



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB2412

Introduced 2/26/2021, by Sen. Napoleon Harris, III

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Car-Sharing Program Act. Provides that nothing in the Act shall be construed to extend beyond insurance or have any implications for other State law unless specifically provided. 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, 2023.

LRB102 14072 RAM 19424 b

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. Scope. This Act is intended to govern the  
7 intersection of car-sharing services and the State-regulated  
8 business of insurance, and shall not be construed to extend  
9 beyond insurance or have any implications for other State law  
10 unless specifically provided.

11 Section 10. Definitions. As used in this Act:

12 "Car sharing" means the authorized use of a vehicle by an  
13 individual other than the vehicle's owner through a  
14 car-sharing program. "Car sharing" does not include a rental  
15 car or rental activity.

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 car agreement.

21 "Car-sharing period" means the period that commences with  
22 the delivery period, or, if there is no delivery period, that

1 commences with the car-sharing start time and in either case  
2 ends at the car-sharing termination time.

3 "Car-sharing program" means a business platform that  
4 connects vehicle owners with drivers to enable the sharing of  
5 vehicles for financial consideration. "Car-sharing program"  
6 does not include: (1) a rental car company; or (2) a service  
7 provider that is solely providing hardware or software as a  
8 service to a person or entity that is not effectuating payment  
9 of financial consideration for use of a shared vehicle.

10 "Car-sharing start time" means the time when the shared  
11 vehicle becomes subject to the control of the shared-vehicle  
12 driver at or after the time the reservation of a shared vehicle  
13 is scheduled to begin as documented in the records of a  
14 car-sharing program.

15 "Car-sharing termination time" means the earliest of the  
16 following events:

17 (1) the expiration of the agreed-upon period  
18 established for the use of a shared vehicle according to  
19 the terms of the car-sharing agreement if the shared  
20 vehicle is delivered to the location agreed upon in the  
21 car-sharing agreement;

22 (2) the time the shared vehicle is returned to a  
23 location as alternatively agreed upon by the  
24 shared-vehicle owner and shared-vehicle driver as  
25 communicated through a car-sharing program; or

26 (3) the time the shared-vehicle owner or the

1 shared-vehicle owner's authorized designee takes  
2 possession and control of the shared vehicle.

3 "Delivery period" means the period during which a shared  
4 vehicle is being delivered to the location of the car-sharing  
5 start time, if applicable, as documented by the governing  
6 car-sharing agreement.

7 "Shared vehicle" means a vehicle that is available for  
8 sharing through a car-sharing program. "Shared vehicle" does  
9 not include a rental car or rental vehicle.

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

13 "Shared-vehicle owner" means the registered owner, or a  
14 person or entity designated by the registered owner, of a  
15 vehicle made available for sharing to shared-vehicle drivers  
16 through a car-sharing program.

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

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

25 (b) Notwithstanding the definition of "car-sharing

1 termination time" set forth in Section 10, the assumption of  
2 liability under subsection (a) does not apply to any  
3 shared-vehicle owner if:

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

8 (2) the shared-vehicle owner is acting in concert with  
9 a shared-vehicle driver who fails to return the shared  
10 vehicle pursuant to the terms of car-sharing agreement.

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

17 (d) A car-sharing program shall ensure that, during each  
18 car-sharing period, the shared-vehicle owner and the  
19 shared-vehicle driver are insured under a motor vehicle  
20 liability insurance policy that provides insurance coverage in  
21 amounts no less than the minimum amounts set forth in Section  
22 7-601 of the Illinois Vehicle Code and:

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

26 (2) does not exclude use of a shared vehicle by a

1 shared-vehicle driver.

2 (e) The insurance described under subsection (d) may be  
3 satisfied by motor vehicle liability insurance maintained by:

4 (1) a shared-vehicle owner;

5 (2) a shared-vehicle driver;

6 (3) a car-sharing program; or

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

9 (f) The insurance described in subsection (e) that is  
10 satisfying the insurance requirement of subsection (d) shall  
11 be primary during each car-sharing period.

12 (g) The car-sharing program shall assume primary liability  
13 for a claim if it is in whole or in part providing the  
14 insurance required under subsections (d) and (e) and:

15 (1) a dispute exists as to who was in control of the  
16 shared vehicle at the time of the loss; and

17 (2) the car-sharing program does not have available,  
18 did not retain, or fails to provide the information  
19 required by Section 30.

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

25 (h) If insurance maintained by a shared-vehicle owner or  
26 shared-vehicle driver in accordance with subsection (e) has

1 lapsed or does not provide the required coverage, insurance  
2 maintained by a car-sharing program shall provide the coverage  
3 required by subsection (d) beginning with the first dollar of  
4 a claim and shall have the duty to defend the claim except  
5 under circumstances as set forth in subsection (b).

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

9 (j) Nothing in this Section:

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

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

20 Section 20. Notification of implications of lien. At the  
21 time a vehicle owner registers as a shared-vehicle owner on a  
22 car-sharing program and before the time when the  
23 shared-vehicle owner makes a shared vehicle available for car  
24 sharing on the car-sharing program, the car-sharing program  
25 shall notify the shared-vehicle owner that, if the shared

1 vehicle has a lien against it, the use of the shared vehicle  
2 through a car-sharing program, including use without physical  
3 damage coverage, may violate the terms of the contract with  
4 the lienholder.

5 Section 25. Exclusions in motor vehicle liability  
6 insurance policies.

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

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

14 (2) uninsured and underinsured motorist coverage;

15 (3) medical payments coverage;

16 (4) comprehensive physical damage coverage; and

17 (5) collision physical damage coverage.

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

23 Section 30. Recordkeeping; use of vehicle in car sharing.

24 A car-sharing program shall collect and verify records



1 pertaining to the use of a vehicle, including, but not limited  
2 to, times used, fees paid by the shared-vehicle driver, and  
3 revenues received by the shared-vehicle owner, and the  
4 car-sharing program shall provide that information upon  
5 request to the shared-vehicle owner, the shared-vehicle  
6 owner's insurer, or the shared-vehicle driver's insurer to  
7 facilitate a claim coverage investigation. The car-sharing  
8 program shall retain the records for a period not less than the  
9 applicable personal injury statute of limitations.

10 Section 35. Exemption; vicarious liability. A car-sharing  
11 program and a shared-vehicle owner shall be exempt from  
12 vicarious liability in accordance with 49 U.S.C. 30106 and  
13 under any State or local law that imposes liability solely  
14 based on vehicle ownership.

15 Section 40. Contribution against indemnification. A motor  
16 vehicle insurer that defends or indemnifies a claim against a  
17 shared vehicle that is excluded under the terms of its policy  
18 shall have the right to seek contribution against the motor  
19 vehicle insurer of the car-sharing program if the claim is:

20 (1) made against the shared-vehicle owner or the  
21 shared-vehicle driver for loss or injury that occurs  
22 during the car-sharing period; and

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

1 Section 45. Insurable interest.

2 (a) Notwithstanding any other law, statute, rule, or  
3 regulation to the contrary, a car-sharing program shall have  
4 an insurable interest in a shared vehicle during the  
5 car-sharing period.

6 (b) Nothing in this Section requires a car-sharing program  
7 to maintain the coverage mandated by Section 15.

8 (c) A car-sharing program may own and maintain, as the  
9 named insured, one or more policies of motor vehicle liability  
10 insurance that provides coverage for:

- 11 (1) liabilities assumed by the car-sharing program  
12 under a car-sharing agreement;
- 13 (2) any liability of the shared-vehicle owner;
- 14 (3) damage or loss to the shared vehicle; or
- 15 (4) any liability of the shared-vehicle driver.

16 Section 50. Consumer protection disclosures. Each  
17 car-sharing agreement made in this State shall disclose to the  
18 shared-vehicle owner and the shared-vehicle driver:

19 (1) Any right of the car-sharing program to seek  
20 indemnification from the shared-vehicle owner or the  
21 shared-vehicle driver for economic loss sustained by the  
22 car-sharing program resulting from a breach of the terms  
23 and conditions of the car-sharing agreement.

24 (2) That a motor vehicle liability insurance policy  
25 issued to the shared-vehicle owner for the shared vehicle

1 or to the shared-vehicle driver does not provide a defense  
2 or indemnification for any claim asserted by the  
3 car-sharing program.

4 (3) That the car-sharing program's insurance coverage  
5 on the shared-vehicle owner and the shared-vehicle driver  
6 is in effect only during each car-sharing period and that,  
7 for any use of the shared vehicle by the shared-vehicle  
8 driver after the car-sharing termination time, the  
9 shared-vehicle driver and the shared-vehicle owner may not  
10 have insurance coverage.

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

14 (5) That the shared-vehicle owner's motor vehicle  
15 liability insurance may not provide coverage for a shared  
16 vehicle.

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

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

24 Section 55. Driver's license verification and data  
25 retention.

1 (a) A car-sharing program may not enter into a car-sharing  
2 agreement with a driver unless the driver who will operate the  
3 shared vehicle:

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

7 (2) is a nonresident who:

8 (i) has a driver's license issued by the state or  
9 country of the driver's residence that authorizes the  
10 driver in that state or country to drive vehicles of  
11 the class of the shared vehicle; and

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

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

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

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

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

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

23 Section 60. Responsibility for equipment. A car-sharing  
24 program shall have sole responsibility for any equipment, such  
25 as a GPS system or other special equipment, that is put in or

1 on the vehicle to monitor or facilitate the car-sharing  
2 transaction, and shall agree to indemnify and hold harmless  
3 the vehicle owner for any damage to or theft of such equipment  
4 during the car-sharing period not caused by the vehicle owner.  
5 The car-sharing program has the right to seek indemnity from  
6 the shared-vehicle driver for any loss or damage to such  
7 equipment that occurs during the car-sharing period.

8 Section 65. Automobile safety recalls.

9 (a) At the time a vehicle owner registers as a  
10 shared-vehicle owner on a car-sharing program and before the  
11 time the shared-vehicle owner makes a shared vehicle available  
12 for car sharing on the car-sharing program, the car-sharing  
13 program shall:

14 (1) verify that the shared vehicle does not have any  
15 safety recalls on the vehicle for which the repairs have  
16 not been made; and

17 (2) notify the shared-vehicle owner of the  
18 requirements under subsection (b).

19 (b) (1) If the shared-vehicle owner has received an actual  
20 notice of a safety recall on the vehicle, a shared-vehicle  
21 owner may not make a vehicle available as a shared vehicle on a  
22 car-sharing program until the safety recall repair has been  
23 made.

24 (2) If a shared-vehicle owner receives an actual notice of  
25 a safety recall on a shared vehicle while the shared vehicle is

1 made available on the car-sharing program, the shared-vehicle  
2 owner shall remove the shared vehicle from availability on the  
3 car-sharing program, as soon as practicably possible after  
4 receiving the notice of the safety recall and until the safety  
5 recall repair has been made.

6 (3) If a shared-vehicle owner receives an actual notice of  
7 a safety recall while the shared vehicle is being used in the  
8 possession of a shared-vehicle driver, as soon as practicably  
9 possible after receiving the notice of the safety recall, the  
10 shared-vehicle owner shall notify the car-sharing program  
11 about the safety recall so that the shared-vehicle owner may  
12 address the safety recall repair.

13 Section 99. Effective date. This Act takes effect January  
14 1, 2023.