A BILL ENTITLED

AN ACT concerning

Motor Vehicle Insurance – Peer-to-Peer Car Sharing

FOR the purpose of prohibiting a peer-to-peer car sharing program from being considered to have rented a certain vehicle, to be a rental vehicle company, or to be a motor vehicle company under certain provisions of law solely on a certain basis; prohibiting a shared vehicle owner from being considered to have rented a vehicle under certain provisions of law solely on a certain basis; prohibiting a certain motor vehicle from being considered to be a rental vehicle under a certain provision of law; providing that the use of a shared motor vehicle through a peer-to-peer car sharing program does not constitute a commercial use solely on a certain basis; requiring a peer-to-peer car sharing program to assume a certain liability of a shared vehicle owner during the car sharing period in a certain amount except under certain circumstances; providing that certain provisions of this Act do not limit the liability of the peer-to-peer car sharing program for certain acts and omissions or limit the ability of the program to seek indemnification from certain persons; requiring that a certain peer-to-peer car sharing program agreement disclose certain information; requiring that during a certain period, a peer-to-peer car sharing program has a certain insurable interest in a certain shared motor vehicle; requiring that a peer-to-peer car sharing program ensure that a certain shared motor vehicle and a certain shared vehicle driver are insured in a certain manner during a certain period; requiring a certain insurance policy to be primary under certain circumstances; authorizing a peer-to-peer car sharing program to sponsor a certain insurance policy; authorizing a peer-to-peer car sharing program to satisfy certain provisions of this Act in a certain manner; prohibiting a peer-to-peer car sharing program from being considered to be engaged in the business of insurance by taking certain actions; allowing certain insurers and the Maryland Automobile Insurance Fund to exclude certain coverages and the duty to defend under a certain insurance policy; requiring that a certain insurer has a certain right of contribution under certain circumstances; providing that certain provisions of this Act do not invalidate or limit an exclusion contained in a certain insurance policy under certain circumstances; providing that the right to exclude certain coverages and the duty to defend under a certain insurance policy shall be limited to certain provisions of this Act; and providing other related matters.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.
certain policy applies to certain coverages; prohibiting a certain insurer from taking
certain actions on a certain insurance policy on a certain basis except under certain
circumstances; providing that certain provisions of this Act do not require a certain
insurance policy to provide certain coverage during a certain period, may not be
interpreted to imply that a certain insurance policy provides certain coverage during
a certain period, and do not preclude a certain insurer from providing certain
coverage during a certain time under certain circumstances; prohibiting certain
coverage under a certain insurance policy from being dependent on a certain denial
of a claim; prohibiting a certain insurer from being required to first deny a claim;
providing that a peer–to–peer car sharing program and a certain shared vehicle
owner are exempt from certain vicarious liability; requiring a peer–to–peer car
sharing program to cooperate in a certain manner with certain parties; making
conforming changes; defining certain terms; and generally relating to peer–to–peer
car sharing.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 10–601(a) and (e)
Annotated Code of Maryland
(2017 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 10–601(c)
Annotated Code of Maryland
(2017 Replacement Volume)

BY adding to
Article – Insurance
Section 19–520
Annotated Code of Maryland
(2017 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 11–148.1(a)
Annotated Code of Maryland
(2012 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 11–148.1(b) and 18–108(a)
Annotated Code of Maryland
(2012 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:
Article – Insurance

10–601.

(a) In this subtitle the following words have the meanings indicated.

(c) (1) “Motor vehicle rental company” means any person that is in the business of providing motor vehicles to the public under a rental agreement for a period of 180 days or less.

(2) “Motor vehicle rental company” does not include a peer–to–peer car sharing program as defined in § 19–520 of this article.

(e) “Renter” means any person obtaining the use of a vehicle from a motor vehicle rental company under the terms of a rental agreement.

19–520.

(A) (1) In this section the following words have the meanings indicated.

(2) “Car sharing period” means the period of time that commences at the car sharing start time and ends at the car sharing termination time.

(3) “Car sharing start time” means the time when a shared motor vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared motor vehicle is scheduled to begin as documented in the records of a peer–to–peer car sharing program.

(4) “Car sharing termination time” means the time when the earliest of the following occurs:

(I) the expiration of the agreed period of time established for the use of a shared motor vehicle;

(II) the intent to terminate the use of a shared motor vehicle is verifiably communicated to a peer–to–peer car sharing program; or

(III) the owner of a shared vehicle, or the owner’s authorized designee, takes possession and control of the shared motor vehicle.
(5) “INTENTIONAL OR FRAUDULENT MATERIAL MISREPRESENTATION” MEANS AN AFFIRMATIVE STATEMENT OR AN OMISSION BY A SHARED VEHICLE OWNER THAT MISREPRESENTS FACTS ABOUT THE OWNER OR THE SHARED MOTOR VEHICLE.

(6) “MOTOR VEHICLE” HAS THE MEANING STATED IN § 11–135 OF THE TRANSPORTATION ARTICLE.

(7) “PEER–TO–PEER CAR SHARING” MEANS THE AUTHORIZED USE OF A MOTOR VEHICLE BY AN INDIVIDUAL OTHER THAN THE VEHICLE’S OWNER THROUGH A PEER–TO–PEER CAR SHARING PROGRAM.

(8) “PEER–TO–PEER CAR SHARING PROGRAM” MEANS A PLATFORM THAT IS IN THE BUSINESS OF CONNECTING VEHICLE OWNERS WITH DRIVERS TO ENABLE THE SHARING OF MOTOR VEHICLES FOR FINANCIAL CONSIDERATION.

(9) “SHARED MOTOR VEHICLE” MEANS A MOTOR VEHICLE THAT IS AVAILABLE FOR SHARING THROUGH A PEER–TO–PEER CAR SHARING PROGRAM.

(10) “SHARED VEHICLE DRIVER” MEANS AN INDIVIDUAL WHO HAS:

(I) RESERVED THE USE OF A SHARED MOTOR VEHICLE THROUGH A PEER–TO–PEER CAR SHARING PROGRAM; AND

(II) BEEN AUTHORIZED TO DRIVE THE SHARED MOTOR VEHICLE BY THE PEER–TO–PEER CAR SHARING PROGRAM.

(11) “SHARED VEHICLE OWNER” MEANS THE REGISTERED OWNER OF A MOTOR VEHICLE MADE AVAILABLE FOR SHARING TO SHARED VEHICLE DRIVERS THROUGH A PEER–TO–PEER CAR SHARING PROGRAM.

(B) (1) SOLELY ON THE BASIS THAT A MOTOR VEHICLE IS SHARED THROUGH A PEER–TO–PEER CAR SHARING PROGRAM:

(I) A PEER–TO–PEER CAR SHARING PROGRAM MAY NOT BE CONSIDERED TO HAVE RENTED THE VEHICLE UNDER TITLE 18, SUBTITLE 1 OF THE TRANSPORTATION ARTICLE;

(II) THE SHARED VEHICLE OWNER MAY NOT BE CONSIDERED TO HAVE RENTED A VEHICLE UNDER TITLE 18, SUBTITLE 1 OF THE TRANSPORTATION ARTICLE; AND
A PEER–TO–PEER CAR SHARING PROGRAM MAY NOT BE CONSIDERED TO BE:

1. A RENTAL VEHICLE COMPANY UNDER § 18–108 OF THE TRANSPORTATION ARTICLE; OR

2. A MOTOR VEHICLE RENTAL COMPANY UNDER TITLE 10, SUBTITLE 6 OF THIS ARTICLE.

A MOTOR VEHICLE, WHILE BEING MADE AVAILABLE FOR SHARING THROUGH A PEER–TO–PEER CAR SHARING PROGRAM, MAY NOT BE CONSIDERED TO BE A RENTAL VEHICLE UNDER § 11–148.1 OF THE TRANSPORTATION ARTICLE.

THE USE OF A SHARED MOTOR VEHICLE THROUGH A PEER–TO–PEER CAR SHARING PROGRAM DOES NOT CONSTITUTE A COMMERCIAL USE SOLELY ON THE BASIS THAT THE MOTOR VEHICLE IS AVAILABLE FOR SHARING OR USED THROUGH A PEER–TO–PEER CAR SHARING PROGRAM.

EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PEER–TO–PEER CAR SHARING PROGRAM SHALL ASSUME THE LIABILITY OF A SHARED VEHICLE OWNER FOR ANY BODILY INJURY OR PROPERTY DAMAGE TO THIRD PARTIES, UNINSURED AND UNDERINSURED MOTORIST OR PERSONAL INJURY PROTECTION LOSSES, OR INJURY TO THIRD PARTIES DURING THE CAR SHARING PERIOD IN AN AMOUNT NOT LESS THAN THE MINIMUM SECURITY REQUIRED UNDER § 17–103 OF THE TRANSPORTATION ARTICLE.

THE ASSUMPTION OF LIABILITY UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF THE SHARED VEHICLE OWNER MADE AN INTENTIONAL OR FRAUDULENT MATERIAL MISREPRESENTATION TO THE PEER–TO–PEER CAR SHARING PROGRAM BEFORE THE CAR SHARING PERIOD IN WHICH THE LOSS OCCURRED.

NOTHING IN PARAGRAPH (1) OF THIS SUBSECTION:

(1) LIMITS THE LIABILITY OF THE PEER–TO–PEER CAR SHARING PROGRAM FOR ANY ACT OR OMISSION OF THE PEER–TO–PEER CAR SHARING PROGRAM ITSELF THAT RESULTS IN INJURY TO ANY PERSON AS A RESULT OF THE USE OF A SHARED MOTOR VEHICLE THROUGH A PEER–TO–PEER CAR SHARING PROGRAM; OR

(II) LIMITS THE ABILITY OF THE PEER–TO–PEER CAR SHARING PROGRAM TO, BY CONTRACT, SEEK INDEMNIFICATION FROM THE SHARED VEHICLE
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OWNER OR THE SHARED VEHICLE DRIVER FOR ECONOMIC LOSS SUSTAINED BY THE PEER–TO–PEER CAR SHARING PROGRAM RESULTING FROM A BREACH OF THE TERMS AND CONDITIONS OF THE PEER–TO–PEER CAR SHARING PROGRAM AGREEMENT.

(3) EACH PEER–TO–PEER CAR SHARING PROGRAM AGREEMENT MADE WITH RESPECT TO A CAR SHARING ARRANGEMENT IN THE STATE SHALL DISCLOSE:

(I) ANY RIGHT OF THE PEER–TO–PEER CAR SHARING PROGRAM TO SEEK INDEMNIFICATION FROM THE SHARED VEHICLE OWNER OR THE SHARED VEHICLE DRIVER FOR ECONOMIC LOSS SUSTAINED BY THE PEER–TO–PEER CAR SHARING PROGRAM RESULTING FROM A BREACH OF THE TERMS AND CONDITIONS OF THE PEER–TO–PEER CAR SHARING PROGRAM AGREEMENT; AND

(II) THAT A MOTOR VEHICLE LIABILITY INSURANCE POLICY ISSUED TO THE SHARED VEHICLE OWNER FOR THE SHARED MOTOR VEHICLE OR TO THE SHARED VEHICLE DRIVER DOES NOT PROVIDE A DEFENSE OR INDEMNIFICATION FOR ANY CLAIM ASSERTED BY THE PEER–TO–PEER CAR SHARING PROGRAM UNDER ITEM (I) OF THIS PARAGRAPH.

(D) (1) DURING THE CAR SHARING PERIOD, A PEER–TO–PEER CAR SHARING PROGRAM SHALL HAVE AN INSURABLE INTEREST IN A SHARED MOTOR VEHICLE.

(2) A PEER–TO–PEER CAR SHARING PROGRAM SHALL ENSURE THAT, DURING EACH CAR SHARING PERIOD, THE SHARED MOTOR VEHICLE AND THE SHARED VEHICLE DRIVER ARE INSURED UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY THAT:

(I) RECOGNIZES THAT THE VEHICLE INSURED UNDER THE POLICY IS MADE AVAILABLE AND USED THROUGH A PEER–TO–PEER CAR SHARING PROGRAM; AND

(II) PROVIDES LIABILITY INSURANCE COVERAGE IN AN AMOUNT NOT LESS THAN THE MINIMUM SECURITY REQUIRED UNDER § 17–103 OF THE TRANSPORTATION ARTICLE.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE MOTOR VEHICLE LIABILITY INSURANCE POLICY DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL BE PRIMARY WITH RESPECT TO THE SHARED VEHICLE OWNER, BUT MAY BE SECONDARY AS TO ANY OTHER VALID AND COLLECTIBLE INSURANCE COVERING THE SHARED VEHICLE DRIVER.
(II) If the insurance maintained by the shared vehicle driver has lapsed, or is otherwise not in force, the peer–to–peer car sharing program’s insurance coverage required under paragraph (2) of this subsection shall be primary.

(4) A peer–to–peer car sharing program may sponsor a motor vehicle insurance policy that provides coverage for property damage to a shared motor vehicle during the car sharing period.

(5) A peer–to–peer car sharing program may satisfy paragraphs (2), (3), and (4) of this subsection by acquiring or sponsoring any form of security described under § 17–103 of the Transportation Article.

(6) A peer–to–peer car sharing program may not be considered to be engaged in the business of insurance or in the solicitation, sale, or negotiation of insurance by:

(I) acquiring or sponsoring a motor vehicle insurance policy required under paragraph (2) of this subsection or permitted under paragraph (4) of this subsection;

(II) informing a shared vehicle owner or a shared vehicle driver of the existence and terms and conditions of the insurance;

(III) allowing a shared vehicle owner and a shared vehicle driver to select different degrees of financial protection and benefits that include the insurance; or

(IV) receiving reimbursement of the cost of the insurance from a shared vehicle owner or a shared vehicle driver.

(E) (1) An authorized insurer that writes motor vehicle liability insurance in the State and the Maryland Automobile Insurance Fund may exclude any and all coverage and the duty to defend afforded under a shared vehicle owner’s personal motor vehicle liability insurance policy for any loss or injury that occurs during the car sharing period.

(2) A motor vehicle insurer that unintentionally defends or indemnifies a claim shall have a right of contribution against the
MOTOR VEHICLE INSURER OF THE PEER–TO–PEER CAR SHARING PROGRAM IF THE CLAIM IS:

(I) MADE AGAINST THE SHARED VEHICLE OWNER OR THE SHARED VEHICLE DRIVER FOR LOSS OR INJURY THAT OCCURS DURING THE CAR SHARING PERIOD; AND

(II) EXCLUDED UNDER THE TERMS OF ITS POLICY.

(3) Nothing in this section invalidates or limits an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use before October 1, 2018, that excludes coverage for motor vehicles made available for rent, sharing, or hire or for any business use.

(4) The right to exclude any and all coverage and the duty to defend under paragraph (1) of this subsection applies to any coverage included in a motor vehicle liability insurance policy, including:

(I) LIABILITY COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE;

(II) UNINSURED AND UNDERINSURED MOTORIST COVERAGE;

(III) MEDICAL PAYMENTS COVERAGE;

(IV) PERSONAL INJURY PROTECTION COVERAGE;

(V) COMPREHENSIVE PHYSICAL DAMAGE COVERAGE; AND

(VI) COLLISION PHYSICAL DAMAGE COVERAGE.

(F) (1) Except as provided in paragraph (2) of this subsection, a motor vehicle insurer may not deny, cancel, void, terminate, rescind, or nonrenew a personal motor vehicle liability insurance policy of a shared vehicle owner solely on the basis that a motor vehicle covered under the policy has been made available for sharing through a peer–to–peer car sharing program.

(2) A motor vehicle insurer may deny, cancel, void, terminate, rescind, or nonrenew a personal motor vehicle liability insurance policy covering a motor vehicle that has been made available
FOR SHARING THROUGH A PEER–TO–PEER CAR SHARING PROGRAM IF THE
APPLICANT OR POLICYHOLDER OF THE PERSONAL MOTOR VEHICLE LIABILITY
INSURANCE FAILS TO PROVIDE COMPLETE AND ACCURATE INFORMATION ABOUT
THE USE OF A SHARED MOTOR VEHICLE THROUGH THE PEER–TO–PEER CAR
SHARING PROGRAM AS REQUESTED BY THE MOTOR VEHICLE INSURER DURING THE
APPLICATION OR RENEWAL PROCESS OF THE MOTOR VEHICLE LIABILITY
INSURANCE POLICY.

(G) NOTHING IN THIS SECTION:

(1) REQUIRES ANY SHARED VEHICLE OWNER’S PERSONAL MOTOR
VEHICLE LIABILITY INSURANCE POLICY TO PROVIDE PRIMARY OR EXCESS
COVERAGE DURING THE CAR SHARING PERIOD;

(2) MAY BE INTERPRETED TO IMPLY THAT ANY SHARED VEHICLE
OWNER’S PERSONAL MOTOR VEHICLE LIABILITY INSURANCE POLICY PROVIDES
COVERAGE FOR A MOTOR VEHICLE DURING THE CAR SHARING PERIOD; OR

(3) PRECLUDES A MOTOR VEHICLE INSURER FROM PROVIDING
COVERAGE FOR A SHARED VEHICLE OWNER’S VEHICLE WHILE THE VEHICLE IS MADE
AVAILABLE OR USED THROUGH A PEER–TO–PEER CAR SHARING PROGRAM IF THE
MOTOR VEHICLE INSURER ELECTS TO DO SO BY CONTRACT OR ENDORSEMENT.

(H) (1) COVERAGE UNDER A MOTOR VEHICLE INSURANCE POLICY
MAINTAINED BY A PEER–TO–PEER CAR SHARING PROGRAM MAY NOT BE DEPENDENT
ON THE DENIAL OF A CLAIM BY ANOTHER MOTOR VEHICLE INSURER.

(2) A MOTOR VEHICLE INSURER OF A PERSONAL MOTOR VEHICLE
LIABILITY INSURANCE POLICY MAY NOT BE REQUIRED TO FIRST DENY A CLAIM.

(I) A PEER–TO–PEER CAR SHARING PROGRAM AND A SHARED VEHICLE
OWNER SHALL BE EXEMPT FROM VICARIOUS LIABILITY IN ACCORDANCE WITH 49
U.S.C. § 30106 AND UNDER ANY STATE OR LOCAL LAW THAT IMPOSES LIABILITY
SOLELY BASED ON VEHICLE OWNERSHIP.

(J) IN A CLAIM COVERAGE INVESTIGATION FOLLOWING A VEHICULAR
ACCIDENT, A PEER–TO–PEER CAR SHARING PROGRAM SHALL COOPERATE TO
FACILITATE THE EXCHANGE OF INFORMATION WITH DIRECTLY INVOLVED PARTIES
AND ANY MOTOR VEHICLE INSURER OF A SHARED VEHICLE OWNER REGARDING THE
VEHICLE’S USE IN A PEER–TO–PEER CAR SHARING PROGRAM.

Article – Transportation
(a) “Rental vehicle” means a passenger car or a vehicle that may be registered as a Class D, E, F, G, or M vehicle under Title 13, Subtitle 9 of this article:

(1) That is acquired solely for rental purposes but will not be rented to the same person for a period of more than 180 consecutive days;

(2) (i) That, at the time of purchase, is part of a fleet of passenger cars owned by the same person, at least five of which meet the criteria in item (1) of this subsection;

(ii) That, at the time of purchase, is part of a fleet of rental trucks owned by the same person, at least five of which meet the criteria in item (1) of this subsection;

(iii) That, at the time of purchase, is part of a fleet of multipurpose passenger vehicles owned by the same person, at least five of which meet the criteria in item (1) of this subsection; or

(iv) That, at the time of purchase, is part of a fleet of motorcycles owned by the same person, at least five of which meet the criteria in item (1) of this subsection;

(3) For which the owner does not provide a driver; and

(4) That, if the vehicle is a passenger car or multipurpose passenger vehicle, will not be used to transport individuals or property for hire.

(b) “Rental vehicle” does not include:

(1) A dump truck, as described in § 13–919 of this article;

(2) A tow truck, as described in § 13–920 of this article; [or]

(3) A farm vehicle exempt from the sales and use tax under § 11–201(a) of the Tax – General Article; OR

(4) A MOTOR VEHICLE WHILE ENGAGED IN A PEER–TO–PEER CAR SHARING PROGRAM UNDER § 19–520 OF THE INSURANCE ARTICLE.

18–108.

(a) (1) In this section, “rental vehicle company” means a person that rents a motor vehicle to a consumer.

(2) “Rental vehicle company” does not include a
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.