

House Bill 337

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 the earliest of:
- 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; or
- 36 (B) The earliest of:
- 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) 'Peer-to-peer car-sharing' means the authorized use of a vehicle by an individual other
45 than the vehicle's owner through a peer-to-peer car-sharing program. The term does not
46 include rental motor vehicle or rental agreement as such terms are defined in Code
47 Section 40-2-167.
- 48 (7) 'Peer-to-peer car-sharing program' means a business platform that connects vehicle
49 owners with drivers to enable the sharing of vehicles for financial consideration. The
50 term does not include motor vehicle rental car company as defined in Code
51 Section 40-2-167.
- 52 (8) 'Shared vehicle' means a vehicle that is available for sharing through a peer-to-peer
53 car-sharing program. The term does not include rental motor vehicle as defined in Code
54 Section 40-2-167.
- 55 (9) 'Shared vehicle driver' means an individual who has been authorized by the shared
56 vehicle owner to drive the shared vehicle under a car-sharing program agreement.
- 57 (10) 'Shared vehicle owner' means the registered owner of a vehicle made available for
58 sharing to shared vehicle drivers through a peer-to-peer car-sharing program.

59 40-1-221.

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

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

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

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

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

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

79 (1) A shared vehicle owner;

80 (2) A shared vehicle driver;

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

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

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

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

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

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

92 (3) Such program does not have available, did not retain, or fails to provide the
93 information required by Code Section 40-1-225.

94 The shared vehicle's insurer shall indemnify the car-sharing program to the extent of its
95 obligation under, if any, the applicable insurance policy, if it is determined that the shared
96 vehicle's owner was in control of the shared vehicle at the time of the loss.

97 (f) If insurance maintained by a shared vehicle owner or shared vehicle driver in
98 subsection (c) of this Code section has lapsed or does not provide the required coverage,
99 insurance maintained by a peer-to-peer car-sharing program shall provide the coverage
100 required by subsection (b) of this Code section beginning with the first dollar of a claim.
101 The peer-to-peer car-sharing program shall have the duty to defend such claim.

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

105 (h) Nothing in this chapter:

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

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

113 40-1-222.

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

121 40-1-223.

122 An authorized insurer that writes motor vehicle liability insurance in this state may exclude
123 any and all coverage and the duty to defend or indemnify for any claim afforded under a
124 shared vehicle owner's personal motor vehicle liability insurance policy. Nothing in this
125 part shall be construed to invalidate or limit an exclusion contained in a motor vehicle
126 liability insurance policy, including any insurance policy in use or approved for use that
127 excludes coverage for motor vehicles made available for rent, sharing, or hire or for any
128 business use.

129 40-1-224.

130 (a) Except as provided in subsection (b) of this Code section, a motor vehicle insurer may
131 not deny, cancel, void, terminate, rescind, or nonrenew a policy of personal private
132 passenger automobile liability insurance of a shared vehicle owner solely on the basis that
133 the vehicle covered under the policy has been made available for sharing through a
134 peer-to-peer car-sharing program.

135 (b) A motor vehicle insurer may deny, cancel, void, terminate, rescind, or nonrenew a
136 policy of personal private passenger automobile liability insurance covering a vehicle that
137 has been made available for sharing through a peer-to-peer car-sharing program if the
138 applicant or policyholder of such policy of personal private passenger automobile liability
139 insurance fails to provide complete and accurate information about the use of a shared
140 vehicle through the peer-to-peer car-sharing program as requested by the motor vehicle
141 insurer during the application or renewal process of such policy of personal private
142 passenger automobile liability insurance.

143 (c) A motor vehicle insurer may limit the number of vehicles made available for sharing
144 through a peer-to-peer car-sharing program that it will insure on a single policy.

145 40-1-225.

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

153 40-1-226.

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

157 40-1-227.

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

161 (1) Made against the shared vehicle owner or the shared vehicle driver for loss or injury
162 that occurs during the car-sharing period; and

163 (2) Excluded under the terms of its policy.

164 40-1-228.

165 (a) Notwithstanding any other law, statute, rule, or regulation to the contrary, a
 166 peer-to-peer car-sharing program shall have an insurable interest in a shared vehicle during
 167 the car-sharing period.

168 (b) Nothing in this section creates liability on a peer-to-peer car-sharing program to
 169 maintain the coverage mandated by Code Section 40-1-221.

170 40-1-229.

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

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

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

180 (3) That the peer-to-peer car-sharing program's insurance coverage on the shared vehicle
 181 owner and the shared vehicle driver is in effect only during each car-sharing period and
 182 that, for any use of the shared vehicle by the shared vehicle driver after the car-sharing
 183 termination time, the shared vehicle driver and the shared vehicle owner may not have
 184 insurance coverage;

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

187 (5) That the shared vehicle owner's motor vehicle liability insurance may not provide
 188 coverage for a shared vehicle; and

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

191 40-1-230.

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

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

196 (2) Is a nonresident who:

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

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

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

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

204 (1) Registration number of the shared vehicle;

205 (2) Name and address of the shared vehicle driver;

206 (3) Driver's license number of the shared vehicle driver and each other person, if any,
 207 who will operate the shared vehicle; and

208 (4) Date and place of issuance of the driver's license.

209 40-1-231.

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

217 40-1-232.

218 (a) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer
 219 car-sharing program and prior to the time when the shared vehicle owner makes a shared
 220 vehicle available for car-sharing on the peer-to-peer car-sharing program, the peer-to-peer
 221 car-sharing program shall:

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

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

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

230 (2) If a shared vehicle owner receives an actual notice of a safety recall on a shared
 231 vehicle while the shared vehicle is made available on the peer-to-peer car-sharing

232 program, the shared vehicle owner shall remove such shared vehicle as available on the
233 peer-to-peer car-sharing program, as soon as practicably possible after receiving the
234 notice of the safety recall and until the safety recall repair has been made.

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

240 **SECTION 3.**

241 This Act shall become effective upon its approval by the Governor or upon its becoming law
242 without such approval.

243 **SECTION 4.**

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