
OLR Bill Analysis

sHB 6568 (as amended by House "A")*

AN ACT CONCERNING PEER-TO-PEER CAR SHARING PROGRAMS.

SUMMARY

This bill imposes regulatory requirements on peer-to-peer (P2P) car sharing companies (e.g., Turo and Getaround) and on individuals who share their vehicles through the companies' car sharing platforms (i.e., P2P car sharing).

The bill establishes insurance requirements for P2P car sharing, including requiring P2P car sharing companies to:

1. ensure that vehicle owners and drivers participating in P2P car sharing are covered under a primary insurance policy that meets minimum requirements and recognizes that the vehicle is available on a car sharing platform and
2. provide coverage for claims if a vehicle owner's or driver's policy has lapsed.

The bill establishes certain consumer protections, including (1) requiring shared vehicle owners to repair their vehicles when they receive safety recall notices and (2) requiring P2P companies to disclose certain information to shared vehicle owners and drivers. It also addresses liens, vicarious liability, driver's license verification, and responsibility for equipment.

The bill subjects P2P car sharing for 30 days or less to the 9.35% sales and use tax and \$1 per day tourism surcharge, both of which apply under current law to motor vehicle rentals. It requires "P2P car sharing facilitators" to collect and remit the tax and surcharge under the same conditions that apply to short-term rental facilitators (e.g., Airbnb) for collecting and remitting room occupancy tax.

Under the bill, a P2P car sharing company is prohibited from allowing P2P car sharing at Bradley International Airport unless it enters into an agreement with the Connecticut Airport Authority (CAA). CAA may charge and collect reasonable fees from a P2P company for the privilege of operating P2P car sharing at the airport (§ 13).

*House Amendment "A" (1) subjects P2P car sharing to sales and use tax and the tourism surcharge; (2) defines "car sharing platform" and makes other minor changes to definitions; and (3) makes other minor, technical, and conforming changes.

EFFECTIVE DATE: January 1, 2022, except that (1) the sales tax provisions are applicable to sales occurring on or after that date and (2) the tourism surcharge is applicable to car sharing agreements executed on or after that date.

§ 1 — P2P CAR SHARING DEFINITIONS

P2P Car Sharing

The bill defines P2P car sharing as the authorized use of a "shared vehicle" for consideration by a person other than the "shared vehicle owner" through a car sharing platform.

A "car sharing platform" is a physical or electronic place that allows a shared vehicle owner to make a shared vehicle available for P2P car sharing and connect a shared vehicle owner with a shared vehicle driver. It includes a store, booth, catalog, website, or dedicated software application.

A "P2P car sharing company" is any person, corporation, limited partnership, or other legal entity that operates a car sharing platform to enable P2P car sharing in Connecticut. P2P car sharing companies exclude motor vehicle rental or leasing companies.

Shared Vehicles

Under the bill, a "shared vehicle" is a vehicle that is available for sharing on a car sharing platform. It excludes passenger motor vehicles used by licensed rental companies for rental purposes.

A “shared vehicle owner” is the shared vehicle’s registered owner or a person or entity the registered owner designates. A “shared vehicle driver” is a person authorized by the shared vehicle owner to drive the shared vehicle under a car sharing agreement.

Car Sharing Agreements

The bill defines “car sharing agreement” as the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver governing a shared vehicle’s use. The bill also defines the following, which are related to terms and conditions included in agreements:

1. “car sharing period,” which is the time period that begins at the “car sharing delivery period” or, if there is no such period, at the “car sharing start time” and ends at the “car sharing termination time”;
2. “car sharing delivery period,” which is the time period during which a shared vehicle is being delivered to the location of the “car sharing start time,” if applicable, as documented by the car sharing agreement; and
3. “car sharing start time” which is the time when a shared vehicle driver takes possession and control of the shared vehicle at or after the time the shared vehicle reservation is scheduled to begin under a car sharing agreement.

Under the bill, the “car sharing termination time” is whenever one of the following events occurs:

1. the time period established under a car sharing agreement for using a shared vehicle expires, if the shared vehicle is delivered to the location agreed upon in the agreement;
2. the shared vehicle is returned to a location the shared vehicle owner and shared vehicle driver alternatively agree on as communicated through a car sharing platform and incorporated into the car sharing agreement; or

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

§§ 2, 4, 5, 7 & 8 — INSURANCE PROVISIONS

Assumption of Liability (§ 2(a) & (b))

The bill requires P2P car sharing companies to assume a shared vehicle owner's liability for bodily injury or property damage to third parties, or uninsured or underinsured motorist or personal injury protection losses, during the car sharing period in the amount stated in the car sharing agreement. It must be for at least as much as the state's minimum auto insurance coverage amounts (see BACKGROUND).

However, the bill exempts P2P car sharing companies from assuming this liability when a shared vehicle owner (1) makes an intentional or fraudulent material misrepresentation or omission to the company or on the car sharing platform before the car sharing period in which the liability arose or (2) acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the car sharing agreement.

Required Coverage (§ 2 (c), (d), (f) & (h))

The bill requires P2P car sharing companies to ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under an auto insurance policy that:

1. provides insurance coverage in at least the minimum amounts required by law for auto insurance policies and
2. either (a) recognizes that the shared vehicle insured under the policy is made available and used through a car sharing platform or (b) does not exclude the use of a shared vehicle by a shared vehicle driver.

The required insurance coverage may be maintained by a shared vehicle owner, a shared vehicle driver, a P2P car sharing company, or all three.

If a claim occurs in another state that requires higher minimum auto insurance coverage than Connecticut does, then the insurance policy must provide coverage to satisfy the minimum amounts required by the other state up to the applicable policy limits.

The bill prohibits coverage under the P2P car sharing company's auto insurance policy from being contingent on another auto insurance company first denying a claim or requiring an initial claim denial.

Primary Liability (§ 2(e))

The insurance required under the bill must assume primary liability for a claim:

1. during each car sharing period;
2. when there is a dispute over who controlled the shared vehicle at the time of loss and the P2P car sharing company did not retain or fails to provide records on the vehicle's use (see below); or
3. when there is a dispute over whether the shared vehicle was returned to the alternatively agreed upon location, as communicated through the car sharing platform and incorporated into the car sharing agreement.

Lapsed Policies (§ 2(g))

If a shared vehicle owner's or shared vehicle driver's auto insurance policy has lapsed or does not provide the required coverage, the bill requires that the P2P car sharing company's policy provide the coverage from the first dollar of the claim. The insurance company issuing the P2P car sharing company's policy has the duty to defend a claim, except under certain circumstances (see "assumption of liability," above).

Other Provisions (§ 2 (i))

The bill provides that nothing in its insurance provisions limits the P2P car sharing company's:

1. liability for any act or omission that results in bodily injury to any person as a result of using a shared vehicle through a car sharing platform or
2. ability to contract for indemnification from the shared vehicle owner or the shared vehicle driver for economic loss the company sustains due to a breach of the car sharing agreement's terms and conditions.

Insurable Interest (§ 8)

Under the bill, a P2P car sharing company has an insurable interest in the shared vehicle during the car sharing period. However, the bill specifies that this provision does not make the P2P car sharing company liable for failure to maintain the bill's required coverage.

A P2P car sharing company may own and maintain, as the named insured, one or more automobile liability insurance policies that covers (1) liability assumed by the P2P car sharing company under a car sharing agreement, (2) any liability of the shared vehicle owner, (3) damage or loss to the shared vehicle, or (4) any liability of the shared vehicle driver.

Exclusions of P2P Car Sharing in Auto Policies (§ 4)

The bill explicitly allows insurance companies offering auto insurance policies in the state to offer policies that exclude any or all coverage and the duty to defend or indemnify any claim afforded under a shared vehicle owner's liability insurance policy. The exclusions may include (1) liability coverage for bodily injury and property damage, (2) personal injury protection coverage, (3) uninsured and underinsured motorist coverage, (4) medical payments coverage, (5) comprehensive physical damage coverage, or (6) collision physical damage coverage.

The bill specifies that nothing in the provision allowing these exclusions (1) invalidates or limits an exclusion in an auto liability insurance policy, including any policy that excludes coverage for motor vehicles made available for rent, sharing, hire or business use or

(2) invalidates, limits, or restricts an insurance company that offers automobile liability insurance coverage to underwrite, cancel, or not renew an insurance policy.

Right to Seek Recovery (§ 7)

Under the bill, an insurance company that defends or indemnifies a claim against a shared vehicle owner that is excluded under the terms of its auto insurance policy has the right to seek recovery against the P2P car sharing company's insurance company if the claim is (1) made against the shared vehicle owner or shared vehicle driver for loss or injury that occurs during the car sharing period and (2) excluded under the policy's terms.

Records (§ 5)

The bill requires P2P car sharing companies to collect and verify records pertaining to a shared vehicle's use, including (1) the times used, (2) location of the car sharing start time and car sharing termination time, (3) car sharing period fees paid by the shared vehicle driver, and (4) revenue received by the shared vehicle owner. The company must retain the records for a time period not less than the applicable personal injury statute of limitations (i.e., two years from the date when the injury is first sustained or discovered or in the exercise of reasonable care should have been discovered (CGS § 52-584)).

P2P car sharing companies must provide these records at the following times:

1. upon request to the shared vehicle owner, the shared vehicle owner's insurance company, or the shared vehicle driver's insurance company to facilitate a claim coverage investigation, settlement, negotiation, or litigation or
2. as required under an agreement with the CAA for airport access.

§ 3 — NOTICE REGARDING LIENS

The bill requires P2P car sharing companies to notify shared vehicle

owners that, if the shared vehicle has a lien against it, the use of a shared vehicle through a car sharing platform (including without physical damage coverage) may violate the terms of a contract with the lien holder. The company must provide this notice when the vehicle owner registers with the P2P car sharing company as a shared vehicle owner but before the shared vehicle is made available on the car sharing platform.

§ 6 — VICARIOUS LIABILITY

The bill exempts P2P car sharing companies and shared vehicle owners from vicarious liability, in accordance with the federal Graves Amendment (see BACKGROUND), under any state law or municipal ordinance that imposes liability solely based on vehicle ownership.

§ 9 — REQUIRED DISCLOSURES

The bill requires that car sharing agreements, at a minimum, disclose the following to a shared vehicle owner and shared vehicle driver:

1. the P2P car sharing company's right to seek indemnification from the shared vehicle owner or the shared vehicle driver for any economic loss it sustains from a breach of the car sharing agreement's terms and conditions;
2. that the shared vehicle owner's auto insurance policy for the shared vehicle or the shared vehicle driver's auto policy does not provide a defense or indemnification for any claim asserted by the P2P car sharing company;
3. that the P2P car sharing company's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during the car sharing period and that, if the shared vehicle driver uses the shared vehicle after the car sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;
4. the daily rate, fees and, if applicable, any insurance or protection package costs that are charged to the shared vehicle

- owner or the shared vehicle driver;
5. that the shared vehicle owner's auto insurance may not provide coverage for a shared vehicle;
 6. an emergency telephone number to personnel capable of answering calls for roadside assistance and other customer service inquiries; and
 7. if there are conditions under which a shared vehicle driver must maintain an auto insurance policy with certain applicable coverage limits on a primary basis to book a shared vehicle.

§ 10 — DRIVER'S LICENSE VERIFICATION

The bill prohibits P2P car sharing companies from entering into a car sharing agreement with a shared vehicle driver unless the driver holds a driver's license authorizing him or her to operate a vehicle of the same class as the shared vehicle. P2P companies must keep a record of the shared vehicle driver's name, address, and driver's license number and place of issuance.

§ 11 — RESPONSIBILITY FOR EQUIPMENT

Under the bill, a P2P car sharing company is responsible for any equipment (e.g., GPS systems) that is put in or on the shared vehicle to monitor or facilitate the car sharing transaction. The company must indemnify and hold harmless shared vehicle owners for any equipment damage or theft during the car sharing period unless the owner caused it. The P2P company has the right to seek indemnification from the shared vehicle driver for any equipment loss or damage that occurs during the car sharing period.

§ 12 — RECALLS

The bill requires shared vehicle owners, when they receive notice of a safety recall for their shared vehicle, to get the required repairs made before making the vehicle available on a P2P car sharing platform. If the shared vehicle is already available on a car sharing platform when a shared vehicle owner receives a recall notice, he or she must remove the vehicle as soon as possible and keep it off until repairs are made. It

the shared vehicle owner receives a recall notice during the car sharing period, the owner must notify both the P2P car sharing company and the shared vehicle driver.

The bill requires P2P car sharing companies to (1) verify that a shared vehicle is not subject to a safety recall for which repairs have not been made and (2) notify shared vehicle owners of their obligations related to recalls. The company must do this when the shared vehicle owner registers a shared vehicle with the company but before the shared vehicle is available on the car sharing platform.

§§ 14-16 — SALES AND USE TAX AND P2P CAR SHARING FACILITATORS

The bill explicitly subjects P2P car sharing to sales and use tax at the 9.35% rate that currently applies to the rental or leasing of passenger motor vehicles. As with motor vehicle rentals, the tax applies only to P2P car sharing for periods of 30 days or less.

It requires “P2P car sharing facilitators” to be considered retailers for each taxable retail sale of P2P car sharing. A P2P car sharing facilitator is any P2P car sharing company that (1) facilitates at least \$250,000 in retail sales during the prior 12-month period for shared vehicle owners by providing a car sharing platform; (2) directly, or indirectly through third parties, collects payments for P2P car sharing and remits them to shared vehicle owners; and (3) receives compensation or other consideration for these services.

Under the bill, P2P car sharing facilitators must do the following:

1. obtain a sales tax permit to collect the 9.35% sales tax,
2. collect and remit sales tax on each taxable sale they facilitate,
3. be responsible for all of the obligations that state sales and use tax law imposes as if it were the shared vehicle owner and retailer for the sale, and
4. keep the records and information the DRS commissioner requires to ensure proper sales tax collection and remittance.

The bill additionally provides that shared vehicle owners are not liable for collecting sales tax to the extent that the P2P car sharing facilitator collected the tax due.

Existing law applies similar requirements to marketplace facilitators and to short-term rental facilitators (e.g., Airbnb) for the sales they facilitate for sellers on their forums (CGS §§ 12-408e & -408h).

§§ 17 & 18 — TOURISM SURCHARGE

The bill subjects P2P car sharing to the \$1 per day tourism surcharge that currently applies to motor vehicle rentals by licensed rental car companies. As with motor vehicle rentals, the surcharge applies only to P2P car sharing for periods of 30 days or less and is in addition to any other applicable tax.

The bill applies the surcharge to each full or partial day that is included in the car sharing period. P2P car sharing facilitators must collect the surcharge from shared vehicle drivers and remit it. When added to the original price of P2P car sharing, the surcharge becomes a debt from the shared vehicle driver to the P2P car sharing facilitator.

BACKGROUND

Minimum Auto Insurance Requirements

Connecticut law requires a driver to maintain a minimum amount of auto insurance, including liability and uninsured and underinsured motorist (UI/UM) coverage. The law requires minimum coverage of \$25,000 per person and \$50,000 per accident for bodily injury and \$25,000 per accident for property damage (CGS §§ 38a-335 and 14-112(a)). UI/UM coverage covers bodily injury to the vehicle owner, relatives living with the owner, and passengers injured in an accident caused by (1) an uninsured driver, (2) a driver whose bodily injury liability limits are insufficient, or (3) a hit-and-run driver. The law requires at least \$25,000 per person and \$50,000 per accident (CGS § 38a-336).

Federal Graves Amendment

The Graves Amendment (49 U.S.C. § 30106) protects car rental

companies from vicarious liability claims by providing that a rental company cannot be held liable under state law for damages or injuries that occur during the rental period simply because the company owns the vehicle. The amendment does not protect companies from negligence or criminal wrongdoing. (A Connecticut law making companies liable for such damages (CGS § 14-154a) is preempted by the Graves Amendment.)

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 35 Nay 0 (03/26/2021)