

HB3712



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3712

Introduced 2/22/2021, by Rep. Thaddeus Jones

SYNOPSIS AS INTRODUCED:

New Act

Creates the Car-Sharing Program Act. Adds provisions governing: insurance coverage requirements during car-sharing periods; notification of implications of lien; exclusions in motor vehicle liability insurance policies; recordkeeping requirements; vicarious liability; contribution against indemnification; insurable interests; consumer protection disclosures; driver's license verification; data retention; responsibility for equipment; and automobile safety recalls. Effective January 1, 2022.

LRB102 16923 RAM 22335 b

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Car-Sharing Program Act.

6 Section 5. Definitions. As used in this Act:

7 "Peer-to-peer car sharing" means the authorized use of a
8 vehicle by an individual other than the vehicle's owner
9 through a car-sharing program. "Peer-to-peer car sharing" does
10 not include "rent a motor vehicle to another" within the
11 meaning of in Section 6-305 of the Illinois Vehicle Code; a
12 transaction involving a "rental agreement" as defined in
13 Section 10 of the Renter's Financial Responsibility and
14 Protection Act; or "renting" as defined in Section 2 of the
15 Automobile Renting Occupation and Use Tax Act.

16 "Car-sharing agreement" means the terms and conditions
17 applicable to a shared-vehicle owner and a shared-vehicle
18 driver that govern the use of a shared vehicle through a
19 car-sharing program. "Car-sharing agreement" does not include
20 a "rental agreement" as defined in Section 10 of the Renter's
21 Financial Responsibility and Protection Act, a "rental
22 agreement" within the meaning of Section 6-305.2 of the
23 Illinois Vehicle Code, or a "rental agreement" as defined in

1 Section 6-305.3 of the Illinois Vehicle Code.

2 "Car-sharing period" means the period that commences with
3 the delivery period, or, if there is no delivery period, that
4 commences with the car-sharing start time and in either case
5 ends at the car-sharing termination time.

6 "Car-sharing program" means a business platform that
7 connects vehicle owners with drivers to enable the sharing of
8 vehicles for financial consideration. "Car-sharing program"
9 does not include a "rental company" as defined in Section 10 of
10 the Renter's Financial Responsibility and Protection Act;
11 "rentor" as defined in Section 2 of the Automobile Renting
12 Occupation and Use Tax Act; a person or entity whose business
13 is to "rent a motor vehicle" to another person within the
14 meaning of Section 6-305 or 6-305.2 of the Illinois Vehicle
15 Code; or a "rental car company" as that term is used in Section
16 6-305 of the Illinois Vehicle Code. A "car-sharing program" is
17 not "engaged in the business of renting automobiles" within
18 the meaning of Section 5-1032 of the Counties Code or Section
19 8-11-7 of the Illinois Municipal Code.

20 "Car-sharing start time" means the time when the shared
21 vehicle becomes subject to the control of the shared-vehicle
22 driver at or after the time the reservation of a shared vehicle
23 is scheduled to begin as documented in the records of a
24 car-sharing program.

25 "Car-sharing termination time" means the earliest of the
26 following events:

1 (1) the expiration of the agreed-upon period
2 established for the use of a shared vehicle according to
3 the terms of the car-sharing agreement if the shared
4 vehicle is delivered to the location agreed upon in the
5 car-sharing agreement;

6 (2) the time the shared vehicle is returned to a
7 location as alternatively agreed upon by the
8 shared-vehicle owner and shared-vehicle driver as
9 communicated through a car-sharing program, which
10 alternatively agreed upon location shall be incorporated
11 into the car-sharing agreement; or

12 (3) the time the shared-vehicle owner or the
13 shared-vehicle owner's authorized designee takes
14 possession and control of the shared vehicle.

15 "Delivery period" means the period during which a shared
16 vehicle is being delivered to the location of the car-sharing
17 start time, if applicable, as documented by the governing
18 car-sharing agreement.

19 "Shared vehicle" means a vehicle that is available for
20 sharing through a car-sharing program. "Shared vehicle" does
21 not include a rental vehicle within the meaning of Section
22 6-305.2 of the Illinois Vehicle Code.

23 "Shared-vehicle driver" means an individual who has been
24 authorized to drive the shared vehicle by the shared-vehicle
25 owner under a car-sharing agreement.

26 "Shared-vehicle owner" means the registered owner, or a

1 person or entity designated by the registered owner, of a
2 vehicle made available for sharing to shared-vehicle drivers
3 through a car-sharing program. "Shared-vehicle owner" does not
4 include a "rental company" as defined in Section 10 of the
5 Renter's Financial Responsibility and Protection Act; a
6 "rentor" as defined in Section 2 of the Automobile Renting
7 Occupation and Use Tax Act; a person or entity whose business
8 is to "rent a motor vehicle" to another person within the
9 meaning of Section 6-305 or 6-305.2 of the Illinois Vehicle
10 Code; or a "rental car company" as that term is used in Section
11 6-305 of the Illinois Vehicle Code. A "shared-vehicle owner"
12 is not "engaged in the business of renting automobiles" within
13 the meaning of Section 5-1032 of the Counties Code or Section
14 8-11-7 of the Illinois Municipal Code.

15 Section 10. Insurance coverage during car-sharing period.

16 (a) Except as provided in subsection (b), a car-sharing
17 program shall assume liability of a shared-vehicle owner for
18 bodily injury or property damage to third parties or uninsured
19 and underinsured motorist or personal injury protection losses
20 during the car-sharing period in an amount stated in the
21 car-sharing agreement, which amount may not be less than that
22 set forth in Section 7-601 of the Illinois Vehicle Code.

23 (b) Notwithstanding the definition of "car-sharing
24 termination time" set forth in Section 5, the assumption of
25 liability under subsection (a) does not apply to any

1 shared-vehicle owner when:

2 (1) the shared-vehicle owner makes an intentional or
3 fraudulent material misrepresentation or omission to the
4 car-sharing program before the car-sharing period in which
5 the loss occurred; or

6 (2) the shared-vehicle owner acts in concert with a
7 shared-vehicle driver who fails to return the shared
8 vehicle pursuant to the terms of car-sharing agreement.

9 (c) Notwithstanding the definition of "car-sharing
10 termination time" set forth in Section 5, the assumption of
11 liability under subsection (a) applies to bodily injury,
12 property damage, and uninsured and underinsured motorist or
13 personal injury protection losses by damaged third parties
14 required by Section 7-601 of the Illinois Vehicle Code.

15 (d) A car-sharing program shall ensure that, during each
16 car-sharing period, the shared-vehicle owner and the
17 shared-vehicle driver are insured under a motor vehicle
18 liability insurance policy that provides insurance coverage in
19 amounts no less than the minimum amounts set forth in Section
20 7-601 of the Illinois Vehicle Code and:

21 (1) recognizes that the shared vehicle insured under
22 the policy is made available and used through a
23 car-sharing program; or

24 (2) does not exclude use of a shared vehicle by a
25 shared-vehicle driver.

26 (e) The insurance described under subsection (d) may be

1 satisfied by motor vehicle liability insurance maintained by:

2 (1) a shared-vehicle owner;

3 (2) a shared-vehicle driver;

4 (3) a car-sharing program; or

5 (4) a combination of a shared-vehicle owner, a
6 shared-vehicle driver, and a car-sharing program.

7 (f) The insurance described in subsection (e) that is
8 satisfying the insurance requirement of subsection (d) shall
9 be primary during each car-sharing period, and if a claim
10 occurs in another state with minimum financial responsibility
11 limits higher than those set forth in Section 7-601 of the
12 Illinois Vehicle Code during the car-sharing period, the
13 coverage maintained under subsection (e) shall satisfy the
14 difference in minimum coverage amounts up to the applicable
15 policy limits.

16 (g) The insurer, insurers, or car-sharing program shall
17 assume primary liability for a claim if it is in whole or in
18 part providing the insurance required under subsections (d)
19 and (e) and:

20 (1) a dispute exists regarding who was in control of
21 the shared vehicle at the time of the loss and the
22 car-sharing program does not have available, did not
23 retain, or fails to provide the information required by
24 Section 25; or

25 (2) a dispute exists as to whether the shared vehicle
26 was returned to the alternatively agreed-upon location

1 referenced in Section 5.

2 (h) If insurance maintained by a shared-vehicle owner or
3 shared-vehicle driver in accordance with subsection (e) has
4 lapsed or does not provide the required coverage, insurance
5 maintained by a car-sharing program shall provide the coverage
6 required by subsection (d) beginning with the first dollar of
7 a claim and shall have the duty to defend the claim except
8 under circumstances as set forth in subsection (b).

9 (i) An insurance policy maintained by the car-sharing
10 program shall not make the coverage dependent on another
11 automobile insurer or policy first denying a claim.

12 (j) Nothing in this Section:

13 (1) limits the liability of the car-sharing program
14 for any act or omission of the car-sharing program itself
15 that results in injury to any person as a result of the use
16 of a shared vehicle through a car-sharing program; or

17 (2) limits the ability of the car-sharing program to,
18 by contract, seek indemnification from the shared-vehicle
19 owner or the shared-vehicle driver for economic loss
20 sustained by the car-sharing program resulting from a
21 breach of the terms and conditions of the car-sharing
22 agreement.

23 Section 15. Notification of implications of lien. At the
24 time a vehicle owner registers as a shared-vehicle owner on a
25 car-sharing program and before the time when the

1 shared-vehicle owner makes a shared vehicle available for car
2 sharing on the car-sharing program, the car-sharing program
3 shall notify the shared-vehicle owner that, if the shared
4 vehicle has a lien against it, the use of the shared vehicle
5 through a car-sharing program, including use without physical
6 damage coverage, may violate the terms of the contract with
7 the lienholder.

8 Section 20. Exclusions in motor vehicle liability
9 insurance policies.

10 (a) An authorized insurer that writes motor vehicle
11 liability insurance in this State may exclude any coverage and
12 the duty to defend or indemnify for any claim afforded under a
13 shared-vehicle owner's motor vehicle liability insurance
14 policy, including, but not limited to:

- 15 (1) liability coverage for bodily injury and property
16 damage;
17 (2) uninsured and underinsured motorist coverage;
18 (3) medical payments coverage;
19 (4) comprehensive physical damage coverage; and
20 (5) collision physical damage coverage.

21 (b) Nothing in this Act invalidates or limits an exclusion
22 contained in a motor vehicle liability insurance policy,
23 including any insurance policy in use or approved for use that
24 excludes coverage for motor vehicles made available for rent,
25 sharing, or hire, or for any business use.

1 (c) Nothing in this Act invalidates, limits, or restricts
2 an insurer's ability under existing law to underwrite any
3 insurance policy. Nothing in this Act invalidates, limits, or
4 restricts an insurer's ability under existing law to cancel
5 and non-renew policies.

6 Section 25. Recordkeeping; use of vehicle in car sharing.
7 A car-sharing program shall collect and verify records
8 pertaining to the use of a vehicle, including, but not limited
9 to, times used, car-sharing period pick up and drop off
10 locations, fees paid by the shared-vehicle driver, and
11 revenues received by the shared-vehicle owner, and the
12 car-sharing program shall provide that information upon
13 request to the shared-vehicle owner, the shared-vehicle
14 owner's insurer, or the shared-vehicle driver's insurer to
15 facilitate a claim coverage investigation, settlement,
16 negotiation, or litigation. The car-sharing program shall
17 retain the records for a period not less than the applicable
18 personal injury statute of limitations.

19 Section 30. Exemption; vicarious liability. A car-sharing
20 program and a shared-vehicle owner shall be exempt from
21 vicarious liability consistent with 49 U.S.C. 30106 and under
22 any State or local law that imposes liability solely based on
23 vehicle ownership.

1 Section 35. Contribution against indemnification. A motor
2 vehicle insurer that defends or indemnifies a claim against a
3 shared vehicle that is excluded under the terms of its policy
4 shall have the right to seek contribution against the motor
5 vehicle insurer of the car-sharing program if the claim is:

6 (1) made against the shared-vehicle owner or the
7 shared-vehicle driver for loss or injury that occurs
8 during the car-sharing period; and

9 (2) excluded under the terms of its policy.

10 Section 40. Insurable interest.

11 (a) Notwithstanding any other law, statute, rule, or
12 regulation to the contrary, a car-sharing program shall have
13 an insurable interest in a shared vehicle during the
14 car-sharing period and may provide or offer to provide
15 coverage to a shared-vehicle owner or a shared-vehicle driver
16 under the policy of insurance described in subsection (c).

17 (b) Nothing in this Section requires a car-sharing program
18 to maintain the coverage mandated by Section 10.

19 (c) A car-sharing program may own and maintain, as the
20 named insured, one or more policies of motor vehicle liability
21 insurance that separately or in combination provides coverage
22 for:

23 (1) liabilities assumed by the car-sharing program
24 under a car-sharing agreement;

25 (2) any liability of the shared-vehicle owner;

- 1 (3) damage or loss to the shared vehicle; or
2 (4) any liability of the shared-vehicle driver.

3 Section 45. Consumer protection disclosures. Each
4 car-sharing agreement made in this State shall disclose to the
5 shared-vehicle owner and the shared-vehicle driver:

6 (1) Any right of the car-sharing program to seek
7 indemnification from the shared-vehicle owner or the
8 shared-vehicle driver for economic loss sustained by the
9 car-sharing program resulting from a breach of the terms
10 and conditions of the car-sharing agreement.

11 (2) That a motor vehicle liability insurance policy
12 issued to the shared-vehicle owner for the shared vehicle
13 or to the shared-vehicle driver does not provide a defense
14 or indemnification for any claim asserted by the
15 car-sharing program.

16 (3) That the car-sharing program's insurance coverage
17 on the shared-vehicle owner and the shared-vehicle driver
18 is in effect only during each car-sharing period and that,
19 for any use of the shared vehicle by the shared-vehicle
20 driver after the car-sharing termination time, the
21 shared-vehicle driver and the shared-vehicle owner may not
22 have insurance coverage.

23 (4) The daily rate, fees, and, if applicable, any
24 insurance or protection package costs that are charged to
25 the shared-vehicle owner or the shared-vehicle driver.

1 (5) That the shared-vehicle owner's motor vehicle
2 liability insurance may not provide coverage for a shared
3 vehicle.

4 (6) An emergency telephone number for personnel
5 capable of fielding roadside assistance and other customer
6 service inquiries.

7 (7) If there are conditions under which a
8 shared-vehicle driver shall maintain a personal automobile
9 insurance policy with certain applicable coverage limits
10 on a primary basis in order to book a shared vehicle.

11 Section 50. Driver's license verification and data
12 retention.

13 (a) A car-sharing program may not enter into a car-sharing
14 agreement with a driver unless the driver who will operate the
15 shared vehicle:

16 (1) holds a driver's license issued under the laws of
17 this State that authorizes the driver to operate vehicles
18 of the class of the shared vehicle; or

19 (2) is a nonresident who:

20 (i) has a driver's license issued by the state or
21 country of the driver's residence that authorizes the
22 driver in that state or country to drive vehicles of
23 the class of the shared vehicle; and

24 (ii) is at least the same age as that required of a
25 resident to drive; or

1 (3) otherwise is specifically authorized under the
2 laws of this State to drive vehicles of the class of the
3 shared vehicle.

4 (b) A car-sharing program shall keep a record of:

5 (1) the name and address of the shared-vehicle driver;

6 (2) the number of the driver's license of the
7 shared-vehicle driver and each other person, if any, who
8 will operate the shared vehicle; and

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

10 Section 55. Responsibility for equipment. A car-sharing
11 program shall have sole responsibility for any equipment, such
12 as a GPS system or other special equipment, that is put in or
13 on the vehicle to monitor or facilitate the car-sharing
14 transaction, and shall agree to indemnify and hold harmless
15 the vehicle owner for any damage to or theft of such equipment
16 during the car-sharing period not caused by the vehicle owner.
17 The car-sharing program has the right to seek recovery from
18 the shared-vehicle driver for any loss or damage to such
19 equipment that occurs during the car-sharing period.

20 Section 60. Automobile safety recalls.

21 (a) At the time a vehicle owner registers as a
22 shared-vehicle owner on a car-sharing program and before the
23 time the shared-vehicle owner makes a shared vehicle available
24 for car sharing on the car-sharing program, the car-sharing

1 program shall:

2 (1) verify that the shared vehicle does not have any
3 safety recalls on the vehicle for which the repairs have
4 not been made; and

5 (2) notify the shared-vehicle owner of the
6 requirements under subsection (b).

7 (b) (1) If the shared-vehicle owner has received an actual
8 notice of a safety recall on the vehicle, a shared-vehicle
9 owner may not make a vehicle available as a shared vehicle on a
10 car-sharing program until the safety recall repair has been
11 made.

12 (2) If a shared-vehicle owner receives an actual notice of
13 a safety recall on a shared vehicle while the shared vehicle is
14 made available on the car-sharing program, the shared-vehicle
15 owner shall remove the shared vehicle from availability on the
16 car-sharing program, as soon as practicably possible after
17 receiving the notice of the safety recall and until the safety
18 recall repair has been made.

19 (3) If a shared-vehicle owner receives an actual notice of
20 a safety recall while the shared vehicle is being used in the
21 possession of a shared-vehicle driver, as soon as practicably
22 possible after receiving the notice of the safety recall, the
23 shared-vehicle owner shall notify the car-sharing program
24 about the safety recall so that the shared-vehicle owner may
25 address the safety recall repair.

1 Section 65. Inapplicability of other Acts. Notwithstanding
2 any other law to the contrary, Sections 6-305, 6-305.2, and
3 6-305.3 of the Illinois Vehicle Code, the Automobile Renting
4 Occupation and Use Tax Act, and Section 8-11-7 of the Illinois
5 Municipal Code are inapplicable to "peer-to-peer car sharing"
6 as defined in this Act.

7 Section 99. Effective date. This Act takes effect January
8 1, 2022.