

AMENDMENTS TO LB944

(Amendments to Standing Committee amendments, AM2307)

Introduced by Friesen, 34.

1 1. Insert the following new sections:

2 Sec. 59. Sections 59 to 73 of this act shall be known and may be
3 cited as the Peer-to-Peer Vehicle Sharing Program Act.

4 Sec. 60. For purposes of the Peer-to-Peer Vehicle Sharing Program
5 Act, unless the context otherwise requires:

6 (1) Agreement means an agreement established through a peer-to-peer
7 vehicle sharing program that serves as a contract between a program, an
8 owner, and a driver and describes the specific terms and conditions of
9 the agreement that govern the use of a vehicle through such program,
10 including the sharing period and location or locations for transfer of
11 control of vehicle. Agreement does not mean a rental agreement as defined
12 in section 44-4067;

13 (2) Delivery period means the period of time during which a vehicle
14 is being delivered to the location at which the start time begins, if
15 applicable, as documented by the agreement;

16 (3) Driver means an individual who has been authorized to drive a
17 vehicle by an owner under an agreement;

18 (4) Owner means the registered owner, or a person or entity
19 designated by the registered owner, of a vehicle made available for
20 sharing through a peer-to-peer vehicle sharing program;

21 (5) Peer-to-peer vehicle sharing program or program means a business
22 platform that connects vehicle owners with drivers to enable the sharing
23 of vehicles for financial consideration. A program is not a
24 transportation network company as defined in section 75-323 or a rental
25 car company as defined in section 44-4067;

26 (6) Sharing means the authorized use of a vehicle by an individual

1 other than an owner through a peer-to-peer vehicle sharing program;

2 (7) Sharing period means the period of time that commences with the
3 delivery period or, if there is no delivery period, that commences with
4 the start time and, in either case, ends at the termination time;

5 (8) Start time means the time when a vehicle becomes subject to the
6 control of a driver at or after the time the reservation is scheduled to
7 begin as documented in the records of a program;

8 (9) Termination time means the earliest of the following events:

9 (a) The expiration of the agreed upon period of time established for
10 the use of a vehicle according to the terms of the agreement, if the
11 vehicle is delivered to the location agreed upon in the agreement;

12 (b) When a vehicle is returned to a location as alternatively agreed
13 upon by the owner and driver as communicated through the peer-to-peer
14 vehicle sharing program; or

15 (c) When an owner, or his or her authorized designee, takes
16 possession and control of a vehicle; and

17 (10) Vehicle means a personal motor vehicle that is available for
18 use through a peer-to-peer vehicle sharing program. Vehicle does not mean
19 a rental vehicle as defined in section 44-4067.

20 Sec. 61. (1) Notwithstanding any other provision of law or any
21 provision in an owner's policy of motor vehicle liability insurance, in
22 the event of a loss or injury that occurs during a sharing period, a
23 program shall:

24 (a) Except as provided in subsection (2) of this section, assume the
25 liability of the owner for bodily injury or property damage to third
26 parties, uninsured and underinsured motorist benefits, and personal
27 injury protection losses during the sharing period in an amount stated in
28 the agreement, and which amount may not be less than that set forth in
29 section 60-310; and

30 (b) Retain such liability regardless of a lapse in, or otherwise
31 absence of, any coverage under which a program is insured.

1 (2) Notwithstanding the definition of termination time, a program
2 shall not be liable when an owner:

3 (a) Makes a material, intentional, or fraudulent misrepresentation,
4 or a material, intentional, or fraudulent omission to a program before
5 the sharing period in which the loss occurred; or

6 (b) Acts in concert with a driver who fails to return a vehicle
7 pursuant to the terms of an agreement.

8 Sec. 62. (1) A program shall ensure that, during each sharing
9 period, financial responsibility for a vehicle is provided in amounts no
10 less than the minimum amounts set forth in section 60-310 that:

11 (a) Recognizes that the vehicle is made available and used through
12 the program; or

13 (b) Does not exclude use of the vehicle by a driver through the
14 program.

15 (2) The financial responsibility required under subsection (1) of
16 this section may be satisfied by motor vehicle liability insurance or
17 other acceptable means of demonstrating financial responsibility in this
18 state, voluntarily maintained by:

19 (a) The owner;

20 (b) The driver;

21 (c) The program; or

22 (d) Any combination of owner, driver, and program.

23 (3) The financial responsibility required in subsection (1) of this
24 section and satisfied pursuant to subsection (2) of this section shall be
25 the primary responsibility for losses during the sharing period.

26 (4) A program shall:

27 (a) Assume primary financial responsibility for a claim when it is
28 in whole or in part providing the financial responsibility required under
29 section 61 of this act if:

30 (i) A dispute exists as to who was in control of the vehicle at the
31 time of the loss; and

1 (ii) The program does not have available, did not retain, or fails
2 to provide the information required by section 65 of this act; and

3 (b) Be indemnified by the owner's personal policy of motor vehicle
4 liability insurance to the extent of such policy's obligation, if any, if
5 it is determined that the owner was in control of the vehicle at the time
6 of the loss.

7 (5) If insurance maintained by the owner or the driver in accordance
8 with subsection (2) of this section has lapsed or does not provide the
9 required financial responsibility, the program or its insurer shall
10 provide the coverage required by subsection (1) of this section beginning
11 with the first dollar of a claim and have the duty to defend such claim
12 except under circumstances as set forth in subsection (2) of section 61
13 of this act.

14 (6) Financial responsibility maintained by the program shall not be
15 dependent on another automobile insurer first denying a claim, nor shall
16 another automobile insurance policy be required to first deny a claim.

17 (7) Nothing in the Peer-to-Peer Vehicle Sharing Program Act:

18 (a) Limits the liability of a program for any act or omission of the
19 program itself that results in injury to any person as a result of the
20 use of a vehicle through the program; or

21 (b) Limits the ability of a program, by contract, to seek
22 indemnification from an owner or a driver for economic loss sustained by
23 the program resulting from a breach of the terms and conditions of an
24 agreement.

25 Sec. 63. At the time an owner registers a vehicle for use through
26 the program and again prior to the time such owner makes such vehicle
27 available for use through such program, the program shall notify the
28 owner that if the vehicle has a lien against it, the use of the vehicle
29 through the program, including use without physical damage coverage, may
30 violate the terms of the contract with the lienholder.

31 Sec. 64. (1) An authorized insurer that writes motor vehicle

1 liability insurance in this state may exclude any and all coverage and
2 the duty to defend or indemnify for any claim afforded under the owner's
3 motor vehicle liability insurance policy, including, but not limited to:

4 (a) Liability coverage for bodily injury and property damage;

5 (b) Personal injury protection coverage as defined;

6 (c) Uninsured and underinsured motorist coverage;

7 (d) Medical payments coverage;

8 (e) Comprehensive physical damage coverage; and

9 (f) Collision physical damage coverage.

10 (2) Nothing in the Peer-to-Peer Vehicle Sharing Program Act
11 invalidates or limits an exclusion contained in a motor vehicle liability
12 insurance policy, including any insurance policy in use or approved for
13 use that excludes coverage for motor vehicles made available for rent,
14 hire, or for any business use, including sharing.

15 Sec. 65. (1) A program shall collect and verify records pertaining
16 to the use of a vehicle, including, but not limited to, sharing periods,
17 sharing period pick-up and drop-off locations, fees paid by a driver, and
18 revenue received by an owner.

19 (2) A program shall provide the information collected pursuant to
20 subsection (1) of this section upon request to the owner, the owner's
21 insurer, and the driver's insurer to facilitate a claim coverage
22 investigation.

23 (3) A program shall retain the records required in this section for
24 a time period not less than four years.

25 Sec. 66. A motor vehicle insurer that defends or indemnifies a
26 claim arising from the operation of a vehicle that is excluded under the
27 terms of its policy shall have the right to seek contribution against a
28 program if the claim is made against the owner or driver for loss or
29 injury that occurs during the sharing period.

30 Sec. 67. (1) Notwithstanding any other provision of law, a program
31 shall have an insurable interest in a vehicle during the sharing period.

1 (2) Nothing in this section shall impose liability on a program to
2 maintain the coverage required by section 61 of this act.

3 (3) A program may own and maintain as the named insured one or more
4 policies of motor vehicle liability insurance that provides coverage for:

5 (a) Liabilities assumed by the program under the agreement;

6 (b) Liability of an owner;

7 (c) Damage or loss to a vehicle; or

8 (d) Liability of a driver.

9 Sec. 68. A program and an owner shall be exempt from vicarious
10 liability in accordance with 49 U.S.C. 30106(a), as such section existed
11 on January 1, 2020, and under any state or local law that imposes
12 liability solely based on vehicle ownership.

13 Sec. 69. (1) Each agreement made in this state shall disclose to
14 each owner and driver:

15 (a) Any right of the program to seek indemnification from an owner
16 or a driver for economic loss sustained by the program resulting from a
17 breach of the terms and conditions of the agreement;

18 (b) That a motor vehicle liability insurance policy issued to an
19 owner for the vehicle, or to a driver, may not provide a defense or
20 indemnity for any claim asserted by the program;

21 (c) That a program's financial responsibility afforded to each owner
22 and driver is available only during the sharing period;

23 (d) That for any use of a vehicle by a driver after the termination
24 time, a driver or owner may not have coverage;

25 (e) The daily rate, fees, costs, and, if applicable, any insurance
26 or protection package costs that are charged to an owner or a driver; and

27 (f) That an owner's motor vehicle liability insurance may not
28 provide coverage for the vehicle.

29 (2) Each agreement made in this state shall disclose to each driver:

30 (a) An emergency telephone number to personnel capable of fielding
31 roadside assistance and other customer service inquiries; and

1 (b) Any conditions under which a driver must maintain a personal
2 automobile insurance policy and any required coverage limits on a primary
3 basis in order to use a vehicle through the program.

4 Sec. 70. A program shall have sole responsibility for any
5 equipment, such as a global positioning system or other special
6 equipment, that is put in or on a vehicle to monitor or facilitate
7 sharing and shall agree to indemnify and hold harmless the owner for any
8 damage to or theft of such equipment during the sharing period not caused
9 by the owner. A program has the right to seek indemnity from a driver for
10 any loss or damage to such equipment that occurs during the sharing
11 period.

12 Sec. 71. (1) At the time an owner registers a vehicle for use by a
13 program, and prior to the time when the owner makes a vehicle available
14 for use by such program, the program shall:

15 (a) Verify that the vehicle does not have any safety recalls for
16 which the repairs have not been made; and

17 (b) Notify the owner of the requirements under subsection (2) of
18 this section.

19 (2) An owner shall:

20 (a) Not make a vehicle available for use through a program if the
21 owner has received actual notice of a safety recall on such vehicle until
22 the safety recall repair has been made;

23 (b) Upon receipt of actual notice of a safety recall on a vehicle
24 when such vehicle is available for use through a program, remove the
25 vehicle from availability as soon as practicably possible and until the
26 safety recall repair has been made; and

27 (c) Upon receipt of actual notice of a safety recall on a vehicle,
28 and when the vehicle is in the possession of a driver, notify the program
29 of the safety recall so that the program may notify the driver and the
30 vehicle can be removed from use until the owner makes the necessary
31 safety recall repair.

1 Sec. 72. (1) A program shall not enter into an agreement with any
2 driver unless such driver:

3 (a) Holds a driver's license issued in this state authorizing the
4 driver to operate vehicles of the class of vehicle used by the program;
5 or

6 (b) Is a nonresident who:

7 (i) Holds a driver's license issued by the state or country of the
8 driver's residence that authorizes the driver in that state or country to
9 drive vehicles of the class of vehicle used by the program; and

10 (ii) Is at least the same age as that required of a resident to
11 drive in this state.

12 (2) A program shall keep a record of:

13 (a) The name and address of each driver; and

14 (b) The driver's license number and place of issuance for each
15 driver who operates a vehicle under the agreement.

16 Sec. 73. Nothing in the Peer-to-Peer Vehicle Sharing Program Act
17 shall be construed to limit the powers of an airport authority under
18 Nebraska law.

19 Sec. 74. Sections 59 to 73 of this act become operative on January
20 1, 2021. The other sections become operative on their effective date.

21 2. Renumber the remaining section accordingly.