

The Senate Committee on Regulated Industries and Utilities offered the following substitute to HB 337:

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 peer-to-peer car sharing; to provide for definitions; to provide
3 requirements for a peer-to-peer car-sharing program; to establish safety recall and insurance
4 requirements for such program; to provide for a short title; to provide for related matters; to
5 provide for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

10 **SECTION 2.**

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

14 "Part 5

15 40-1-220.

16 As used in this part, the term:

17 (1) 'Car-sharing delivery period' means the period of time during which a shared vehicle
18 is being delivered to the location of the car-sharing start time, if applicable, as
19 documented in the records of a peer-to-peer car-sharing program.

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

24 (3) 'Car-sharing program agreement' means the terms and conditions applicable to a
25 shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle
26 through a peer-to-peer car-sharing program. Such term shall not include a rental
27 agreement as defined in Code Section 40-2-167 or a lease or rental as defined in
28 paragraph (17) of Code Section 48-8-2.

29 (4) 'Car-sharing start time' means the time when a shared vehicle becomes subject to the
30 control of a shared vehicle driver at or after the time the reservation of a shared vehicle
31 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 the earliest of the following events:

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

37 (B) When a shared vehicle is returned to a location as alternatively agreed upon by the
38 shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer
39 car-sharing program; or

40 (C) When the shared vehicle owner takes possession and control of the shared vehicle.

41 (6) 'Department' means the Department of Insurance of the State of Georgia established
42 by Code Section 33-2-1.

43 (7) 'Peer-to-peer car-sharing' means the authorized use of a vehicle by an individual other
44 than the vehicle's owner through a peer-to-peer car-sharing program. Such term shall not
45 include a rental motor vehicle or rental agreement as defined in Code Section 40-2-167.

46 (8) 'Peer-to-peer car-sharing program' means a business platform that connects vehicle
47 owners with drivers to enable the sharing of vehicles for financial consideration. Such
48 term shall not mean a service provider who is solely providing hardware or software as
49 a service to an individual or entity that is not effectuating payment of financial
50 consideration for use of a shared vehicle. Such term shall not include a motor vehicle
51 rental company as defined in Code Section 40-2-167.

52 (9) 'Shared vehicle' means a used vehicle that is available for sharing through a
53 peer-to-peer car-sharing program. Such term shall not include a rental motor vehicle as
54 defined in Code Section 40-2-167.

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

57 (11) 'Shared vehicle owner' means the registered owner of a vehicle made available for
58 sharing through a peer-to-peer car-sharing program or a person or entity designated by
59 the registered owner of such a vehicle.

60 (12) 'Used vehicle' means any vehicle which has been the subject of a sale at retail to the
61 general public.

62 40-1-221.

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

69 (2) The assumption of liability under paragraph (1) of this subsection shall not apply if
70 a shared vehicle owner:

71 (A) Made an intentional or fraudulent material misrepresentation or omission to the
72 peer-to-peer car-sharing program before the car-sharing period in which the loss
73 occurred; or

74 (B) Acted or acts in concert with a shared vehicle driver who fails to return the shared
75 vehicle pursuant to the terms of the car-sharing program agreement.

76 (3) The assumption of liability under paragraph (1) of this subsection applies to bodily
77 injury, property damage, and uninsured and underinsured motorist or personal injury
78 protection losses by damaged third parties as required under subsection (a) of Code
79 Section 33-7-11.

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

83 (1) Either:

84 (A) Recognizes that the vehicle insured under the policy is made available and used
85 through a peer-to-peer car-sharing program; or

86 (B) Does not exclude the use of a shared vehicle by a shared vehicle driver;

87 (2) Provides insurance coverage in amounts no less than the minimum amounts set forth
88 in subparagraph (a)(1)(A) of Code Section 33-7-11; and

89 (3) Provides that in the event an accident occurs outside of this state in a jurisdiction that
90 has a financial responsibility law or similar law specifying limits of liability higher than
91 those required in this state, such motor vehicle liability insurance policy will provide the
92 higher specified limits.

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

95 (1) A shared vehicle owner;

- 96 (2) A shared vehicle driver;
97 (3) A peer-to-peer car-sharing program; or
98 (4) Both a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car-sharing
99 program.
- 100 (d) The insurance described in subsection (c) of this Code section that is satisfying the
101 insurance requirement of subsection (b) of this Code section shall be primary during each
102 car-sharing period.
- 103 (e) The peer-to-peer car-sharing program shall assume primary liability for a claim when:
104 (1) Such program is in whole or in part providing the insurance required under
105 subsections (b) and (c) of this Code section;
106 (2) A dispute exists as to who was in control of the shared vehicle at the time of the loss;
107 and
108 (3) Such program does not have available, did not retain, or fails to provide the
109 information required by Code Section 40-1-224.
- 110 (f) The shared vehicle's insurer shall indemnify the car-sharing program to the extent of
111 its obligation under, if any, the applicable insurance policy, if it is determined that the
112 shared vehicle's owner was in control of the shared vehicle at the time of the loss.
- 113 (g) If insurance maintained by a shared vehicle owner or shared vehicle driver in
114 accordance with subsection (c) of this Code section has lapsed or does not provide the
115 required coverage, insurance maintained by a peer-to-peer car-sharing program shall
116 provide the coverage required by subsection (b) of this Code section beginning with the
117 first dollar of a claim and shall have the duty to defend such claim except under the
118 circumstances set forth in paragraph (2) of subsection (a) of this Code section.
- 119 (h) Coverage under an automobile insurance policy maintained by the peer-to-peer
120 car-sharing program shall not be dependent on another automobile insurer first denying a
121 claim nor shall another automobile insurance policy be required to first deny a claim.
- 122 (i) If the insurance described in subsection (b) of this Code section is maintained by a
123 peer-to-peer car-sharing program, it must be placed with an insurer admitted to do business
124 in this state for the purpose of writing insurance and licensed under Title 33, or with a
125 surplus lines insurer who is a nonadmitted insurer and eligible under Chapter 5 of Title 33,
126 that has a credit rating from a rating agency in the highest rating category as approved by
127 the department.
- 128 (j) A shared vehicle driver must at all times during the car-sharing period carry proof of
129 coverage satisfying subsection (b) of this Code section. In the event of an accident, a
130 shared vehicle driver shall disclose that he or she was driving a shared vehicle at the time
131 of such accident and shall, pursuant to Code Section 40-6-10, provide the insurance

132 coverage information satisfying subsection (b) of this Code section to the directly
133 interested parties, automobile insurers, and law enforcement officers.

134 (k) Nothing in this chapter:

135 (1) Limits the liability of the peer-to-peer car-sharing program for any act or omission
136 of the peer-to-peer car-sharing program itself that results in injury to any person as a
137 result of the use of a shared vehicle through a peer-to-peer car-sharing program; or

138 (2) Limits the ability of the peer-to-peer car-sharing program to, by contract, seek
139 indemnification from a shared vehicle owner or shared vehicle driver for economic loss
140 sustained by the peer-to-peer car-sharing program resulting from a breach of the terms
141 and conditions of the car-sharing program agreement.

142 40-1-222.

143 At the time a vehicle owner registers as a shared vehicle owner on a peer-to-peer
144 car-sharing program and before the shared vehicle owner makes the vehicle available for
145 sharing on such program, the peer-to-peer car-sharing program shall notify the shared
146 vehicle owner that, if the shared vehicle has a lien against it, the use of such shared vehicle
147 through a peer-to-peer car-sharing program, including use without physical damage
148 coverage, may violate the terms of the contract with the lienholder.

149 40-1-223.

150 (a) An authorized insurer that writes motor vehicle liability insurance in this state may
151 exclude any and all coverage and the duty to defend or indemnify for any claim afforded
152 under a shared vehicle owner's motor vehicle liability insurance policy, including but not
153 limited to:

154 (1) Liability coverage for bodily injury and property damage;

155 (2) Personal injury protection coverage;

156 (3) Uninsured and underinsured motorist coverage;

157 (4) Medical payments coverage;

158 (5) Comprehensive coverage; and

159 (6) Collision coverage.

160 (b) Nothing in this part shall be construed to invalidate or limit an exclusion contained in
161 a motor vehicle liability insurance policy, including any insurance policy in use or
162 approved for use that excludes coverage for motor vehicles made available for rent,
163 sharing, or hire or for any business use.

164 40-1-224.

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

172 40-1-225.

173 A peer-to-peer car-sharing program and a shared vehicle owner shall be exempt from
174 vicarious liability consistent with 49 U.S.C. Section 30106, as such existed on January 1,
175 2020, and under any state or local law that imposes liability solely based on vehicle
176 ownership.

177 40-1-226.

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

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

184 40-1-227.

185 (a) Notwithstanding any other provision of law, a peer-to-peer car-sharing program shall
186 have an insurable interest in a shared vehicle during the car-sharing period.

187 (b) Except as provided in Code Section 40-1-226, nothing in this part creates a liability on
188 a peer-to-peer car-sharing program to maintain the coverage mandated by this part.

189 (c) A peer-to-peer car-sharing program may own and maintain as the named insured one
190 or more policies of motor vehicle liability insurance that provides coverage for:

- 191 (1) Liabilities assumed by the peer-to-peer car-sharing program under a car-sharing
192 program agreement;
193 (2) Any liability of the shared vehicle owner;
194 (3) Damage or loss to the shared motor vehicle; or
195 (4) Any liability of the shared vehicle driver.

196 40-1-228.

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

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

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

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

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

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

215 (6) An emergency telephone number to personnel capable of fielding roadside assistance
216 and other customer service inquiries; and

217 (7) If there are conditions under which a shared vehicle driver must maintain a personal
218 automobile insurance policy with certain applicable coverage limits on a primary basis
219 in order to reserve or use a shared motor vehicle.

220 40-1-229.

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

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

225 (2) Is a nonresident who:

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

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

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

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

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

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

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

237 40-1-230.

238 A peer-to-peer car-sharing program shall have sole responsibility for any equipment, such
239 as a GPS system or other special equipment, that is put in or on the vehicle to monitor or
240 facilitate the car-sharing transaction and shall agree to indemnify and hold harmless the
241 shared vehicle owner for any damage to or theft of such equipment during the car-sharing
242 period not caused by such owner. The peer-to-peer car-sharing program shall have the
243 right to seek indemnity from the shared vehicle driver for any loss or damage to such
244 equipment that occurs during the car-sharing period.

245 40-1-231.

246 (a) At the time a vehicle owner registers as a shared vehicle owner on a peer-to-peer
247 car-sharing program and before the shared vehicle owner makes the vehicle available for
248 sharing on such program, the peer-to-peer car-sharing program shall:

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

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

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

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

262 (3) If a shared vehicle owner receives an actual notice of a safety recall while the shared
263 vehicle is being used in the possession of a shared vehicle driver, as soon as practicably
264 possible after receiving such notice of the safety recall, the shared vehicle owner shall
265 notify the peer-to-peer car-sharing program regarding such safety recall so that the shared
266 vehicle owner may address the safety recall repair."

267

SECTION 3.

268 This Act shall become effective on January 1, 2021.

269

SECTION 4.

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