

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1045 (Delegate Davis)
Economic Matters

Motor Vehicle Insurance – Peer-to-Peer Car Sharing

This bill establishes a regulatory framework for peer-to-peer car sharing in the State. Specifically, the bill (1) establishes definitions related to peer-to-peer car sharing; (2) specifies that peer-to-peer shared vehicles are not considered rental vehicles under State law and makes conforming changes; (3) establishes insurance requirements for peer-to-peer shared vehicles; and (4) specifies the rights and obligations of insurers in the State in relation to peer-to-peer shared vehicles.

Fiscal Summary

State Effect: The bill generally codifies the manner in which peer-to-peer car sharing programs currently operate in the State and, therefore, does not materially affect State operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

The bill establishes numerous definitions related to “peer-to-peer car sharing,” which is defined as the authorized use of a motor vehicle by an individual other than the vehicle’s owner through a peer-to-peer car sharing program. “Peer-to-peer car sharing program”

means a platform that is in the business of connecting vehicle owners with drivers to enable the sharing of motor vehicles for financial consideration. “Car sharing period” means the period of time during which a car is being shared through the peer-to-peer car sharing program, and the bill includes specifications about when this period officially begins and ends.

Applicability of State Laws Governing Rental Vehicles

A peer-to-peer car sharing program may not be considered to be a rental vehicle company or motor vehicle rental company. As such, the vehicles rented through a peer-to-peer car sharing program are not considered rental vehicles and, therefore, are not subject to the State laws governing rental vehicles. Additionally, the use of a shared motor vehicle does not constitute a commercial use of the vehicle.

Insurance Requirements for Shared Vehicles

The peer-to-peer car sharing program must assume the liability of the *owner* of a shared vehicle during a car sharing period. The security provided by the program in assuming the liability of the owner must meet or exceed the State’s mandatory minimum security requirements. This assumption of liability does not apply if the shared vehicle owner made an intentional or fraudulent material misrepresentation to the program before the car sharing period in which a loss occurred.

During a peer-to-peer car sharing period, the car sharing program must have an insurable interest in the shared motor vehicle and must ensure that both the shared motor vehicle and shared vehicle driver are insured under a policy that (1) recognizes that the vehicle is being used through a peer-to-peer car sharing program and (2) provides the mandatory minimum security requirements. This policy must be *primary* with respect to the shared vehicle owner, but it may be *secondary* with respect to the shared vehicle driver’s other valid and collectible insurance. The policy must be *primary* with respect to the vehicle driver if the driver’s insurance has lapsed, or is otherwise not in force.

A peer-to-peer car sharing program is expressly authorized to sponsor a motor vehicle insurance policy that provides coverage for property damage to a shared motor vehicle during the car sharing period.

A peer-to-peer car sharing program may meet any of the aforementioned insurance requirements by acquiring or sponsoring any form of security that meets the State’s mandatory minimum security requirements; however, any coverage maintained by the car sharing program may not be dependent on the denial of a claim by another insurer. Furthermore, a car sharing program may not be considered to be engaged in the business of insurance by (1) acquiring or sponsoring an insurance policy; (2) informing an owner or

driver about the terms and conditions of the insurance policy; (3) allowing an owner and driver to select different degrees of financial protection and benefits that include the insurance policy; or (4) receiving reimbursement for the cost of the insurance from an owner or driver.

Rights and Obligations of Other Insurers

The Maryland Automobile Insurance Fund and other authorized insurers in the State may exclude any and all coverage and the duty to defend under a shared vehicle owner's personal motor vehicle liability insurance policy for any loss or injury that occurs during the car sharing period. An insurer may not deny, cancel, void, terminate, rescind, or nonrenew a personal motor vehicle liability insurance policy of a shared vehicle owner solely because a motor vehicle covered under the policy has been made available through a peer-to-peer car sharing program. However, an insurer may deny, cancel, void, terminate, rescind, or nonrenew the policy if an applicant or policyholder fails to provide complete and accurate information about the use of the motor vehicle through a peer-to-peer car sharing program.

An insurer that unintentionally defends or indemnifies a claim has a right of contribution against the insurer of the peer-to-peer car sharing program if the claim is made against the shared vehicle owner or driver for loss or injury that occurs during the car sharing period and is excluded under the terms of its policy.

Other Provisions

All peer-to-peer car sharing program agreements must disclose (1) the right of the program to seek indemnification from the shared vehicle owner or shared vehicle driver for economic loss resulting from a breach of the terms and conditions of the agreement and (2) that the owner's or driver's motor vehicle liability insurance policies do not provide a defense to this indemnification.

In a claim coverage investigation involving a shared motor vehicle and following an accident, a car sharing program must cooperate with all involved parties to facilitate the exchange of information.

Current Law:

Required Security

Maryland law requires an owner of a motor vehicle that is required to be registered in the State to maintain insurance for the vehicle during the registration period. The security required must provide at least the payment of claims:

- for bodily injury or death arising from an accident of up to \$30,000 for any one person and up to \$60,000 for any two or more persons;
- for property of others damaged or destroyed in an accident of up to \$15,000;
- unless waived or exempt by Chapters 425 and 426 of 2016, for personal injury protection of \$2,500 per person; and
- for uninsured motorist coverage (unless waived, the amount equals the amount of liability coverage provided under the policy; if waived, the amount equals the minimum required insurance for liability coverage).

The Maryland Vehicle Law and Rental Vehicles

The Maryland Vehicle Law governs rental vehicles. Generally, a violation of the Maryland Vehicle Law is a misdemeanor that carries a fine of up to \$500.

A rental vehicle must maintain the minimum security required by law. For a replacement vehicle (which is a type of rental vehicle that is loaned out to or rented temporarily by a person while the person's own vehicle is not in use because of a breakdown, repair, etc.), the security requirement may also be met if the rented vehicle's coverage is secondary to the person's personal insurance coverage, if the personal coverage maintains the required security. If applicable, this information must be disclosed to a renter in a specified manner.

A person may not rent a motor vehicle, trailer, or semitrailer to any other person unless the individual who will operate the rented vehicle either (1) holds a driver's license issued by the Motor Vehicle Administration (MVA) to drive or tow the class of vehicle being rented or (2) is a nonresident who has and keeps an appropriate driver's license from his or her state or country of origin and is at least the same age required of a resident to drive or tow the class of vehicle being rented. The lessor of the rented vehicle or the agent must inspect a renter's license to ensure it is valid and appropriate for the vehicle being rented. Each person who rents a motor vehicle to another person must keep specified records of the transaction, including the renter's name, address, and driver's license number. MVA or any police officer may inspect these records.

Background: Peer-to-peer car sharing programs, such as Turo and Getaround, are becoming more popular in the State as alternatives to traditional vehicle rentals from companies like Enterprise and Hertz. Similar to how Airbnb allows a person to rent his or her home directly to customers using the Airbnb program, personal vehicle rental programs allow a vehicle owner to rent his or her private vehicle to another person through an online financial transaction. In some cases, the renter may pick up the vehicle directly from the owner's home, while in others, both parties may arrange another location to pick up and drop off the vehicle. The financial transaction takes place between the vehicle owner and

the renter with the personal vehicle rental program acting as a broker, which guarantees some level of protection for, and good faith between, the vehicle owner and the renter.

Currently, Turo is the most common peer-to-peer car sharing program that operates in the State. In the same manner required by the bill, Turo maintains a commercial insurance policy that acts as *primary* for the vehicle owner and *secondary* for the vehicle driver in the event of an accident while a car is being shared through its program.

Additional Information

Prior Introductions: None.

Cross File: SB 743 (Senator Middleton) - Finance.

Information Source(s): Maryland Department of Transportation; Maryland Insurance Administration; Maryland Automobile Insurance Fund; Department of Legislative Services

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