

SENATE BILL 743

C4

8lr2914
CF 8lr3675

By: Senator Middleton

Introduced and read first time: February 5, 2018

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicle Insurance – Peer-to-Peer Car Sharing**

3 FOR the purpose of prohibiting a peer-to-peer car sharing program from being considered
4 to have rented a certain vehicle, to be a rental vehicle company, or to be a motor
5 vehicle company under certain provisions of law solely on a certain basis; prohibiting
6 a shared vehicle owner from being considered to have rented a vehicle under certain
7 provisions of law solely on a certain basis; prohibiting a certain motor vehicle from
8 being considered to be a rental vehicle under a certain provision of law; providing
9 that the use of a shared motor vehicle through a peer-to-peer car sharing program
10 does not constitute a commercial use solely on a certain basis; requiring a
11 peer-to-peer car sharing program to assume a certain liability of a shared vehicle
12 owner during the car sharing period in a certain amount except under certain
13 circumstances; providing that certain provisions of this Act do not limit the liability
14 of the peer-to-peer car sharing program for certain acts and omissions or limit the
15 ability of the program to seek indemnification from certain persons; requiring that a
16 certain peer-to-peer car sharing program agreement disclose certain information;
17 requiring that, during a certain period, a peer-to-peer car sharing program has a
18 certain insurable interest in a certain shared motor vehicle; requiring that a
19 peer-to-peer car sharing program ensure that a certain shared motor vehicle and a
20 certain shared vehicle driver are insured in a certain manner during a certain period;
21 requiring a certain insurance policy to be primary under certain circumstances;
22 authorizing a peer-to-peer car sharing program to sponsor a certain insurance
23 policy; authorizing a peer-to-peer car sharing program to satisfy certain provisions
24 of this Act in a certain manner; prohibiting a peer-to-peer car sharing program from
25 being considered to be engaged in the business of insurance by taking certain actions;
26 allowing certain insurers and the Maryland Automobile Insurance Fund to exclude
27 certain coverages and the duty to defend under a certain insurance policy; requiring
28 that a certain insurer has a certain right of contribution under certain
29 circumstances; providing that certain provisions of this Act do not invalidate or limit
30 an exclusion contained in a certain insurance policy under certain circumstances;
31 providing that the right to exclude certain coverages and the duty to defend under a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain policy applies to certain coverages; prohibiting a certain insurer from taking
2 certain actions on a certain insurance policy on a certain basis except under certain
3 circumstances; providing that certain provisions of this Act do not require a certain
4 insurance policy to provide certain coverage during a certain period, may not be
5 interpreted to imply that a certain insurance policy provides certain coverage during
6 a certain period, and do not preclude a certain insurer from providing certain
7 coverage during a certain time under certain circumstances; prohibiting certain
8 coverage under a certain insurance policy from being dependent on a certain denial
9 of a claim; prohibiting a certain insurer from being required to first deny a claim;
10 providing that a peer-to-peer car sharing program and a certain shared vehicle
11 owner are exempt from certain vicarious liability; requiring a peer-to-peer car
12 sharing program to cooperate in a certain manner with certain parties; making
13 conforming changes; defining certain terms; and generally relating to peer-to-peer
14 car sharing.

15 BY repealing and reenacting, without amendments,

16 Article – Insurance

17 Section 10–601(a) and (e)

18 Annotated Code of Maryland

19 (2017 Replacement Volume)

20 BY repealing and reenacting, with amendments,

21 Article – Insurance

22 Section 10–601(c)

23 Annotated Code of Maryland

24 (2017 Replacement Volume)

25 BY adding to

26 Article – Insurance

27 Section 19–520

28 Annotated Code of Maryland

29 (2017 Replacement Volume)

30 BY repealing and reenacting, without amendments,

31 Article – Transportation

32 Section 11–148.1(a)

33 Annotated Code of Maryland

34 (2012 Replacement Volume and 2017 Supplement)

35 BY repealing and reenacting, with amendments,

36 Article – Transportation

37 Section 11–148.1(b) and 18–108(a)

38 Annotated Code of Maryland

39 (2012 Replacement Volume and 2017 Supplement)

40 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

41 That the Laws of Maryland read as follows:

Article – Insurance

2 10-601.

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

4 (c) **(1)** “Motor vehicle rental company” means any person that is in the
5 business of providing motor vehicles to the public under a rental agreement for a period of
6 180 days or less.

11 19-520.

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

22 (4) "CAR SHARING TERMINATION TIME" MEANS THE TIME WHEN THE
23 EARLIEST OF THE FOLLOWING OCCURS:

24 (I) THE EXPIRATION OF THE AGREED PERIOD OF TIME
25 ESTABLISHED FOR THE USE OF A SHARED MOTOR VEHICLE:

26 (II) THE INTENT TO TERMINATE THE USE OF A SHARED MOTOR
27 VEHICLE IS VERIFIABLY COMMUNICATED TO A PEER-TO-PEER CAR SHARING
28 PROGRAM; OR

(6) "MOTOR VEHICLE" HAS THE MEANING STATED IN § 11-135 OF THE TRANSPORTATION ARTICLE.

18 (10) "SHARED VEHICLE DRIVER" MEANS AN INDIVIDUAL WHO HAS:

19 (I) RESERVED THE USE OF A SHARED MOTOR VEHICLE
20 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.

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

4 (III) A PEER-TO-PEER CAR SHARING PROGRAM MAY NOT BE
5 CONSIDERED TO BE:

13 (3) THE USE OF A SHARED MOTOR VEHICLE THROUGH A
14 PEER-TO-PEER CAR SHARING PROGRAM DOES NOT CONSTITUTE A COMMERCIAL
15 USE SOLELY ON THE BASIS THAT THE MOTOR VEHICLE IS AVAILABLE FOR SHARING
16 OR USED THROUGH A PEER-TO-PEER CAR SHARING PROGRAM.

17 (C) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
18 PARAGRAPH, A PEER-TO-PEER CAR SHARING PROGRAM SHALL ASSUME THE
19 LIABILITY OF A SHARED VEHICLE OWNER FOR ANY BODILY INJURY OR PROPERTY
20 DAMAGE TO THIRD PARTIES, UNINSURED AND UNDERINSURED MOTORIST OR
21 PERSONAL INJURY PROTECTION LOSSES, OR INJURY TO THIRD PARTIES DURING
22 THE CAR SHARING PERIOD IN AN AMOUNT NOT LESS THAN THE MINIMUM SECURITY
23 REQUIRED UNDER § 17-103 OF THE TRANSPORTATION ARTICLE.

29 (2) **NOTHING IN PARAGRAPH (1) OF THIS SUBSECTON:**

30 (I) LIMITS THE LIABILITY OF THE PEER-TO-PEER CAR
31 SHARING PROGRAM FOR ANY ACT OR OMISSION OF THE PEER-TO-PEER CAR
32 SHARING PROGRAM ITSELF THAT RESULTS IN INJURY TO ANY PERSON AS A RESULT
33 OF THE USE OF A SHARED MOTOR VEHICLE THROUGH A PEER-TO-PEER CAR
34 SHARING PROGRAM; OR

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

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

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

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

1 PARAGRAPH (2) OF THIS SUBSECTION SHALL BE PRIMARY WITH RESPECT TO THE
2 SHARED VEHICLE OWNER, BUT MAY BE SECONDARY AS TO ANY OTHER VALID AND
3 COLLECTIBLE INSURANCE COVERING THE SHARED VEHICLE DRIVER.

4 (II) IF THE INSURANCE MAINTAINED BY THE SHARED VEHICLE
5 DRIVER HAS LAPSED, OR IS OTHERWISE NOT IN FORCE, THE PEER-TO-PEER CAR
6 SHARING PROGRAM'S INSURANCE COVERAGE REQUIRED UNDER PARAGRAPH (2) OF
7 THIS SUBSECTION SHALL BE PRIMARY.

8 (4) A PEER-TO-PEER CAR SHARING PROGRAM MAY SPONSOR A
9 MOTOR VEHICLE INSURANCE POLICY THAT PROVIDES COVERAGE FOR PROPERTY
10 DAMAGE TO A SHARED MOTOR VEHICLE DURING THE CAR SHARING PERIOD.

11 (5) A PEER-TO-PEER CAR SHARING PROGRAM MAY SATISFY
12 PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION BY ACQUIRING OR SPONSORING
13 ANY FORM OF SECURITY DESCRIBED UNDER § 17-103 OF THE TRANSPORTATION
14 ARTICLE.

15 (6) A PEER-TO-PEER CAR SHARING PROGRAM MAY NOT BE
16 CONSIDERED TO BE ENGAGED IN THE BUSINESS OF INSURANCE OR IN THE
17 SOLICITATION, SALE, OR NEGOTIATION OF INSURANCE BY:

18 (I) ACQUIRING OR SPONSORING A MOTOR VEHICLE INSURANCE
19 POLICY REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION OR PERMITTED
20 UNDER PARAGRAPH (4) OF THIS SUBSECTION;

21 (II) INFORMING A SHARED VEHICLE OWNER OR A SHARED
22 VEHICLE DRIVER OF THE EXISTENCE AND TERMS AND CONDITIONS OF THE
23 INSURANCE;

24 (III) ALLOWING A SHARED VEHICLE OWNER AND A SHARED
25 VEHICLE DRIVER TO SELECT DIFFERENT DEGREES OF FINANCIAL PROTECTION AND
26 BENEFITS THAT INCLUDE THE INSURANCE; OR

27 (IV) RECEIVING REIMBURSEMENT OF THE COST OF THE
28 INSURANCE FROM A SHARED VEHICLE OWNER OR A SHARED VEHICLE DRIVER.

29 (E) (1) AN AUTHORIZED INSURER THAT WRITES MOTOR VEHICLE
30 LIABILITY INSURANCE IN THE STATE AND THE MARYLAND AUTOMOBILE
31 INSURANCE FUND MAY EXCLUDE ANY AND ALL COVERAGE AND THE DUTY TO
32 DEFEND AFFORDED UNDER A SHARED VEHICLE OWNER'S PERSONAL MOTOR
33 VEHICLE LIABILITY INSURANCE POLICY FOR ANY LOSS OR INJURY THAT OCCURS
34 DURING THE CAR SHARING PERIOD.

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

8 (II) EXCLUDED UNDER THE TERMS OF ITS POLICY.

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

20 (H) UNINSURED AND UNDERINSURED MOTORIST COVERAGE:

21 (III) MEDICAL PAYMENTS COVERAGE:

(IV) PERSONAL INJURY PROTECTION COVERAGE:

23 (v) **COMPREHENSIVE PHYSICAL DAMAGE COVERAGE; AND**

24 (VI) COLLISION PHYSICAL DAMAGE COVERAGE.

25 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS

28 SHARED VEHICLE OWNER SOLELY ON THE BASIS THAT A MOTOR VEHICLE COVERED
29 UNDER THE POLICY HAS BEEN MADE AVAILABLE FOR SHARING THROUGH A
30 PEER-TO-PEER CAR SHARING PROGRAM.

11 (G) **NOTHING IN THIS SECTION:**

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

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

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

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

Article – Transportation

2 11-148.1.

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

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

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

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

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

22 (b) "Rental vehicle" does not include:

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

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

29 18-108

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

3 **(2)** **“RENTAL VEHICLE COMPANY” DOES NOT INCLUDE A**
4 **PEER-TO-PEER CAR SHARING PROGRAM UNDER § 19-520 OF THE INSURANCE**
5 **ARTICLE.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2018.