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Legislative Document

No. 1615

H.P. 1167

House of Representatives, April 23, 2019

An Act To Enact Laws Governing Private Vehicle Rentals

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative STANLEY of Medway.

Cosponsored by Representatives: COLLINGS of Portland, MAREAN of Hollis.

1 Be it enacted by the People of the State of Maine as follows:

2 PART A

3 Sec. A-1. 29-A MRSA c. 13, sub-c. 5 is enacted to read:

4 SUBCHAPTER 5

5 MOTOR VEHICLE RENTAL MODERNIZATION ACT

6 §1691. Short title

7 This subchapter may be known and cited as "the Motor Vehicle Rental
8 Modernization Act."

9 §1692. Definitions

10 As used in this subchapter, unless the context otherwise indicates, the following
11 terms have the following meanings.

12 **1. Motor vehicle.** "Motor vehicle" has the same meaning as in section 101,
13 subsection 42, except that "motor vehicle" does not include a vehicle with a gross weight
14 rating of more than 10,000 pounds and does not include a commercial motor vehicle as
15 defined in section 101, subsection 17.

16 **2. Motor vehicle rental company.** "Motor vehicle rental company" means a person,
17 including a franchisee, engaged in the business of facilitating vehicle rental transactions
18 that occur in this State. "Motor vehicle rental company" does not include a private rental
19 vehicle owner who makes no more than 3 vehicles available for rent through a private
20 vehicle rental program, or through any combination of programs, during a 12-month
21 period.

22 **3. Owner.** "Owner" means the registered owner of a private rental vehicle available
23 through a private vehicle rental program.

24 **4. Private motor vehicle.** "Private motor vehicle" means a motor vehicle owned
25 and registered to an individual who is the named insured under a personal automobile
26 liability insurance policy. "Private motor vehicle" does not include a motor vehicle with
27 fewer than 4 wheels.

28 **5. Private rental vehicle.** "Private rental vehicle" means a motor vehicle that is
29 owned by and registered to an individual and is available for rent through a provider.

30 **6. Private vehicle rental program.** "Private vehicle rental program" or "program"
31 means any manner, digital or otherwise, by which a private vehicle rental is facilitated by
32 a provider.

1 **7. Private vehicle rental program provider.** "Private vehicle rental program
2 provider" or "provider" means a person that is responsible for operating, facilitating or
3 administering vehicle rental transactions through a program.

4 **8. Renter.** "Renter" means an individual who obtains the use of a private rental
5 vehicle through a program.

6 **9. Vehicle rental transaction.** "Vehicle rental transaction" means the short-term
7 transfer of possession of a motor vehicle for consideration without the transfer of
8 ownership of that motor vehicle.

9 **§1693. Requirement for vehicle rental transactions**

10 **1. Compliance with other laws.** A private vehicle rental program provider, private
11 rental vehicle owner and any vehicle rental transaction of a private rental vehicle through
12 a program are subject to all state laws and rules applicable to private passenger motor
13 vehicle rental companies, rental vehicles and vehicle rental transactions, including, but
14 not limited to:

15 A. Section 254, relating to maintenance of motor vehicle rental records;

16 B. Title 10, section 1475, relating to the disclosure of information regarding a used
17 motor vehicle;

18 C. Title 23, section 4210-B, relating to the use of sales tax revenue from automobile
19 rentals for the Multimodal Transportation Fund;

20 D. Title 24-A, section 1413, subsection 8, relating to motor vehicle rental companies;
21 and

22 E. Title 36, section 1811, relating to the sales tax on the value of an automobile
23 rental.

24 **2. Notice; disclosure.** Any notice required to be provided, delivered, posted or
25 made available to a renter by a motor vehicle rental company is deemed timely and
26 effective if that notice is provided or delivered electronically at or before the time
27 required or if that notice is included in a master agreement or member agreement in effect
28 at the time of rental. For the purposes of this subsection, "master agreement" or "member
29 agreement" includes, but is not limited to, any agreement pertaining to the provision of a
30 service:

31 A. Offered by a motor vehicle rental company that permits a renter to bypass a retail
32 service location and obtain a product or service directly;

33 B. When the motor vehicle rental company does not require a renter to execute a
34 rental agreement at the time of rental; or

35 C. When a renter does not receive the terms and conditions of a rental at the time of
36 rental.

37 **3. Acceptance.** An electronic or written acceptance by a renter is deemed a valid
38 form of acceptance of any notice. The acceptance remains effective until the acceptance
39 is affirmatively withdrawn by the renter.

1 **§7402. Definitions**

2 As used in this chapter, unless the context otherwise indicates, the following terms
3 have the following meanings.

4 **1. Insurer.** "Insurer" means an insurer holding a valid and subsisting certificate of
5 authority, issued by the superintendent, to transact insurance in this State.

6 **2. Motor vehicle.** "Motor vehicle" has the same meaning as in Title 29-A, section
7 101, subsection 42.

8 **3. Owner.** "Owner" means the registered owner of a private rental vehicle;

9 **4. Private rental vehicle.** "Private rental vehicle" means a motor vehicle that is
10 owned by and registered to an individual and is available for rent through a provider.

11 **5. Private vehicle rental program.** "Private vehicle rental program" or "program"
12 means any manner, digital or otherwise, by which a private vehicle rental is facilitated by
13 a provider.

14 **6. Provider.** "Provider" means a person that facilitates the rental of a private rental
15 vehicle through the ownership and operation of a digital network or other system.

16 **7. Rental period.** "Rental period" means the time period that begins when an owner
17 transfers control of the owner's private rental vehicle to a provider and continues until the
18 following conditions are met:

19 A. The private rental vehicle is:

20 (1) Retrieved by the owner or the owner's designee;

21 (2) Returned to a location agreed upon by the owner and the renter; or

22 (3) Returned to a location designated by the provider; and

23 B. One of the following occurs:

24 (1) The time period established through a rental agreement expires;

25 (2) The renter verifiably communicates to the provider or owner that the rental
26 period has terminated; or

27 (3) The owner or provider takes possession and control of the private rental
28 vehicle.

29 **8. Renter.** "Renter" means an individual who obtains the use of a private rental
30 vehicle.

31 **§7403. Requirements and limitations for private vehicle rental**

32 **1. Classification.** A motor vehicle insured, or required to be insured, by its
33 registered owner pursuant to Title 29-A, section 1601 may not be classified as a
34 commercial motor vehicle, for-hire transportation vehicle, permissive use vehicle, taxicab

1 or livery solely on the basis that the registered owner allows the motor vehicle to be used
2 as a private rental vehicle as long as the following conditions apply:

3 A. The private rental vehicle complies with the requirements of this chapter;

4 B. The owner or provider does not knowingly place the motor vehicle or allow the
5 motor vehicle to be placed into use as a commercial vehicle or as for-hire
6 transportation by a renter while the motor vehicle is used for private vehicle rental;
7 and

8 C. The number of motor vehicles a single individual, or more than one individual
9 living in the same household, has enrolled in any program or combination of
10 programs is no more than 4.

11 **2. Insurance coverage denial.** An insurer may refuse to issue or renew or may
12 cancel a policy of an owner solely on the basis that the owner, individually or in
13 combination with other household members, has enrolled more than 4 motor vehicles in a
14 program or combination of programs.

15 **3. Provider insurance; other requirements.** For each motor vehicle participating
16 in a program, a provider shall:

17 A. Procure group insurance coverage while used as a private rental vehicle and for
18 any authorized driver of any such vehicle during the rental period. At a minimum, the
19 insurance must provide:

20 (1) Liability coverage at least equal to the minimum financial responsibility
21 requirements for motor vehicles in the state in which the vehicle is registered;
22 and

23 (2) Property and casualty coverage, including comprehensive and collision
24 protection, as described in section 7405;

25 B. Provide the owner of the motor vehicle used as a private rental vehicle with
26 suitable written proof of compliance with the insurance requirements of this section
27 and the requirements of Title 29-A, section 1605. A copy of the written proof of
28 compliance must be maintained in the private rental vehicle by the owner during any
29 time the vehicle is operated by a renter or any individual other than the owner
30 pursuant to a program;

31 C. Ensure that a motor vehicle in the program is not operated for commercial use or
32 for use as a motor vehicle for hire by a renter while used as a private rental vehicle;

33 D. Provide each renter, for each rental under the program, at the time of each rental,
34 with:

35 (1) Access to an insurance identification card or other documentation approved
36 for use in the state in which the motor vehicle is registered that is able to be
37 carried in the vehicle at all times during any rental period and that provides proof
38 that the insurance coverage required by paragraph A is in full force and effect;
39 and

40 (2) The means to communicate, via a toll-free telephone number, e-mail address
41 or other form of communication, with a law enforcement officer, representative

1 of the Department of the Secretary of State, Bureau of Motor Vehicles or other
2 state official in the state in which the vehicle is registered to confirm in real time
3 that insurance coverage required by paragraph A is in full force and effect;

4 E. Require that each motor vehicle made available for private vehicle rental complies
5 with the minimum financial responsibility requirements of the state in which the
6 vehicle is registered;

7 F. Require that each motor vehicle used in the program is a private rental vehicle;

8 G. Facilitate the installation, operation and maintenance of the provider's own
9 signage and computer hardware and software to the extent necessary;

10 H. Indemnify and hold harmless the owner for the cost of damage or theft of any
11 equipment installed by the provider under paragraph G for any damage to the motor
12 vehicle caused by the installation, operation or maintenance of that equipment;

13 I. Collect, maintain and make available, at the provider's cost, the following
14 information to any governmental entity as required by law, to the owner's primary
15 automobile insurer and to the renter's primary automobile insurer, excess insurer or
16 umbrella insurer:

17 (1) Verifiable records of each rental period and, to the extent electronic
18 equipment for monitoring the information is installed in the motor vehicle,
19 verifiable electronic records of the time the vehicle is driven, the initial and final
20 locations of the vehicle and miles driven if mileage is collected; and

21 (2) In instances when an insurance claim has been filed with the provider's
22 insurer, any information relevant to the claim, including any payments by the
23 provider due to accidents, damage or injuries;

24 J. Ensure that the owner and renter are given notice prior to the first use or operation
25 of a private rental vehicle pursuant to enrollment in the program that:

26 (1) During the rental period the owner's insurer may exclude coverage under the
27 owner's insurance policy. The provider may also notify the owner and renter that
28 the owner's insurer has no duty to defend or indemnify any individual or person
29 for liability for any loss that occurs during the rental period; and

30 (2) The provider's insurance policy and physical damage contract may not
31 provide coverage outside of the rental period; and

32 K. Comply with all statutory and regulatory obligations for motor vehicle rental,
33 including, but not limited to, compliance with the provisions of section 1413,
34 subsection 8 and Title 10, section 1475; Title 23, section 4210-B; Title 29-A, sections
35 254 and 1605; and Title 36, section 1811.

36 **§7404. Liability provisions**

37 **1. Provider liable as if owner.** Notwithstanding any other provision of law to the
38 contrary or any provision in an automobile insurance policy, in the event a loss or injury
39 occurs during a rental period or while a motor vehicle is under the control of a provider,
40 the provider is deemed the owner of the vehicle under Title 29-A, section 1652 and any
41 provision of law that may impose liability upon the owner of a motor vehicle solely based

1 on ownership of the vehicle. The provider retains liability regardless of any lapse in the
2 provider's policy or whether that liability is covered under the provider's policy or any
3 other insurance policy under which the provider is insured.

4 **2. Insurance coverage.** A provider shall maintain insurance that covers liability and
5 physical damage during the rental period unless the private rental vehicle is covered by
6 rental car insurance.

7 **3. Disputes regarding liability.** An insurer providing the owner's insurance as
8 described in this section is liable for a claim when a dispute exists as to who was in
9 control of the private rental vehicle at the time of the incident giving rise to the claim.
10 The owner's insurer shall indemnify the provider's insurer to the extent of the owner's
11 obligation under the applicable insurance policy if it is determined that the private rental
12 vehicle was under the control of the owner at the time of the incident giving rise to the
13 claim. The provider shall notify the owner's insurer of a dispute within 10 business days
14 of becoming aware of the dispute.

15 **4. Indemnification.** In the event that the owner or the owner's insurer is named as a
16 defendant in a civil action for a loss or injury that occurs during any time within the rental
17 period or when the motor vehicle is under the control of the provider, the provider's
18 insurer has the duty to defend and indemnify the vehicle's owner and the owner's insurer
19 subject to the requirements of subsection 3.

20 **5. No obligation of owner's insurer.** Notwithstanding any other provision of law to
21 the contrary, the following conditions apply while a private rental vehicle is used by a
22 renter:

23 A. The owner's insurer may exclude any coverage for liability, uninsured and
24 underinsured motorist, collision physical damage and comprehensive physical
25 damage benefits and first-party coverage that may otherwise be afforded pursuant to
26 a policy; and

27 B. The owner's primary and excess insurers have the right to notify the owner that
28 the insurer has no duty to defend or indemnify any person or organization for liability
29 for any loss that occurs during the rental period.

30 **6. Cancellation of owner's insurance.** An insurer may not cancel, void, terminate,
31 rescind or refuse to renew a policy issued to an owner solely on the basis that the owner's
32 motor vehicle is a private rental vehicle in compliance with this chapter and Title 29-A,
33 chapter 13, subchapter 5, except that:

34 A. The provisions of this subsection do not apply to a cancellation in accordance
35 with Title 29-A, section 1606 or 1611 or to a nonrenewal of a policy in accordance
36 with section 2916-A;

37 B. An insurer may refuse to enroll a vehicle in a usage-based insurance program
38 under which the program monitors usage electronically to determine acceleration,
39 braking, miles driven and other indicia of driving behavior; and

40 C. An insurer may cancel or refuse to renew a policy that insures a private rental
41 vehicle if that vehicle is enrolled in a usage-based insurance program as described in

1 paragraph B as long as the insurer offers the owner a new policy with the same
2 coverage and premium that does not include enrollment in a usage-based program.

3 **§7405. Group insurance for private vehicle rental programs**

4 **1. Authorization for liability and property and casualty insurance.** An insurer
5 authorized to transact business in this State may issue or issue for delivery in this State a
6 group policy of liability and property and casualty insurance to a private vehicle rental
7 program to insure the provider and any renter or authorized operator or occupant of a
8 private rental vehicle and any employee, agent or officer of the program as long as the
9 policy meets the requirements of this section.

10 **2. Policy requirements.** A policy issued in accordance with this section must
11 provide first-party, liability, property, comprehensive, collision and uninsured and
12 underinsured motorist coverage for the private rental vehicle and any authorized
13 operators and occupants for any claims or damages resulting from the use of that vehicle
14 during the rental period. The policy is primary with respect to any other insurance
15 available to the owner of the private rental vehicle but is secondary with respect to any
16 other insurance available to the renter or authorized operator or occupant of the private
17 rental vehicle. The policy must comply with the requirements of Title 29-A, chapter 13,
18 subchapter 2 with respect to financial responsibility.

19 **3. Filing of rates.** For the purposes of any group insurance policy written in
20 accordance with this section, the insurer shall file rates with the superintendent on a file-
21 and-use basis.

22 **4. Identification of insured under the policy.** An insurer that issues a policy in
23 accordance with this section shall issue the policy in a manner that identifies the private
24 vehicle rental provider as the named insured. The policy must include a provision that
25 provides coverage without prior notice to the insurer for all private rental vehicles during
26 the rental period and that provides coverage for any renter or authorized operator or
27 occupant of a private rental vehicle as an insured under the policy to the same extent that
28 coverage would be provided under a motor vehicle policy issued in accordance with Title
29 29-A, section 1605.

30 **5. Risk of physical damage.** A provider may contractually assume the risk of
31 physical damage loss to a private rental vehicle during the time that the vehicle is in the
32 custody of the renter or provider. An assumption of risk under this subsection may not be
33 considered physical damage insurance. A provider may offer a renter optional vehicle
34 protection in accordance with Title 10, section 1500-H.

35 **6. Authorization to issue group physical damage insurance.** An insurer
36 authorized to transact business in this State may issue or issue for delivery in this State a
37 group policy of physical damage insurance to a private vehicle rental program and to an
38 owner of a private rental vehicle to insure against physical damage loss to a private rental
39 vehicle during the time that the vehicle is in the custody of the renter or provider as long
40 as the policy meets the requirements of this section. The policy must provide primary
41 coverage through collision or comprehensive coverage, or both, for physical damage loss

1 to the private rental vehicle during the time that the vehicle is in the custody of the renter
2 or provider.

3 **7. Physical damage insurance by surplus lines insurer.** If the group coverage for
4 physical damage insurance as provided for in subsection 6 is provided by a surplus lines
5 insurer, the surplus lines insurer shall comply with the requirements of this Title
6 applicable to surplus lines insurance with respect to the group as a whole and not with
7 respect to individual members of the group.

8 **8. Requirements for physical damage insurance.** An insurer that issues a group
9 policy of physical damage insurance as described in subsection 6 shall issue the policy to
10 the private vehicle rental provider as the named insured. The policy must include a
11 provision that provides primary coverage without prior notice to the insurer for all private
12 rental vehicles during the rental period and that provides coverage for physical damage or
13 loss to the owner's private rental vehicle during the rental period at a level no less than
14 that of 3rd-party coverage for physical damage or loss.

15 **§7406. Financial responsibility**

16 **1. Financial responsibility requirement met by group insurer.** In the case of a
17 private rental vehicle used in connection with a private vehicle rental program, the motor
18 vehicle financial responsibility required pursuant to Title 29-A, section 1601 must be met
19 by a group insurance policy, as specified in section 7405, issued to a provider and to any
20 renter or authorized operator or occupant of a private rental vehicle during any time that
21 the private rental vehicle is being used in connection with a private vehicle rental
22 program.

23 **2. Proof of financial security.** The provider shall provide the superintendent with
24 proof of financial security in the form of a group insurance policy covering the program
25 and an owner of a private rental vehicle registered in this State that participates in the
26 program as an insured group member and covering private rental vehicles while the
27 vehicles are used in connection with the program. The proof required under this
28 subsection may not be used in connection with the registration of a private rental vehicle,
29 and the vehicle may not be registered unless the owner separately complies with Title
30 29-A, section 402.

31 **SUMMARY**

32 This bill modernizes state law to regulate private vehicle rentals.

33 Part A requires private vehicle rentals to comply with the same laws that apply to
34 rental vehicles, rental vehicle transactions and rental vehicle companies. Part A also
35 allows rental vehicle companies to comply with certain notice and record-keeping
36 requirements electronically or through a master agreement.

37 Part B of the bill establishes insurance requirements for private vehicle rentals.