharing period" does not mean rental period, or similar, as
16 defined in R.S. 22:1762.

17 (3) "Car sharing program agreement" means the terms and conditions
18 applicable to a shared vehicle owner and a shared vehicle driver that govern the use
19 of a shared vehicle through a peer-to-peer car sharing program. "Car sharing
20 program agreement" does not mean a rental agreement, automobile rental agreement,
21 or similar, as defined in R.S. 22:1523, 1762, or R.S. 47:551.

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

26 (5) "Car sharing termination time" means the earliest of the following events:

27 (a) The expiration of the agreed-upon time period established for the use of
28 a shared vehicle according to the terms of the car sharing program agreement if the

1 shared vehicle is delivered to the location agreed upon in the car sharing program
2 agreement.

3 (b) When the shared vehicle is returned to a location as alternatively agreed
4 upon by the shared vehicle owner and shared vehicle driver as communicated
5 through a peer-to-peer car sharing program.

6 (c) When the shared vehicle owner or the shared vehicle owner's authorized
7 designee takes possession and control of the shared vehicle.

8 (6) "Peer-to-peer car sharing" means the authorized use of a vehicle by an
9 individual other than the vehicle's owner through a peer-to-peer car sharing program.

10 "Peer-to-peer car sharing" does not mean rental motor vehicle, rental vehicle,
11 vehicle, or similar, as defined in R.S. 22:1523 or 1762.

12 (7) "Peer-to-peer car sharing program" means a business platform that
13 connects vehicle owners with drivers to enable the sharing of vehicles for financial
14 consideration. "Peer-to-peer car sharing program" does not mean a service provider
15 that is solely providing hardware or software as a service to a person or entity that
16 is not effectuating payment of financial consideration for use of a shared vehicle.
17 "Peer-to-peer car sharing program" does not mean lessor, rental company, or similar,
18 as defined in R.S. 22:1523 or 1762.

19 (8) "Shared vehicle" means a vehicle that is available for sharing through a
20 peer-to-peer car sharing program. "Shared vehicle" does not mean rental motor
21 vehicle, rental vehicle, vehicle, or similar, as defined in R.S. 22:1523 or 1762.

22 (9) "Shared vehicle driver" means an individual who has been authorized to
23 drive the shared vehicle by the shared vehicle owner under a car sharing program
24 agreement. "Shared vehicle driver" does not mean lessee, renter, or similar, as
25 defined in R.S. 22:1523 or 1762.

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

1 vehicle owner" does not mean lessor, rental company, or similar, as defined in R.S.
2 22:1523 or 1762.

3 §1300.3. Insurance coverage during car sharing period

4 A. A peer-to-peer car sharing program shall assume liability, except as
5 provided in Subsection B of this Section, of a shared vehicle owner for bodily injury
6 or property damage to third parties or uninsured or underinsured motorist or personal
7 injury protection losses during the car sharing period in an amount stated in the peer-
8 to-peer car sharing program agreement which amount may not be less than those set
9 forth in the Motor Vehicle Safety Responsibility Law, R.S. 32:851 et seq.

10 B. Notwithstanding the definition of "car sharing termination time" as set
11 forth in R.S. 22:1300.2, the assumption of liability pursuant to Subsection A of this
12 Section:

13 (1) Does not apply to any shared vehicle owner when:

14 (a) A shared vehicle owner makes an intentional or fraudulent material
15 misrepresentation or omission to the peer-to-peer car sharing program before the car
16 sharing period in which the loss occurred.

17 (b) A shared vehicle owner acts in concert with a shared vehicle driver who
18 fails to return the shared vehicle pursuant to the terms of the car sharing program
19 agreement.

20 (2) Does apply to bodily injury, property damage, uninsured or underinsured
21 motorist, or personal injury protection losses sustained by damaged third parties
22 required by the Motor Vehicle Safety Responsibility Law, R.S. 32:851 et seq.

23 C. A peer-to-peer car sharing program shall ensure that, during each car
24 sharing period, the shared vehicle owner and the shared vehicle driver are insured
25 under a motor vehicle liability policy that provides insurance coverage in amounts
26 equal to or greater than the minimum amounts set forth in R.S. 32:900, and that the
27 policy either:

1 (1) Specifies that the motor vehicle liability policy provides coverage if the
2 insured vehicle is made available and used by a shared vehicle driver through a peer-
3 to-peer car sharing program.

4 (2) Does not exclude coverage if the insured vehicle is made available as a
5 shared vehicle and used by a shared vehicle driver in a peer-to-peer car sharing
6 program.

7 D. The insurance set forth in Subsection C shall be primary during each car
8 sharing period and satisfied by a motor vehicle liability policy maintained by one
9 of the following:

10 (1) The shared vehicle owner.

11 (2) The shared vehicle driver.

12 (3) The peer-to-peer car sharing program.

13 (4) Any combinations of the persons described in Paragraphs (1) through (3)
14 of this Subsection.

15 E. The peer-to-peer car sharing program shall assume primary liability for
16 a claim when all of the following criteria are met:

17 (1) The peer-to-peer car sharing program is providing, in whole or in part,
18 the insurance required pursuant to Subsections C and D of this Section.

19 (2) A dispute exists as to who was in control of the shared vehicle at the time
20 of the loss.

21 (3) The peer-to-peer car sharing program does not have available, did not
22 retain, or fails to provide the information required by R.S. 22:1300.6.

23 F. The insurer of the shared vehicle shall indemnify the peer-to-peer car
24 sharing program to the extent of its obligation, if any, under the applicable insurance
25 policy, if it is determined that the owner of the shared vehicle was in control of the
26 shared vehicle at the time of the loss.

27 G. If insurance maintained by a shared vehicle owner or shared vehicle
28 driver pursuant to Subsection D of this Section has lapsed or does not provide the
29 required coverage, insurance maintained by a peer-to-peer car sharing program shall

1 provide the coverage required by Subsection C of this Section beginning with the
2 first dollar of a claim and have the duty to defend the claim except under
3 circumstances set forth in R.S. 22:1300.7.

4 H. Coverage under a motor vehicle liability policy maintained by the peer-
5 to-peer car sharing program is not dependent on whether another motor vehicle
6 insurer first denies a claim nor is another motor vehicle insurer required to first deny
7 a claim.

8 I. Nothing in this Subpart:

9 (1) Limits the liability of a peer-to-peer car sharing program for any act or
10 omission of the peer-to-peer car sharing program that results in injury to any person
11 as a result of the use of a shared vehicle through a peer-to-peer car sharing program.

12 (2) Limits the ability of a peer-to-peer car sharing program to seek
13 indemnification by contract from the shared vehicle owner or the shared vehicle
14 driver for economic loss sustained by the peer-to-peer car sharing program resulting
15 from a breach of the terms and conditions of the car sharing program agreement.

16 §1300.4. Notification of implications of lien

17 When a vehicle owner registers as a shared vehicle owner on a peer-to-peer
18 car sharing program and before a shared vehicle owner makes a shared vehicle
19 available for sharing on the peer-to-peer car sharing program, a peer-to-peer car
20 sharing program shall notify the shared vehicle owner that if the shared vehicle has
21 a lien against it, the use of the shared vehicle through a peer-to-peer car sharing
22 program, including use without physical damage coverage, may violate the terms of
23 the contract with the lienholder.

24 §1300.5. Exclusions in motor vehicle liability policy

25 A. An authorized insurer that writes motor vehicle liability insurance in this
26 state may exclude any and all coverage and the duty to defend or indemnify for any
27 claim afforded under a shared vehicle owner's motor vehicle liability policy,
28 including but not limited to:

29 (1) Liability coverage for bodily injury and property damage.

1 (2) Uninsured and underinsured motorist coverage.

2 (3) Medical payments coverage.

3 (4) Comprehensive coverage.

4 (5) Collision coverage.

5 B. Nothing in this Subpart invalidates or limits an exclusion contained in a
6 motor vehicle liability policy, including any policy in use or approved for use that
7 excludes coverage for motor vehicles made available for rent, sharing, or hire or for
8 any business use.

9 §1300.6. Recordkeeping; use of vehicle in car sharing

10 A peer-to-peer car sharing program shall collect and verify records pertaining
11 to the use of a shared vehicle, including but not limited to times used, fees paid by
12 the shared vehicle driver, and revenues received by the shared vehicle owner. The
13 peer-to-peer car sharing program shall provide that information upon request to the
14 shared vehicle owner, the shared vehicle owner's insurer, or the shared vehicle
15 driver's insurer to facilitate a claim coverage investigation. The peer-to-peer car
16 sharing program shall retain the records for at least the length of the liberative
17 prescription period set forth in Civil Code Article 3492.

18 §1300.7. Exemption; vicarious liability

19 A peer-to-peer car sharing program and a shared vehicle owner shall be
20 exempt from vicarious liability in accordance with 49 U.S.C. 30106 and pursuant to
21 any state or local law that imposes liability solely based on vehicle ownership.

22 §1300.8. Contribution against indemnification

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

27 (1) Made against the shared vehicle owner or the shared vehicle driver for
28 loss or injury that occurs during the car sharing period.

29 (2) Excluded under the terms of its policy.

1 §1300.9. Insurable interest

2 A. Notwithstanding any other provision of law to the contrary, a peer-to-peer
3 car sharing program shall have an insurable interest in a shared vehicle during the
4 car sharing period.

5 B. Nothing in this Section creates liability on a peer-to-peer car sharing
6 program to maintain the coverage mandated by R.S. 22:1300.3.

7 C. A peer-to-peer car sharing program may own and maintain as the named
8 insured one or more policies of motor vehicle liability insurance that provides
9 coverage for any of the following:

10 (1) Liabilities assumed by the peer-to-peer car sharing program under a peer-
11 to-peer car sharing program agreement.

12 (2) Any liability of the shared vehicle owner.

13 (3) Damage or loss to the shared motor vehicle.

14 (4) Any liability of the shared vehicle driver.

15 §1300.10. Consumer protections disclosures

16 Each car sharing program agreement made in this state shall disclose to the
17 shared vehicle owner and the shared vehicle driver all of the following:

18 (1) Any right of the peer-to-peer car sharing program to seek indemnification
19 from the shared vehicle owner or the shared vehicle driver for economic loss
20 sustained by the peer-to-peer car sharing program resulting from a breach of the
21 terms and conditions of the car sharing program agreement.

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

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

1 (4) The daily rate, fees, and if applicable, any insurance or protection
2 package costs that are charged to the shared vehicle owner or the shared vehicle
3 driver.

4 (5) That the shared vehicle owner's motor vehicle liability insurance may not
5 provide coverage for a shared vehicle.

6 (6) An emergency telephone number to personnel capable of fielding
7 roadside assistance and other customer service inquiries.

8 (7) If there are conditions under which a shared vehicle driver must maintain
9 a personal automobile insurance policy with certain applicable coverage limits on a
10 primary basis in order to book a shared vehicle.

11 §1300.11. Driver's license verification; data retention

12 A. A peer-to-peer car sharing program shall not enter into a peer-to-peer car
13 sharing program agreement with a driver unless the driver who will operate the
14 shared vehicle meets one of the following criteria:

15 (1) Holds a driver's license issued pursuant to R.S. 32:402 that authorizes the
16 driver to operate vehicles of the same class as the shared vehicle.

17 (2) Is a nonresident who meets both of the following criteria:

18 (a) Holds a driver's license issued by the state or country of the driver's
19 residence that authorizes the driver in that state or country to drive vehicles of the
20 same class as the shared vehicle.

21 (b) Is at least the same age as that required of a resident to drive vehicles of
22 the same class as the shared vehicle.

23 (3) Otherwise is specifically authorized by R.S. 32:401 et seq. to drive
24 vehicles of the same class as the shared vehicle.

25 B. A peer-to-peer car sharing program shall keep record of the following:

26 (1) The name and address of the shared vehicle driver.

27 (2) The number of the driver's license of the shared vehicle driver and each
28 other person, if any, who will operate the shared vehicle.

29 (3) The place of issuance of the driver's license.

1 §1300.12. Responsibility for equipment

2 A peer-to-peer car sharing program shall have sole responsibility for any
3 equipment, such as a global positioning system (GPS) system or other special
4 equipment that is put in or on the vehicle to monitor or facilitate the car sharing
5 transaction, and shall agree to indemnify and hold harmless the vehicle owner for
6 any damage to or theft of the equipment during the car sharing period not caused by
7 the vehicle owner. The peer-to-peer car sharing program has the right to seek
8 indemnity from the shared vehicle driver for any loss or damage to such equipment
9 that occurs during the sharing period.

10 §1300.13. Automobile safety recalls

11 A. At the time when a vehicle owner registers as a shared vehicle owner on
12 a peer-to-peer car sharing program and prior to the time when the shared vehicle
13 owner makes a shared vehicle available for car sharing on the peer-to-peer car
14 sharing program, the peer-to-peer car sharing program shall:

15 (1) Verify that the shared vehicle does not have any safety recalls on the
16 vehicle for which the repairs have not yet been made.

17 (2) Notify the shared vehicle owner of the requirements pursuant to
18 Subsection B of this Section.

19 B.(1) If the shared vehicle owner has received an actual notice of a safety
20 recall on the vehicle, a shared vehicle owner shall not make a vehicle available as a
21 shared vehicle on a peer-to-peer car sharing program until the safety recall repair has
22 been made.

23 (2) If a shared vehicle owner receives an actual notice of a safety recall on
24 a shared vehicle while the shared vehicle is made available on the peer-to-peer car
25 sharing program, the shared vehicle owner shall remove the shared vehicle as
26 available on the peer-to-peer car sharing program, as soon as practicably possible
27 after receiving the notice of the safety recall and until the safety recall repair has
28 been made.

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

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 532 Reengrossed

2020 Regular Session

Jordan

Abstract: Regulates the business of insurance as it relates to peer-to-peer car sharing.

Proposed law creates the Peer-to-Peer Car Sharing Program Act.

Proposed law defines the following terms for use in proposed law: "car sharing delivery period", "car sharing period", "car sharing program agreement", "car sharing start time", "car sharing termination time", "peer-to-peer car sharing", "peer-to-peer car sharing program", "shared vehicle", "shared vehicle driver", and "shared vehicle owner".

Proposed law requires a peer-to-peer car sharing program to assume liability of a shared vehicle owner, during the car sharing period, for bodily injury or property damage to others, in an amount not less than the state minimum policy limits pursuant to present law, except when:

- (1) A loss occurred during the car sharing period, but the shared vehicle owner intentionally misrepresents or omits material information before the car sharing period.
- (2) A shared vehicle owner acting with a driver does not return the shared vehicle as required by the car sharing program agreement.

The assumption of liability required by proposed law does apply to losses sustained by a third party as required by present law.

Proposed law requires a peer-to-peer car sharing program to verify that both the driver and owner of the shared vehicle are covered during the car sharing period by a policy that at least meets the minimum limits required by present law.

Proposed law requires a peer-to-peer car sharing program to also verify that the policy either covers the use of the vehicle by a shared vehicle driver through a peer-to-peer car sharing program or does not exclude such use.

Proposed law requires the insurance set forth in proposed law to be primary during the car sharing period and authorizes the policy to be maintained by the shared vehicle owner, the shared vehicle driver, the peer-to-peer car sharing program, or any combination of those persons.

Proposed law requires the peer-to-peer car sharing program to assume primary liability for a claim when the program is providing all or part of the required coverage, there is dispute

regarding who was in charge of the shared vehicle at the time of the loss, and the program does not have the information required to be collected and maintained pursuant to proposed law.

The shared vehicle's insurer is required by proposed law to indemnify the peer-to-peer car sharing program to the extent of any obligation under the policy if the owner was in control of the shared vehicle when the damage occurred.

Proposed law requires the peer-to-peer car sharing programs insurer to provide the required coverage if the owner or driver have lapsed insurance or insurance that does not meet the requirements. Proposed law requires the program's insurer to have the duty to defend subject to certain exceptions set forth in proposed law.

Proposed law provides that coverage by the peer-to-peer car sharing program's insurer does not depend on another insurer first denying a claim.

Proposed law requires a peer-to-peer car sharing program to notify a vehicle owner that if the vehicle is subject to a lien, participating in the program may violate the terms of the contract with the lienholder.

Proposed law requires the peer-to-peer car sharing program to collect, verify, and retain, for at least one year as prescribed by present law, certain records pertaining to the use of a shared vehicle and to provide those records to the shared vehicle owner, the owner's insurer, or the shared vehicle driver's insurer upon request.

Proposed law allows an insurer to seek contribution from the insurer of a peer-to-peer car sharing program if the shared vehicle was excluded from coverage by the insurer seeking contribution when certain requirements pursuant to proposed law are met.

Proposed law requires the peer-to-peer car sharing agreement to state certain consumer protection disclosures as provided in proposed law.

A peer-to-peer car sharing program is prohibited by proposed law from entering into a peer-to-peer car sharing agreement with a driver unless the driver is authorized to operate vehicles of the same class as the shared vehicle pursuant to the requirements set forth in proposed law.

When a vehicle owner registers on a peer-to-peer car sharing program, proposed law requires the peer-to-peer car sharing program to either verify that the shared vehicle has no pending safety recall repairs or notify the vehicle owner that they are required to repair the shared vehicle.

Effective Jan. 1, 2021.

(Adds R.S. 22:1300.1-1300.13)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Add provision that excludes automobile rental contract as defined in present law from the definition of "car sharing program agreement".
2. Add a provision that excludes a service provider who is solely providing hardware or software as service to a person or entity that is not executing

payment for use of a shared vehicle from the definition of "peer-to-peer car sharing program".

3. Make technical changes.