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Date: (Filing No. S-)

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
SENATE
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 470, L.D. 1420, “An Act To Adopt the Peer-to-Peer Car Sharing Program Model Act”

Amend the bill by striking out the title and substituting the following:

'An Act To Conform State Law to the Peer-to-Peer Car Sharing Program Model Act'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 24-A MRSA §7402, sub-§5, ¶B, as enacted by PL 2019, c. 367, §1, is amended to read:

B. When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a program, as long as the alternatively agreed location is incorporated into the car sharing program agreement; and

Sec. 2. 24-A MRSA §7402, sub-§8, as enacted by PL 2019, c. 367, §1, is amended to read:

8. Peer-to-peer car sharing. "Peer-to-peer car sharing" means the authorized use of a motor vehicle by an individual other than the registered owner through a program. "Peer-to-peer car sharing" does not include the business of renting motor vehicles within the meaning of Title 29-A, section 254.

Sec. 3. 24-A MRSA §7402, sub-§9, as enacted by PL 2019, c. 367, §1, is amended to read:

9. Peer-to-peer car sharing program; program. "Peer-to-peer car sharing program" or "program" means a business, including a business platform, that, digitally or otherwise, connects registered owners of motor vehicles with individuals to enable the sharing of motor vehicles for financial consideration. "Peer-to-peer car sharing program" does not include the business of renting motor vehicles within the meaning of Title 29-A, section 254.

COMMITTEE AMENDMENT

1 **Sec. 4. 24-A MRSA §7402, sub-§11**, as enacted by PL 2019, c. 367, §1, is amended
2 to read:

3 **11. Shared vehicle.** "Shared vehicle" means a motor vehicle that is: available for
4 sharing through a peer-to-peer car sharing program.

5 ~~A. Available for sharing through a peer-to-peer car sharing program;~~

6 ~~B. Used nonexclusively for peer-to-peer car sharing pursuant to a car sharing program~~
7 ~~agreement; and~~

8 ~~C. Used by the shared vehicle owner for personal use outside of peer-to-peer car~~
9 ~~sharing.~~

10 **Sec. 5. 24-A MRSA §7402, sub-§12**, as enacted by PL 2019, c. 367, §1, is amended
11 to read:

12 **12. Shared vehicle driver.** "Shared vehicle driver" means an individual authorized
13 to use a shared vehicle by the shared vehicle owner under a car sharing program agreement.

14 **Sec. 6. 24-A MRSA §7402, sub-§13**, as enacted by PL 2019, c. 367, §1, is amended
15 to read:

16 **13. Shared vehicle owner.** "Shared vehicle owner" means the registered owner of a
17 shared vehicle, or a person or entity designated by the registered owner of a vehicle made
18 available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.
19 "Shared vehicle owner" does not include a person engaged in the business of renting motor
20 vehicles within the meaning of Title 29-A, section 254.

21 **Sec. 7. 24-A MRSA §7403**, as enacted by PL 2019, c. 367, §1, is repealed.

22 **Sec. 8. 24-A MRSA §7403-A** is enacted to read:

23 **§7403-A. Insurance requirements for peer-to-peer car sharing**

24 **1. Insurance coverage during car sharing period; liability.** The following
25 requirements apply to insurance coverage and liability during a car sharing period.

26 ~~A. A peer-to-peer car sharing program shall assume the liability, except as provided~~
27 ~~in paragraph B, of a shared vehicle owner for bodily injury or property damage to 3rd~~
28 ~~parties or uninsured and underinsured motorists or personal injury protection losses~~
29 ~~during the car sharing period in an amount stated in the car sharing program agreement~~
30 ~~as long as the amount is not less than minimum requirements in Title 29-A, section~~
31 ~~1605.~~

32 ~~B. Notwithstanding the definition of "car sharing termination time" as set forth in~~
33 ~~section 7402, subsection 5, the assumption of liability under paragraph A does not~~
34 ~~apply when:~~

35 ~~(1) A shared vehicle owner makes an intentional or fraudulent material~~
36 ~~misrepresentation or omission to the peer-to-peer car sharing program before the~~
37 ~~car sharing period in which the loss occurred; or~~

38 ~~(2) A shared vehicle owner is acting in concert with a shared vehicle driver who~~
39 ~~fails to return the shared vehicle pursuant to the terms of car sharing program~~
40 ~~agreement.~~

1 C. Notwithstanding the definition of "car sharing termination time" as set forth in
2 section 7402, subsection 5, the assumption of liability under paragraph A applies to
3 bodily injury or property damage to 3rd parties or uninsured and underinsured motorist
4 or personal injury protection losses as required by Title 29-A, section 1605.

5 D. A peer-to-peer car sharing program shall ensure that, during each car sharing period,
6 the shared vehicle owner and the shared vehicle driver are insured under a motor
7 vehicle liability insurance policy that provides insurance coverage in amounts not less
8 than the minimum amounts set forth in Title 29-A, section 1605 and:

9 (1) Recognizes that the shared vehicle insured under the policy is made available
10 and used through a peer-to-peer car sharing program; or

11 (2) Does not exclude use of a shared vehicle by a shared vehicle driver.

12 E. The requirement for insurance coverage described under paragraph D may be
13 satisfied by providing evidence of a motor vehicle liability insurance maintained by:

14 (1) A shared vehicle owner;

15 (2) A shared vehicle driver;

16 (3) A peer-to-peer car sharing program; or

17 (4) A shared vehicle owner, a shared vehicle driver and a peer-to-peer car sharing
18 program collectively.

19 F. Insurance coverage that meets the requirements of paragraph D and obtained in
20 accordance with paragraph E must be primary coverage during each car sharing period
21 and, in the event that a claim occurs in another state with minimum financial
22 responsibility limits higher than in Title 29-A, section 1605, during the car sharing
23 period the coverage maintained under paragraph E must satisfy the difference in
24 minimum coverage amounts up to the applicable policy limits.

25 G. The insurer, insurers or peer-to-peer car sharing program providing coverage in
26 accordance with paragraph D or E shall assume primary liability for a claim when:

27 (1) A dispute exists as to who was in control of the shared motor vehicle at the
28 time of the loss and the peer-to-peer car sharing program does not have available,
29 did not retain or fails to provide the information required by section 7404-A
30 subsection 4; or

31 (2) A dispute exists as to whether the shared vehicle was returned to the
32 alternatively agreed upon location as required under section 7402, subsection 5,
33 paragraph B.

34 H. If insurance maintained by a shared vehicle owner or shared vehicle driver in
35 accordance with paragraph E has lapsed or does not provide the required coverage,
36 insurance maintained by a peer-to-peer car sharing program must provide the coverage
37 required by paragraph D beginning with the first dollar of a claim, and the peer-to-peer
38 car sharing program has the duty to defend that claim except under circumstances set
39 forth in paragraph B.

40 I. Coverage under a motor vehicle liability insurance policy maintained by the peer-
41 to-peer car sharing program may not be dependent on another insurer's first denying a
42 claim or a requirement in another insurance policy to first deny a claim.

1 **2. Exclusions in motor vehicle liability insurance policies.** An insurer that writes
2 motor vehicle liability insurance in the State may exclude any and all coverage and the duty
3 to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle
4 liability insurance policy, including but not limited to:

5 A. Liability coverage for bodily injury and property damage;

6 B. Personal injury protection coverage;

7 C. Uninsured and underinsured motorist coverage;

8 D. Medical payments coverage;

9 E. Comprehensive physical damage coverage; and

10 F. Collision physical damage coverage.

11 This subsection does not invalidate or limit an exclusion contained in a motor vehicle
12 liability insurance policy, including any insurance policy in use or approved for use that
13 excludes coverage for motor vehicles made available for rent, sharing or hire or for any
14 business use. This subsection does not invalidate, limit or restrict an insurer's ability under
15 existing law to underwrite any insurance policy or to cancel or not renew any insurance
16 policy.

17 **3. Contribution against indemnification.** An insurer that defends or indemnifies a
18 claim against a shared vehicle that is excluded under the terms of its policy has the right to
19 seek recovery against the insurer of the peer-to-peer car sharing program if the claim is:

20 A. Made against the shared vehicle owner or the shared vehicle driver for loss or injury
21 that occurs during the car sharing period; and

22 B. Excluded under the terms of its policy.

23 **4. Insurable interest.** Notwithstanding any other law, statute, rule or regulation to
24 the contrary, a peer-to-peer car sharing program has an insurable interest in a shared vehicle
25 during the car sharing period. This section does not impose liability on a peer-to-peer car
26 sharing program to maintain the coverage mandated by subsection 1. A peer-to-peer car
27 sharing program may own and maintain as the named insured one or more policies of motor
28 vehicle liability insurance that provides coverage for:

29 A. Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer
30 car sharing program agreement;

31 B. Any liability of the shared vehicle owner;

32 C. Damage or loss to the shared motor vehicle; or

33 D. Any liability of the shared vehicle driver.

34 **5. Construction.** This section does not limit the liability of the peer-to-peer car
35 sharing program for any act or omission of the peer-to-peer car sharing program itself that
36 results in injury to any person as a result of the use of a shared vehicle through a peer-to-
37 peer car sharing program or limit the ability of a peer-to-peer car sharing program to, by
38 contract, seek indemnification from the shared vehicle owner or the shared vehicle driver
39 for economic loss sustained by the peer-to-peer car sharing program resulting from a breach
40 of the terms and conditions of the car sharing program agreement.

41 **Sec. 9. 24-A MRS §7404**, as enacted by PL 2019, c. 367, §1, is repealed.

1 **Sec. 10. 24-A MRSA §7404-A** is enacted to read:

2 **§7404-A. Responsibilities of peer-to-peer car sharing programs**

3 **1. General disclosures.** Each car sharing program agreement made in the State must
4 disclose to the shared vehicle owner and the shared vehicle driver:

5 A. Any right of the peer-to-peer car sharing program to seek indemnification from the
6 shared vehicle owner or the shared vehicle driver for economic loss sustained by the
7 peer-to-peer car sharing program resulting from a breach of the terms and conditions
8 of the car sharing program agreement;

9 B. That a motor vehicle liability insurance policy issued to the shared vehicle owner
10 for the shared vehicle or to the shared vehicle driver does not provide a defense or
11 indemnification for any claim asserted by the peer-to-peer car sharing program;

12 C. That the peer-to-peer car sharing program's insurance coverage on the shared
13 vehicle owner and the shared vehicle driver is in effect only during each car sharing
14 period and that, for any use of the shared vehicle by the shared vehicle driver after the
15 car sharing termination time, the shared vehicle driver and the shared vehicle owner
16 may not have insurance coverage;

17 D. The daily rate, fees and, if applicable, any insurance or protection package costs
18 that are charged to the shared vehicle owner or the shared vehicle driver;

19 E. That the shared vehicle owner's motor vehicle liability insurance may not provide
20 coverage for a shared vehicle;

21 F. An emergency telephone number to personnel capable of fielding roadside
22 assistance and other customer service inquiries; and

23 G. If there are conditions under which a shared vehicle driver must maintain a personal
24 motor vehicle insurance policy with certain applicable coverage limits on a primary
25 basis in order to arrange for use of a shared vehicle.

26 **2. Notification of implications of lien.** At the time a vehicle owner registers as a
27 shared vehicle owner with a peer-to-peer car sharing program and prior to the time when
28 the shared vehicle owner makes a shared vehicle available for car sharing with the peer-to-
29 peer car sharing program, the peer-to-peer car sharing program shall notify the shared
30 vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle
31 through a peer-to-peer car sharing program, including use without physical damage
32 coverage, may violate the terms of the contract with the lienholder.

33 **3. Motor vehicle safety recalls.** This subsection applies to motor vehicle safety
34 recalls of shared vehicles.

35 A. At the time a vehicle owner registers as a shared vehicle owner with a peer-to-peer
36 car sharing program and prior to the time when the shared vehicle owner makes a
37 shared vehicle available for car sharing with the peer-to-peer car sharing program, the
38 peer-to-peer car sharing program shall:

39 (1) Verify that the shared vehicle does not have any safety recalls on the vehicle
40 for which the repairs have not been made; and

41 (2) Notify the shared vehicle owner of the requirements under paragraph B.

1 B. If the shared vehicle owner has received an actual notice of a safety recall on the
2 vehicle, a shared vehicle owner may not make a vehicle available as a shared vehicle
3 with a peer-to-peer car sharing program until the safety recall repair has been made.

4 (1) When the notice of a safety recall is received while the shared vehicle is made
5 available with the peer-to-peer car sharing program, the shared vehicle owner shall
6 remove the shared vehicle as available with the peer-to-peer car sharing program,
7 as soon as practicably possible after receiving the notice of the safety recall and
8 until the safety recall repair has been made; and

9 (2) When the notice of a safety recall is received while the shared vehicle is being
10 used in the possession of a shared vehicle driver, as soon as practicably possible
11 after receiving the notice of the safety recall the shared vehicle owner shall notify
12 the peer-to-peer car sharing program about the safety recall so that the shared
13 vehicle owner may address the safety recall repair.

14 **4. Recordkeeping; use of vehicle in car sharing.** A peer-to-peer car sharing program
15 shall collect and verify records pertaining to the use of a vehicle, including, but not limited
16 to, times used, car sharing period pick up and drop off locations, fees paid by the shared
17 vehicle driver and revenues received by the shared vehicle owner, and shall provide that
18 information upon request to the shared vehicle owner, the shared vehicle owner's insurer
19 or the shared vehicle driver's insurer to facilitate a claim coverage investigation, settlement,
20 negotiation or litigation. The peer-to-peer car sharing program shall retain the records for
21 a time period not less than the applicable personal injury statute of limitations.

22 **5. Driver's license verification and data retention.** A peer-to-peer car sharing
23 program may not enter into a peer-to-peer car sharing program agreement with a driver
24 unless the driver who will operate the shared vehicle:

25 A. Holds a driver's license issued under Title 29-A, section 1251 that authorizes the
26 driver to operate vehicles of the class of the shared vehicle; or

27 B. Is a nonresident who:

28 (1) Has a driver's license issued by the state or country of the driver's residence
29 that authorizes the driver in that state or country to drive vehicles of the class of
30 the shared vehicle; and

31 (2) Is at least the same age as that required of a resident of the State to drive; or

32 C. Otherwise is specifically authorized by Title 29-A, section 1251 to drive vehicles
33 of the class of the shared vehicle.

34 A peer-to-peer car sharing program shall keep a record of the name and address of the
35 shared vehicle driver; the number of the driver's license of the shared vehicle driver and
36 each other person, if any, who will operate the shared vehicle; and the place of issuance of
37 the driver's license.

38 **6. Responsibility for equipment.** A peer-to-peer car sharing program has sole
39 responsibility for any equipment, such as a GPS system or other special equipment that is
40 put in or on the vehicle to monitor or facilitate the car sharing transaction, and shall agree
41 to indemnify and hold harmless the vehicle owner for any damage to or theft of such
42 equipment during the sharing period not caused by the vehicle owner. The peer- to-peer

1 car sharing program has the right to seek indemnity from the shared vehicle driver for any
2 loss or damage to such equipment that occurs during the sharing period.

3 **Sec. 11. 24-A MRSA §7405**, as enacted by PL 2019, c. 367, §1, is repealed.'

4 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
5 number to read consecutively.

6 **SUMMARY**

7 This amendment, which is the minority report of the committee, replaces the concept
8 draft. The amendment incorporates all of the changes made in Committee Amendment
9 “A” to align current law with the model legislation adopted by the National Council of
10 Insurance Legislators, except for the provision stating that a peer-to-peer car sharing
11 program and a shared vehicle owner are exempt from vicarious liability.