

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 1167 - L.D. 1615

An Act To Enact the Peer-to-peer Car Sharing Insurance Act

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

Sec. 1. 24-A MRSA c. 95 is enacted to read:

CHAPTER 95

PEER-TO-PEER CAR SHARING INSURANCE ACT

§7401. Short title

This chapter may be known and cited as "the Peer-to-peer Car Sharing Insurance Act."

§7402. Definitions

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

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

2. Car sharing period. "Car sharing period" means the time period that commences with the car sharing delivery period or, if there is no delivery period, that commences with the car sharing start time and in either case ends at the car sharing termination time.

3. Car sharing program agreement. "Car sharing program agreement" means an agreement describing the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a program.

4. Car sharing start time. "Car sharing start time" means the time when a shared vehicle becomes subject to the control of a shared vehicle driver, which must be at or after the time the reservation of the shared vehicle is scheduled to begin as documented in the records of a program.

5. Car sharing termination time. "Car sharing termination time" means the time of the earliest of the following events:

A. The expiration of the agreed-upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

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; and

C. When the shared vehicle owner or the shared vehicle owner's authorized designee takes possession and control of the shared vehicle.

6. Insurer. "Insurer" means an insurer authorized to transact business in this State or an insurer that is authorized as a surplus lines insurer.

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

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.

9. Peer-to-peer car sharing program; program. "Peer-to-peer car sharing program" or "program" means 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.

10. Provider. "Provider" means a person that facilitates peer-to-peer car sharing through the ownership and operation of a peer-to-peer car sharing program.

11. Shared vehicle. "Shared vehicle" means a motor vehicle that is:

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

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

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

12. Shared vehicle driver. "Shared vehicle driver" means an individual authorized to use a shared vehicle.

13. Shared vehicle owner. "Shared vehicle owner" means the registered owner of a shared vehicle.

§7403. Requirements and limitations for shared vehicle through peer-to-peer car sharing

1. Classification. A motor vehicle insured, or required to be insured, by its registered owner pursuant to Title 29-A, section 1601 may not be classified as a

commercial motor vehicle, for-hire transportation vehicle, permissive use vehicle, taxicab or livery solely on the basis that the registered owner allows the motor vehicle to be used as a shared vehicle through peer-to-peer car sharing.

2. Exclusion of coverage. An insurer that writes motor vehicle liability insurance in the State may exclude any coverage and the duty to defend or indemnify for any claim afforded during the car sharing period under a shared vehicle owner's motor vehicle liability insurance policy. Nothing in this chapter invalidates or limits an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing or hire or for any business use.

3. Exemption; vicarious liability. A provider and a shared vehicle owner are exempt from vicarious liability in accordance with 49 United States Code, Section 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

4. Provider insurance; other requirements. For each shared vehicle participating in a program, a provider shall:

A. Procure insurance coverage of the shared vehicle during the car sharing period. At a minimum, the insurance must provide:

(1) Primary liability coverage for the shared vehicle owner and secondary liability coverage for the shared vehicle driver in an amount not less than 3 times the minimum requirements for liability in Title 29-A, section 1605; and

(2) Beginning June 1, 2020, property and casualty coverage, including comprehensive and collision protection, for physical loss to the shared vehicle during the time that the vehicle is in the custody of the provider or shared vehicle driver in an amount not less than the replacement cost of the shared vehicle;

B. Provide the shared vehicle owner with suitable written proof of compliance with the insurance requirements of this subsection. A copy of the written proof of compliance must be maintained in the shared vehicle by the shared vehicle owner during any time the shared vehicle is operated by a shared vehicle driver or any individual other than the shared vehicle owner pursuant to a program;

C. Comply with the provisions of Title 29-A, section 254 relating to requirements for retention of records relating to the identity of shared vehicle drivers, including a record of the shared vehicle driver's driver's license and the exact time the vehicle is used as a shared vehicle in a shared vehicle driver's possession; and

D. Cooperate in a claims coverage investigation to facilitate the exchange of relevant information with directly involved parties and any insurer of a shared vehicle owner or a shared vehicle driver participating in a program.

5. Cancellation or termination of insurance. If any insurance policy procured by a provider is cancelled or terminated, the provider shall send notice within 15 days to all shared vehicle owners participating in the provider's program.

§7404. Liability provisions

1. Provider liable as if owner. Notwithstanding any provision of law to the contrary or any provision in a motor vehicle insurance policy, in the event a loss or injury occurs during a car sharing period or while a motor vehicle is under the control of a provider, the provider is deemed the owner of the motor vehicle under Title 29-A, section 1652 and any provision of law that may impose liability upon the owner of a motor vehicle solely based on ownership of the motor vehicle. The provider retains liability regardless of any lapse in the provider's policy or whether that liability is covered under the provider's policy or any other insurance policy under which the provider is insured.

2. Indemnification. In the event that the shared vehicle owner or the shared vehicle owner's insurer is named as a defendant in a civil action for a loss or injury that occurs during any time within the car sharing period or when the motor vehicle is under the control of the provider, the provider's insurer has the duty to defend and indemnify the shared vehicle owner and the shared vehicle owner's insurer.

§7405. Insurance for peer-to-peer car sharing programs

1. Authorization for liability and property and casualty insurance. An insurer may issue or issue for delivery in this State any policy of liability and property and casualty insurance to a provider to insure the provider and any shared vehicle driver or authorized operator or occupant of a shared vehicle and any employee, agent or officer of the program as long as the policy meets the requirements of this section.

2. Coordination of insurance. A program policy written in accordance with this section is primary with respect to any other insurance available to the shared vehicle owner but is secondary with respect to any other insurance available to the shared vehicle driver or authorized operator or occupant of the shared vehicle. The policy must comply with the requirements of section 7403, subsection 4.

3. Filing of rates and forms. For the purposes of any insurance policy written in accordance with this section, the insurer shall file rates and forms with the superintendent for approval.

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

§7406. Enforcement provisions

1. Investigation and examination by superintendent. The superintendent may conduct investigations and examinations of insurers or other persons to enforce the provisions of this chapter. Upon request of the superintendent, a person subject to this

chapter shall make available to the superintendent all accounts, books and records that are necessary to enable the superintendent to determine compliance or noncompliance with this chapter.

2. Enforcement actions. The superintendent may assess civil penalties or take any other action permitted under section 12-A against any person who violates any provision of this chapter or the superintendent's rules and orders, and nothing in this section may be construed as limiting the superintendent's authority to take enforcement action under section 12-A in connection with violations of applicable provisions of this Title.

3. Administrative procedures. Any person aggrieved by an order of the superintendent under this chapter may submit an application for a hearing as provided in section 229, upon which the procedures set forth in section 229 apply.