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Neither for nor Against L.D. 540

"An Act To Promote Safety and Protect Consumers Using Peer-to-peer Car Sharing Programs"

Presented by Representative Denise Tepler

Before the Joint Standing Committee on Health Coverage, Insurance & Financial Services

April 20, 2021 at 1:30 p.m.

Senator Sanborn, Representative Tepler, and members of the Committee, I am Ben Yardley, Senior Staff Attorney for the Maine Bureau of Insurance. I am here today to testify neither for nor against L.D. 540.

L.D. 540 would modify the liability provisions of the recently-enacted Peer-to-peer Car Sharing Act. The Bureau has previously raised a concern that the current language governing a program provider's liability for damages caused by a renter is confusing and contradictory. This bill would resolve that issue by making it clear that program providers are liable for damages as if they are the vehicle owner as stated in section 7404.

Early versions of peer-to-peer car sharing regulations, those enacted in Oregon, Washington, and California, also place liability for accidents caused by renters on the program providers. There have been other approaches, however, that require a more limited assumption of liability. Proposed legislation by APCIA and NCOIL, as well as at least four states' regulations, only require program providers to assume liability in an amount equal to the minimum limits mandated under the adopting state's financial responsibility law. This appears to be an effort to address the concern over shifting uncapped liability to program providers. The Bureau has no position on which approach is best for Maine, but it would make sense to amend the existing law to clearly choose one method or the other to avoid confusion.

On a technical point, the committee may wish to consider making changes to avoid confusion about how the Peer-to-Peer Car Sharing Act interacts with other laws. Specifically, section 7404 would treat a provider as a vehicle owner for purposes of 29-A M.R.S. section 1652. Section 1652 makes rental companies liable for the negligence of drivers, but it has been preempted by federal law.[1] For that reason, it might make sense to avoid referencing it in statutes going forward. The model acts require providers to assume liability by contract, rather than assigning liability by statute, and that may be an alternative approach to consider.

Thank you, I would be glad to answer any questions now or at the work session.

[1] *See Enterprise Rent-A-Car of Boston, LLC v. Maryland*, 2012 U.S. Dist. LEXIS 67021 (Me. Dt. 2012) ("On August 10, 2005, Congress enacted SAFETEA-LU, often referred to as the Graves Amendment. . . . This federal statute clearly preempts 29-A M.R.S. § 1652.").