

House Bill 337 (COMMITTEE SUBSTITUTE)

By: Representatives Blackmon of the 146th, Powell of the 32nd, Jones of the 25th, Harrell of the 106th, Douglas of the 78th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to provide for and regulate peer-to-peer vehicle sharing; to provide for
3 definitions; to provide requirements for a peer-to-peer vehicle-sharing program; to establish
4 safety recall and insurance requirements for such program; to prohibit the promulgation and
5 enforcement of certain regulations by local governments as related to such program; to
6 provide for a short title; to provide for related matters; to provide for an effective date; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Georgia Peer-to-Peer Car-Sharing Program
11 Act."

12 **SECTION 2.**

13 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
14 amended in Article 3 of Chapter 1, relating to motor carriers, by adding a new part to read
15 as follows:

16 "Part 5

17 40-1-220.

18 As used in this part, the term:

19 (1) 'Car-sharing delivery period' means the period of time during which a shared vehicle
20 is being delivered to the location of the car-sharing start time, if applicable, as
21 documented by the governing car-sharing program agreement.

22 (2) 'Car-sharing period' means the period of time that commences with the car-sharing
 23 delivery period or, if there is no car-sharing delivery period, that commences with the
 24 car-sharing start time and in either case ends at the car-sharing termination time.

25 (3) 'Car-sharing program agreement' means the terms and conditions applicable to a
 26 shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle
 27 through a peer-to-peer car-sharing program. The term does not include rental agreement,
 28 or similar, as defined in Code Section 40-2-167.

29 (4) 'Car-sharing start time' means the time when the shared vehicle becomes subject to
 30 the control of the shared vehicle driver at or after the time the reservation of a shared
 31 vehicle is scheduled to begin as documented in the records of a peer-to-peer car-sharing
 32 program.

33 (5) 'Car-sharing termination time' means:

34 (A) The time when the shared vehicle is returned to the location designated by the
 35 shared vehicle owner through a peer-to-peer car-sharing program; and

36 (B) The earliest of when the following occurs:

37 (i) The expiration of the agreed period of time established for the use of a shared
 38 vehicle in the governing car-sharing program agreement;

39 (ii) The intent to terminate the use of the shared vehicle is verifiably communicated
 40 by the shared vehicle driver to the shared vehicle owner using the peer-to-peer
 41 car-sharing program; or

42 (iii) The shared vehicle owner or the shared vehicle owner's authorized designee,
 43 takes possession and control of the shared vehicle.

44 (6) 'Insurance department' or 'department' means the Insurance Department of the State
 45 of Georgia established by Code Section 33-2-1.

46 (7) 'Peer-to-peer car-sharing' means the authorized use of a vehicle by an individual other
 47 than the vehicle's owner through a peer-to-peer car-sharing program. The term does not
 48 include rental motor vehicle or rental agreement as such terms are defined in Code
 49 Section 40-2-167.

50 (8) 'Peer-to-peer car-sharing program' means a business platform that connects vehicle
 51 owners with drivers to enable the sharing of vehicles for financial consideration. The
 52 term does not include motor vehicle rental car company as defined in Code
 53 Section 40-2-167.

54 (9) 'Shared vehicle' means a vehicle that is available for sharing through a peer-to-peer
 55 car-sharing program. The term does not include rental motor vehicle as defined in Code
 56 Section 40-2-167.

57 (10) 'Shared vehicle driver' means an individual who has been authorized by the shared
 58 vehicle owner to drive the shared vehicle under a car-sharing program agreement.

59 (11) 'Shared vehicle owner' means the registered owner of a vehicle made available for
60 sharing to shared vehicle drivers through a peer-to-peer car-sharing program.

61 40-1-221.

62 (a)(1) A peer-to-peer car-sharing program shall assume liability, except as provided in
63 paragraph (2) of this subsection, of a shared vehicle owner for any bodily injury or
64 property damage to third parties or an uninsured and underinsured motorist or personal
65 injury protection losses during the car-sharing period in an amount stated in the
66 peer-to-peer car-sharing program agreement, which amount may not be less than those
67 set forth in subparagraph (a)(1)(A) of Code Section 33-7-11.

68 (2) The assumption of liability under paragraph (1) of this subsection does not apply if
69 the shared vehicle owner made an intentional or fraudulent material misrepresentation to
70 the peer-to-peer car-sharing program before the car-sharing period in which the loss
71 occurred.

72 (b) A peer-to-peer car-sharing program shall ensure that, during each car-sharing period,
73 the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle
74 liability insurance policy that:

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

77 (2) Provides insurance coverage in amounts no less than the minimum amounts set forth
78 in Code Section 33-7-11.

79 (c) The insurance requirement described under subsection (b) of this Code section may be
80 satisfied by motor vehicle liability insurance maintained by:

81 (1) A shared vehicle owner;

82 (2) A shared vehicle driver;

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

84 (4) Any combination of a shared vehicle owner, a shared vehicle driver, and a
85 peer-to-peer car-sharing program.

86 (d) The insurance described in subsection (c) of this Code section that is satisfying the
87 insurance requirement of subsection (b) of this Code section shall be primary during each
88 car-sharing period.

89 (e) The peer-to-peer car-sharing program shall assume primary liability for a claim when:

90 (1) Such program is in whole or in part providing the insurance required under
91 subsection (b) of this Code section;

92 (2) A dispute exists as to who was in control of the shared vehicle at the time of the loss;
93 and

94 (3) Such program does not have available, did not retain, or fails to provide the
 95 information required by Code Section 40-1-224.
 96 The shared vehicle's insurer shall indemnify the car-sharing program to the extent of its
 97 obligation under, if any, the applicable insurance policy, if it is determined that the shared
 98 vehicle's owner was in control of the shared vehicle at the time of the loss.
 99 (f) If insurance maintained by a shared vehicle owner or shared vehicle driver in
 100 subsection (c) of this Code section has lapsed or does not provide the required coverage,
 101 insurance maintained by a peer-to-peer car-sharing program shall provide the coverage
 102 required by subsection (b) of this Code section beginning with the first dollar of a claim.
 103 The peer-to-peer car-sharing program shall have the duty to defend such claim.
 104 (g) Coverage under an automobile insurance policy maintained by the peer-to-peer
 105 car-sharing program shall not be dependent on a personal automobile insurer first denying
 106 a claim nor shall a personal automobile insurance policy be required to first deny a claim.
 107 (h) If the insurance described in subsection (b) of this Code section is maintained by a
 108 peer-to-peer car-sharing program, it may be placed with an insurer licensed under Title 33
 109 or with a surplus lines insurer eligible under Chapter 5 of Title 33, that has a top tier credit
 110 rating from a rating agency recognized by the department.
 111 (i) A shared vehicle driver must at all times during the car-sharing period carry proof of
 112 coverage satisfying subsection (b) of this Code section. In the event of an accident, a
 113 shared vehicle driver shall disclose that he or she was driving a shared vehicle at the time
 114 of such accident and shall, pursuant to Code Section 40-6-10, provide the insurance
 115 coverage information satisfying subsection (b) of this Code section to the directly
 116 interested parties, automobile insurers, and law enforcement officers.
 117 (j) Nothing in this chapter:
 118 (1) Limits the liability of the peer-to-peer car-sharing program for any act or omission
 119 of the peer-to-peer car-sharing program itself that results in injury to any person as a
 120 result of the use of a shared vehicle through a peer-to-peer car-sharing program; or
 121 (2) Limits the ability of the peer-to-peer car-sharing program to, by contract, seek
 122 indemnification from the shared vehicle owner or the shared vehicle driver for economic
 123 loss sustained by the peer-to-peer car-sharing program resulting from a breach of the
 124 terms and conditions of the car-sharing program agreement.

125 40-1-222.
 126 At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer
 127 car-sharing program and prior to the time when the shared vehicle owner makes a shared
 128 vehicle available for car-sharing on the peer-to-peer car-sharing program, the peer-to-peer
 129 car-sharing program shall notify the shared vehicle owner that if the shared vehicle has a

130 lien against it, the use of such shared vehicle through a peer-to-peer car-sharing program,
131 including use without physical damage coverage, may violate the terms of the contract with
132 the lienholder.

133 40-1-223.

134 An authorized insurer that writes motor vehicle liability insurance in this state may exclude
135 any and all coverage and the duty to defend or indemnify for any claim afforded under a
136 shared vehicle owner's motor vehicle liability insurance policy. Nothing in this part shall
137 be construed to invalidate or limit an exclusion contained in a motor vehicle liability
138 insurance policy, including any insurance policy in use or approved for use that excludes
139 coverage for motor vehicles made available for rent, sharing, or hire or for any business
140 use.

141 40-1-224.

142 A peer-to-peer car-sharing program shall collect and verify records pertaining to the use
143 of a vehicle, including, but not limited to, times used, fees paid by the shared vehicle
144 driver, and revenues received by the shared vehicle owner and shall provide that
145 information upon request to the shared vehicle owner, the shared vehicle owner's insurer,
146 or the shared vehicle driver's insurer to facilitate a claim coverage investigation. The
147 peer-to-peer car-sharing program shall retain the records for a time period not less than the
148 applicable personal injury statute of limitations.

149 40-1-225.

150 A peer-to-peer car-sharing program and a shared vehicle owner shall be exempt from
151 vicarious liability in accordance with 49 U.S.C. Section 30106, as such existed on January
152 1, 2019, and under any state or local law that imposes liability solely based on vehicle
153 ownership.

154 40-1-226.

155 A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that
156 is excluded under the terms of its policy shall have the right to seek contribution against
157 the motor vehicle insurer of the peer-to-peer car-sharing program if the claim is:

- 158 (1) Made against the shared vehicle owner or the shared vehicle driver for loss or injury
159 that occurs during the car-sharing period; and
160 (2) Excluded under the terms of its policy.

161 40-1-227.

162 Notwithstanding any other law, statute, rule, or regulation to the contrary, a peer-to-peer
163 car-sharing program shall have an insurable interest in a shared vehicle during the
164 car-sharing period.

165 40-1-228.

166 Each car-sharing program agreement made in this state shall disclose to the shared vehicle
167 owner and the shared vehicle driver:

168 (1) Any right of the peer-to-peer car-sharing program to seek indemnification from the
169 shared vehicle owner or the shared vehicle driver for economic loss sustained by the
170 peer-to-peer car-sharing program resulting from a breach of the terms and conditions of
171 the car-sharing program agreement;

172 (2) That a motor vehicle liability insurance policy issued to the shared vehicle owner for
173 the shared vehicle or to the shared vehicle driver does not provide a defense or
174 indemnification for any claim asserted by the peer-to-peer car-sharing program;

175 (3) That the peer-to-peer car-sharing program's insurance coverage on the shared vehicle
176 owner and the shared vehicle driver is in effect only during each car-sharing period and
177 that, for any use of the shared vehicle by the shared vehicle driver after the car-sharing
178 termination time or use by a driver not disclosed in the car-sharing program agreement,
179 the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

180 (4) The daily rate, fees, and if applicable, any insurance or protection package costs that
181 are charged to the shared vehicle owner or the shared vehicle driver;

182 (5) That the shared vehicle owner's motor vehicle liability insurance may specifically
183 exclude or otherwise may not provide coverage for a shared vehicle; and

184 (6) An emergency telephone number to personnel capable of fielding roadside assistance
185 and other customer service inquiries.

186 40-1-229.

187 (a) A peer-to-peer car-sharing program may not enter into a peer-to-peer car-sharing
188 program agreement with a driver unless the driver who will operate the shared vehicle:

189 (1) Holds a driver's license issued under Code Section 40-5-28 that authorizes the driver
190 to operate vehicles of the class of the shared vehicle;

191 (2) Is a nonresident who:

192 (A) Has a driver's license issued by the state or country of such driver's residence that
193 authorizes such driver in that state or country to drive vehicles of the class of the shared
194 vehicle; and

195 (B) Is at least the same age as that required of a resident to drive; or

196 (3) Otherwise is specifically authorized by the Department of Driver Services to drive
 197 vehicles of the class of the shared vehicle.

198 (b) A peer-to-peer car-sharing program shall keep a record of the:

199 (1) Name and address of the shared vehicle driver;

200 (2) Driver's license number of the shared vehicle driver and each other person, if any,
 201 who will operate the shared vehicle; and

202 (3) Date and place of issuance of the driver's license.

203 40-1-230.

204 A peer-to-peer car-sharing program shall have sole responsibility for any equipment, such
 205 as a GPS system or other special equipment that is put in or on the vehicle to monitor or
 206 facilitate the car-sharing transaction, and shall agree to indemnify and hold harmless the
 207 shared vehicle owner for any damage to or theft of such equipment during the sharing
 208 period not caused by the vehicle owner. The peer-to-peer car-sharing program has the right
 209 to seek indemnity from the shared vehicle driver for any loss or damage to such equipment
 210 that occurs during the sharing period.

211 40-1-231.

212 (a) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer
 213 car-sharing program and prior to the time when the shared vehicle owner makes a shared
 214 vehicle available for car-sharing on the peer-to-peer car-sharing program, the peer-to-peer
 215 car-sharing program shall:

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

218 (2) Notify the shared vehicle owner of the requirements under subsection (b) of this
 219 Code section.

220 (b)(1) If the shared vehicle owner has received an actual notice of a safety recall on the
 221 vehicle, a shared vehicle owner may not make a vehicle available as a shared vehicle on
 222 a peer-to-peer car-sharing program unless and until such safety recall repair has been
 223 made.

224 (2) If a shared vehicle owner receives an actual notice of a safety recall on a shared
 225 vehicle while the shared vehicle is made available on the peer-to-peer car-sharing
 226 program, the shared vehicle owner shall remove such shared vehicle as available on the
 227 peer-to-peer car-sharing program, as soon as practicably possible after receiving the
 228 notice of the safety recall and until the safety recall repair has been made.

229 (3) If a shared vehicle owner receives an actual notice of a safety recall while the shared
 230 vehicle is being used in the possession of a shared vehicle driver, as soon as practicably

231 possible after receiving such notice of the safety recall, the shared vehicle owner shall
232 notify the peer-to-peer car-sharing program regarding such safety recall so that the shared
233 vehicle owner may address the safety recall repair.”

234 **SECTION 3.**

235 This Act shall become effective on January 1, 2020.

236 **SECTION 4.**

237 All laws and parts of laws in conflict with this Act are repealed.