

TESTIMONY OF MICHAEL BIGOS, ESQ., for MAINE TRIAL LAWYERS ASSOCIATION  
IN SUPPORT OF

**LD 540, An Act To Promote Safety and Protect Consumers Using Peer-to-peer  
Car Sharing Programs**

April 20, 2021

Health Coverage, Insurance and Financial Services Committee

Senator Sanborn, Representative Tepler, and Honorable Members of the Health Coverage, Insurance and Financial Services Committee, my name is Michael Bigos. I live in Auburn. I am a trial attorney at Berman & Simmons law firm (800-244-3576), and I am a Past President of the Maine Trial Lawyers Association. The Maine Trial Lawyers Association urges you to pass LD 540 as written.

LD 540 is very simple. The bill would allow vicarious liability by deleting one sentence from the current Peer-to-peer car sharing insurance act. The current law refers to the so-called “Graves Amendment” at 49 U.S.C. section 30106, which is a federal law that protects car rental companies from liability based on ownership of a vehicle in the event of casualty. When the Peer-to-peer Act was written in Maine, the industry asked for this principle to be extended to Peer-to-peer contractual relationships to reduce its liability exposure, and the Legislature passed it. It was part of a boilerplate, form bill that insurance companies and Turo sought. By doing so, it greatly reduced the rights of the injured, but expanded liability protections to the Peer-to-peer platform companies and vehicle owners.

The reasons to pass LD 540 include, first, that allowing vicarious liability creates the “private enforcer” incentive for safety and accountability, and tends to keep the government out of regulating “minimums” for what is considered “safe-enough” under the circumstances. Keeping up with such minimums is always a cat-and-mouse game, and always needing revision as technology and markets evolve. By exempting vicarious liability, the legislature puts the burden on the people of Maine for any incidents that occur as opposed to a large corporation with the funds to handle any situation.

Second, liability provisions under Maine law should be codified in the transportation laws of Title 29-A, and or court procedure and liability laws of Title 14, not in the insurance code of Title 24-A.

Third, in the two years since the passage of the Act, see P.L. 2019, Ch. 367, the pandemic hit, and safety among vehicle owners and Peer-to-peer companies are more important than ever to ensure. Please see the following for basic information to understand the issue and context of the changing marketplace and legal environment:

[https://www.naic.org/documents/cipr\\_events\\_liability\\_issues\\_and\\_p2p\\_car\\_sharing\\_presentation.pdf](https://www.naic.org/documents/cipr_events_liability_issues_and_p2p_car_sharing_presentation.pdf) ;

[https://en.wikipedia.org/wiki/Turo\\_\(company\)](https://en.wikipedia.org/wiki/Turo_(company)) ;

<https://turo.com/us/en/car-rental/united-states> .

We urge the Committee to vote OTP. Thank you. I would be happy to answer any questions.