

HOUSE No. 3310

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Finn

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to peer-to-peer car sharing.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|------------------------|--------------------|------------------|
| <i>Michael J. Finn</i> | <i>6th Hampden</i> | <i>1/20/2023</i> |
| <i>F. Jay Barrows</i> | <i>1st Bristol</i> | <i>1/25/2023</i> |

HOUSE No. 3310

By Representative Finn of West Springfield, a petition (accompanied by bill, House, No. 3310) of Michael J. Finn and F. Jay Barrows relative to peer-to-peer car sharing. Transportation.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to peer-to-peer car sharing.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws, as appearing in the 2020 Official Edition, are hereby amended by
2 inserting after chapter 90J the following chapter:-

3 CHAPTER 90K

4 PERSONAL VEHICLE SHARING COMPANIES

5
6 Section 1. This Chapter is intended to govern the intersection of peer-to-peer car services
7 and the state-regulated business of insurance. Nothing in this Chapter shall be construed to
8 extend beyond insurance or have any implications for other provisions of the General Laws of
9 this Commonwealth, including but not limited to, those related to motor vehicle regulation,
10 airport regulation, or taxation.

11 Section 2. As used in this chapter, the following words shall, unless the context clearly
12 requires otherwise, have the following meanings:-

13 “Peer-to-Peer Car Sharing”, the authorized use of a vehicle by an individual other than
14 the vehicle’s owner through a peer-to-peer car sharing program. “Peer-to-Peer Car Sharing” does
15 not mean rental car or rental activity as defined in section 32E1/2 of chapter 90.

16 “Peer-to-Peer Car Sharing Program”, a business platform that connects vehicle owners
17 with drivers to enable the sharing of vehicles for financial consideration. “Peer-to-Peer Car
18 Sharing Program” does not mean rental car company as defined in section 32E1/2 of chapter 90.

19 “Car Sharing Program Agreement”, the terms and conditions applicable to a shared
20 vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-
21 to-peer car sharing program. “Car Sharing Program Agreement” does not mean rental car
22 agreement, as defined in section 32E1/2 of chapter 90.

23 “Shared Vehicle”, a vehicle that is available for sharing through a peer-to-peer car
24 sharing program. “Shared vehicle” does not mean rental car or rental vehicle as defined in
25 section 32E1/2 of chapter 90.

26 “Shared Vehicle Driver”, an individual who has been authorized to drive the shared
27 vehicle by the shared vehicle owner under a car sharing program agreement.

28 “Shared Vehicle Owner”, the registered owner, or a person or entity designated by the
29 registered owner, of a vehicle made available for sharing to shared vehicle drivers through a
30 peer-to-peer car sharing program.

31 “Car Sharing Delivery Period”, means the period of time during which a shared vehicle is
32 being delivered to the location of the car sharing start time, if applicable, as documented by the
33 governing car sharing program agreement.

34 “Car Sharing Period”, the period of time that commences with the car sharing delivery
35 period or, if there is no car sharing delivery period, that commences with the car sharing start
36 time and in either case ends at the car sharing termination time.

37 “Car Sharing Start Time”, the time when the shared vehicle becomes subject to the
38 control of the shared vehicle driver at or after the time the reservation of a shared vehicle is
39 scheduled to begin as documented in the records of a peer-to-peer car sharing program.

40 “Car Sharing Termination Time”, the earliest of the following events:

41 (1) The expiration of the agreed upon period of time established for the use of a shared
42 vehicle according to the terms of the car sharing program agreement if the shared vehicle is
43 delivered to the location agreed upon in the car sharing program agreement;

44 (2) When the shared vehicle is returned to a location as alternatively agreed upon by the
45 shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car
46 sharing program, which alternatively agreed upon location shall be incorporated into the car
47 sharing program agreement; or

48 (3) When the shared vehicle owner or the shared vehicle owner’s authorized designee,
49 takes possession and control of the shared vehicle.

50 Section 3. (a) A peer-to-peer car sharing program shall assume liability, except as
51 provided in subsection (b) of this section, of a shared vehicle owner for bodily injury or property

52 damage to third parties or uninsured and underinsured motorist or personal injury protection
53 losses during the car sharing period in an amount stated in the peer-to-peer car sharing program
54 agreement which amount may not be less than those set forth in sections 34A to 34R, inclusive
55 of chapter 90.

56 (b) Notwithstanding the definition of “car sharing termination time” as set forth in
57 Section 2 of this Chapter, the assumption of liability under subsection (a) of this subsection does
58 not apply to any shared vehicle owner when:

59 (1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation
60 or omission to the peer-to-peer car sharing program before the car sharing period in which the
61 loss occurred, or

62 (2) Acting in concert with a shared vehicle driver who fails to return the shared vehicle
63 pursuant to the terms of car sharing program agreement.

64 (c) Notwithstanding the definition of “car sharing termination time” as set forth in
65 Section 2 of this Chapter, the assumption of liability under subsection (a) of this section would
66 apply to bodily injury, property damage, uninsured and underinsured motorist or personal injury
67 protection losses by damaged third parties required by section 34A to 34N, inclusive of Chapter
68 90.

69 (d) A peer-to-peer car sharing program shall ensure that, during each car sharing period,
70 the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability
71 insurance policy that provides insurance coverage in amounts no less than the minimum amounts
72 set forth in section 34M of Chapter 90 and:

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

75 (2) Does not exclude use of a shared vehicle by a shared vehicle driver.

76 (e) The insurance described under subsection may be satisfied by motor vehicle liability
77 insurance maintained by:

78 (1) A shared vehicle owner;

79 (2) A shared vehicle driver;

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

81 (4) Both a shared vehicle owner, a shared vehicle driver, and a peer to-peer car sharing
82 program.

83 (f) The insurance described in subsection (e) that is satisfying the insurance requirement
84 of subsection (d) shall be primary during each car sharing period and in the event that a claim
85 occurs in another state with minimum financial responsibility limits higher than those set forth in
86 sections 34A to 34R, inclusive of chapter 90 during the car sharing period, the coverage
87 maintained under subsection (e) shall satisfy the difference in minimum coverage amounts, up to
88 the applicable policy limits.

89 (g) The insurer, insurers, or peer-to-peer car sharing program providing coverage under
90 (d) or (e) shall assume primary liability for a claim when:

91 (1) a dispute exists as to who was in control of the shared motor vehicle at the time of the
92 loss and the peer-to-peer car sharing program does not have available, did not retain, or fails to
93 provide the information required by Section 6 of this Chapter; or

94 (2) a dispute exists as to whether the shared vehicle was returned to the alternatively
95 agreed upon location as required under Section 2 of this Chapter.

96 (h) If insurance maintained by a shared vehicle owner or shared vehicle driver in
97 accordance with subsection (e) has lapsed or does not provide the required coverage, insurance
98 maintained by a peer-to-peer car sharing program shall provide the coverage required by
99 subsection (d) beginning with the first dollar of a claim and have the duty to defend such claim
100 except under circumstances as set forth in subsection (b).

101 (i) Coverage under an automobile insurance policy maintained by the peer-to-peer car
102 sharing program shall not be dependent on another automobile insurer first denying a claim nor
103 shall another automobile insurance policy be required to first deny a claim.

104 (j) Nothing in this section:

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

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

112 Section 4. At the time when a vehicle owner registers as a shared vehicle owner on a
113 peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a
114 shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer
115 car sharing program shall notify the shared vehicle owner that, if the shared vehicle has a lien
116 against it, the use of the shared vehicle through a peer-to-peer car sharing program, including use
117 without physical damage coverage, may violate the terms of the contract with the lienholder.

118 Section 5. (a) An authorized insurer that writes motor vehicle liability insurance in the
119 State may exclude any and all coverage and the duty to defend or indemnify for any claim
120 afforded under a shared vehicle owner's motor vehicle liability insurance policy, including but
121 not limited to:

122 (1) liability coverage for bodily injury and property damage;

123 (2) personal injury protection coverage as defined in section 34M of chapter 90;

124 (3) uninsured and underinsured motorist coverage;

125 (4) medical payments coverage;

126 (5) comprehensive physical damage coverage; and

127 (6) collision physical damage coverage

128 (b) Nothing in this Article invalidates or limits an exclusion contained in a motor vehicle
129 liability insurance policy, including any insurance policy in use or approved for use that excludes
130 coverage for motor vehicles made available for rent, sharing, or hire or for any business use.

131 (c) Nothing in this Article invalidates, limits or restricts an insurer's ability under existing
132 law to underwrite any insurance policy. Nothing in this Article invalidates, limits or restricts an
133 insurer's ability under existing law to cancel and non-renew policies.

134 Section 6. A peer-to-peer car sharing program shall collect and verify records pertaining
135 to the use of a vehicle, including, but not limited to, times used, car sharing period pick up and
136 drop off locations, fees paid by the shared vehicle driver, and revenues received by the shared
137 vehicle owner and provide that information upon request to the shared vehicle owner, the shared
138 vehicle owner's insurer, or the shared vehicle driver's insurer to facilitate a claim coverage
139 investigation, settlement, negotiation, or litigation. The peer-to-peer car sharing program shall
140 retain the records for a time period not less than the applicable personal injury statute of
141 limitations.

142 Section 7. A peer-to-peer car sharing program and a shared vehicle owner shall be
143 exempt from vicarious liability in accordance with 49 U.S.C. § 30106 and under any state or
144 local law that imposes liability solely based on vehicle ownership.

145 Section 8. A motor vehicle insurer that defends or indemnifies a claim against a shared
146 vehicle that is excluded under the terms of its policy shall have the right to seek recovery against
147 the motor vehicle insurer of the peer-to-peer car sharing program if the claim is: (1) made against
148 the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the car
149 sharing period; and (2) excluded under the terms of its policy.

150 Section 9. (a) Notwithstanding any other law, statute, rule or regulation to the contrary, a
151 peer-to-peer car sharing program shall have an insurable interest in a shared vehicle during the
152 car sharing period.

153 (b) Nothing in this section creates liability on a Peer-to-Peer Car Sharing Program to
154 maintain the coverage mandated by Section 3 of this Chapter.

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

157 (1) liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car
158 sharing program agreement; or

159 (2) any liability of the shared vehicle owner; or

160 (3) damage or loss to the shared motor vehicle; or any liability of the shared vehicle
161 driver.

162 Section 10. Each car sharing program agreement made in the State shall disclose to the
163 shared vehicle owner and the shared vehicle driver:

164 (a) Any right of the peer-to-peer car sharing program to seek indemnification from the
165 shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer
166 car sharing program resulting from a breach of the terms and conditions of the car sharing
167 program agreement;

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

171 (c) That the peer-to-peer car sharing program's insurance coverage on the shared vehicle
172 owner and the shared vehicle driver is in effect only during each car sharing period and that, for

173 any use of the shared vehicle by the shared vehicle driver after the car sharing termination time,
174 the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

175 (d) The daily rate, fees, and if applicable, any insurance or protection package costs that
176 are charged to the shared vehicle owner or the shared vehicle driver.

177 (e) That the shared vehicle owner's motor vehicle liability insurance may not provide
178 coverage for a shared vehicle.

179 (f) An emergency telephone number to personnel capable of fielding roadside assistance
180 and other customer service inquiries.

181 (g) If there are conditions under which a shared vehicle driver must maintain a personal
182 automobile insurance policy with certain applicable coverage limits on a primary basis in order
183 to book a shared motor vehicle.

184 Section 11. (a) A peer-to-peer car sharing program may not enter into a peer-to-peer car
185 sharing program agreement with a driver unless the driver who will operate the shared vehicle:

186 (1) Holds a driver's license issued under section 8 of chapter 90 that authorizes the driver
187 to operate vehicles of the class of the shared vehicle; or

188 (2) Is a nonresident who:

189 (i) Has a driver's license issued by the state or country of the driver's residence that
190 authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle;

191 and

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

193 (iii) Otherwise is specifically authorized by the Commonwealth of Massachusetts to drive
194 vehicles of the class of the shared vehicle.

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

196 (1) The name and address of the shared vehicle driver;

197 (2) The number of the driver's license of the shared vehicle driver and each other person,
198 if any, who will operate the shared vehicle; and

199 (3) The place of issuance of the driver's license.

200 Section 12. A peer-to-peer car sharing program shall have sole responsibility for any
201 equipment, such as a GPS system or other special equipment that is put in or on the vehicle to
202 monitor or facilitate the car sharing transaction, and shall agree to indemnify and hold harmless
203 the vehicle owner for any damage to or theft of such equipment during the sharing period not
204 caused by the vehicle owner. The peer-to-peer car sharing program has the right to seek
205 indemnity from the shared vehicle driver for any loss or damage to such equipment that occurs
206 during the sharing period.

207 Section 13. (a) At the time when a vehicle owner registers as a shared vehicle owner on a
208 peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a
209 shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer
210 car sharing program shall:

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

213 (2) Notify the shared vehicle owner of the requirements under subsection (b) of this
214 section.

215 (b) (1) If the shared vehicle owner has received an actual notice of a safety recall on the
216 vehicle, a shared vehicle owner may not make a vehicle available as a shared vehicle on a peer-
217 to-peer car sharing program until the safety recall repair has been made.

218 (2) If a shared vehicle owner receives an actual notice of a safety recall on a shared
219 vehicle while the shared vehicle is made available on the peer-to-peer car sharing program, the
220 shared vehicle owner shall remove the shared vehicle as available on the peer-to-peer car sharing
221 program, as soon as practicably possible after receiving the notice of the safety recall and until
222 the safety recall repair has been made.

223 (3) If a shared vehicle owner receives an actual notice of a safety recall while the shared
224 vehicle is being used in the possession of a shared vehicle driver, as soon as practicably possible
225 after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-
226 peer car sharing program about the safety recall so that the shared vehicle owner may address the
227 safety recall repair.

228 Section 14. The Insurance Commissioner shall have the authority to promulgate rules that
229 are not inconsistent with and necessary to administer and enforce the provisions of this Act.

230 Section 15. This Act shall take effect on July 31, 2024.