

By the Committee on Innovation, Industry, and Technology; and
Senator Perry

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1 A bill to be entitled
2 An act relating to motor vehicle rentals; amending s.
3 212.0606, F.S.; defining the terms "motor vehicle
4 rental company" and "peer-to-peer car-sharing
5 program"; revising the applicability of the rental car
6 surcharge; imposing the surcharge on certain motor
7 vehicle leases or rentals by a peer-to-peer car-
8 sharing program; specifying who must collect the
9 surcharge; making technical changes; creating s.
10 627.7483, F.S.; defining terms; specifying motor
11 vehicle insurance requirements for shared vehicles on
12 a peer-to-peer car-sharing program; providing
13 construction relating to such insurance; requiring a
14 peer-to-peer car-sharing program to assume specified
15 liability of a shared vehicle owner; providing
16 exceptions; requiring a shared vehicle owner's insurer
17 to indemnify the peer-to-peer car-sharing program
18 under certain circumstances; authorizing a shared
19 vehicle owner's motor vehicle insurer to exclude
20 certain coverages and the duty to defend or indemnify
21 certain claims; authorizing such insurer to seek
22 contribution against the peer-to-peer car-sharing
23 program's insurer under certain circumstances;
24 requiring a peer-to-peer car-sharing program to notify
25 the shared vehicle owner of certain lien information;
26 specifying recordkeeping and record disclosure
27 requirements for peer-to-peer car-sharing programs;
28 specifying disclosure requirements for peer-to-peer
29 car-sharing program agreements; specifying shared

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30 vehicle driver license requirements; specifying
31 liability for damage to certain equipment in or on a
32 shared vehicle; specifying requirements for peer-to-
33 peer car-sharing programs relating to safety recalls
34 on shared vehicles; providing construction; providing
35 an effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Section 212.0606, Florida Statutes, is amended
40 to read:

41 212.0606 Rental car surcharge.—

42 (1) As used in this section, the term:

43 (a) “Car-sharing service” means a membership-based
44 organization or business, or division thereof, which requires
45 the payment of an application fee or a membership fee and
46 provides member access to motor vehicles:

47 1. Only at locations that are not staffed by car-sharing
48 service personnel employed solely for the purpose of interacting
49 with car-sharing service members;

50 2. Twenty-four hours per day, 7 days per week;

51 3. Only through automated means, including, but not limited
52 to, a smartphone application or an electronic membership card;

53 4. On an hourly basis or for a shorter increment of time;

54 5. Without a separate fee for refueling the motor vehicle;

55 6. Without a separate fee for minimum financial
56 responsibility liability insurance; and

57 7. Owned or controlled by the car-sharing service or its
58 affiliates.

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59 (b) "Motor vehicle rental company" means an entity that is
60 in the business of providing motor vehicles to the public under
61 a rental agreement for financial consideration.

62 (c) "Peer-to-peer car-sharing program" has the same meaning
63 as in s. 627.7483(1).

64 (2) Except as provided in subsection (3) ~~(2)~~, a surcharge
65 of \$2 per day or any part of a day is imposed upon the lease or
66 rental by a motor vehicle rental company or a peer-to-peer car-
67 sharing program of a motor vehicle that is licensed for hire and
68 designed to carry fewer than nine passengers, regardless of
69 whether the motor vehicle is licensed in this state, for
70 financial consideration without transfer of the title of the
71 motor vehicle. The surcharge is imposed regardless of whether
72 the lease or rental occurs in person or through digital means.
73 The surcharge applies to only the first 30 days of the term of a
74 lease or rental and must be collected by the motor vehicle
75 rental company or the peer-to-peer car-sharing program. The
76 surcharge is subject to all applicable taxes imposed by this
77 chapter.

78 (3)~~(2)~~ A member of a car-sharing service who uses a motor
79 vehicle as described in subsection (2) ~~(1)~~ for less than 24
80 hours pursuant to an agreement with the car-sharing service
81 shall pay a surcharge of \$1 per usage. A member of a car-sharing
82 service who uses the same motor vehicle for 24 hours or more
83 shall pay a surcharge of \$2 per day or any part of a day as
84 provided in subsection (2) ~~(1)~~. The car-sharing service shall
85 collect the surcharge ~~For purposes of this subsection, the term~~
86 ~~"car-sharing service" means a membership-based organization or~~
87 ~~business, or division thereof, which requires the payment of an~~

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88 ~~application or membership fee and provides member access to~~
89 ~~motor vehicles:~~

90 ~~(a) Only at locations that are not staffed by car-sharing~~
91 ~~service personnel employed solely for the purpose of interacting~~
92 ~~with car-sharing service members;~~

93 ~~(b) Twenty-four hours per day, 7 days per week;~~

94 ~~(c) Only through automated means, including, but not~~
95 ~~limited to, smartphone applications or electronic membership~~
96 ~~eards;~~

97 ~~(d) On an hourly basis or for a shorter increment of time;~~

98 ~~(e) Without a separate fee for refueling the motor vehicle;~~

99 ~~(f) Without a separate fee for minimum financial~~
100 ~~responsibility liability insurance; and~~

101 ~~(g) Owned or controlled by the car-sharing service or its~~
102 ~~affiliates. The surcharge imposed under this subsection does not~~
103 ~~apply to the lease, rental, or use of a motor vehicle from a~~
104 ~~location owned, operated, or leased by or for the benefit of an~~
105 ~~airport or airport authority.~~

106 (4)~~(3)~~(a) Notwithstanding s. 212.20, and less the costs of
107 administration, 80 percent of the proceeds of this surcharge
108 shall be deposited in the State Transportation Trust Fund, 15.75
109 percent of the proceeds of this surcharge shall be deposited in
110 the Tourism Promotional Trust Fund created in s. 288.122, and
111 4.25 percent of the proceeds of this surcharge shall be
112 deposited in the Florida International Trade and Promotion Trust
113 Fund. For the purposes of this subsection, the term "proceeds of
114 this surcharge" ~~of the surcharge~~ means all funds collected and
115 received by the department under this section, including
116 interest and penalties on delinquent surcharges. The department

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117 shall provide the Department of Transportation rental car
118 surcharge revenue information for the previous state fiscal year
119 by September 1 of each year.

120 (b) Notwithstanding any other ~~provision of~~ law, the
121 proceeds deposited in the State Transportation Trust Fund shall
122 be allocated on an annual basis in the Department of
123 Transportation's work program to each department district,
124 except the Turnpike District. The amount allocated to each
125 district shall be based on the amount of proceeds attributed to
126 the counties within each respective district.

127 (5) (a) ~~(4)~~ Except as provided in this section, the
128 department shall administer, collect, and enforce the surcharge
129 as provided in this chapter.

130 (b) ~~(a)~~ The department shall require a dealer ~~dealers~~ to
131 report surcharge collections according to the county to which
132 the surcharge was attributed. For purposes of this section, the
133 surcharge shall be attributed to the county where the rental
134 agreement was entered into.

135 (c) ~~(b)~~ A dealer ~~Dealers~~ who collects ~~collect~~ the rental car
136 surcharge shall report to the department all surcharge revenues
137 attributed to the county where the rental agreement was entered
138 into on a timely filed return for each required reporting
139 period. The provisions of this chapter which apply to interest
140 and penalties on delinquent taxes apply to the surcharge. The
141 surcharge shall not be included in the calculation of estimated
142 taxes pursuant to s. 212.11. The dealer's credit provided in s.
143 212.12 does not apply to any amount collected under this
144 section.

145 (6) ~~(5)~~ The surcharge imposed by this section does not apply

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146 to a motor vehicle provided at no charge to a person whose motor
147 vehicle is being repaired, adjusted, or serviced by the entity
148 providing the replacement motor vehicle.

149 Section 2. Section 627.7483, Florida Statutes, is created
150 to read:

151 627.7483 Peer-to-peer car sharing.-

152 (1) DEFINITIONS.-As used in this section, the term:

153 (a) "Peer-to-peer car sharing" means the authorized use of
154 a motor vehicle by an individual other than the vehicle's owner
155 through a peer-to-peer car-sharing program. The term does not
156 include ridesharing as defined in s. 341.031(9), a carpool as
157 defined in s. 450.28(3), or the use of a motor vehicle under an
158 agreement for a car-sharing service as defined in s.
159 212.0606(1).

160 (b) "Peer-to-peer car-sharing delivery period" means the
161 period during which a shared vehicle is delivered to the
162 location of the peer-to-peer car-sharing start time, if
163 applicable, as documented by the governing peer-to-peer car-
164 sharing program agreement.

165 (c) "Peer-to-peer car-sharing period" means the period
166 beginning either at the peer-to-peer car-sharing delivery
167 period, or, if there is no peer-to-peer car-sharing delivery
168 period, at the peer-to-peer car-sharing start time, and ending
169 at the peer-to-peer car-sharing termination time.

170 (d) "Peer-to-peer car-sharing program" means a business
171 platform that enables peer-to-peer car sharing by connecting
172 motor vehicle owners with drivers for financial consideration.
173 The term does not include a taxicab association or a
174 transportation network company as defined in s. 627.748(1).

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175 (e) "Peer-to-peer car-sharing program agreement" means the
176 terms and conditions established by the peer-to-peer car-sharing
177 program which are applicable to a shared vehicle owner and a
178 shared vehicle driver and which govern the use of a shared
179 vehicle through a peer-to-peer car-sharing program.

180 (f) "Peer-to-peer car-sharing start time" means the time
181 when the shared vehicle is under the control of the shared
182 vehicle driver, which occurs at or after the time the
183 reservation of the shared vehicle is scheduled to begin, as
184 documented in the peer-to-peer car-sharing program agreement.

185 (g) "Peer-to-peer car-sharing termination time" means the
186 earliest of the following:

187 1. The expiration of the agreed-upon period established for
188 the use of a shared vehicle according to the terms of the peer-
189 to-peer car-sharing program agreement, if the shared vehicle is
190 delivered to the location agreed upon in the peer-to-peer car-
191 sharing program agreement;

192 2. The time the shared vehicle is returned to a location as
193 alternatively agreed upon by the shared vehicle owner and shared
194 vehicle driver, as communicated through a peer-to-peer car-
195 sharing program; or

196 3. The time the shared vehicle owner takes possession and
197 control of the shared vehicle.

198 (h) "Shared vehicle" means a motor vehicle that is
199 available for sharing through a peer-to-peer car-sharing
200 program. The term does not include a motor vehicle used for
201 ridesharing as defined in s. 341.031(9) or a motor vehicle used
202 for a carpool as defined in s. 450.28(3).

203 (i) "Shared vehicle driver" means an individual who is

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204 authorized by the shared vehicle owner to drive the shared
205 vehicle under the peer-to-peer car-sharing program agreement.

206 (j) "Shared vehicle owner" means the registered owner, or a
207 person or entity designated by the registered owner, of a motor
208 vehicle made available for sharing to shared vehicle drivers
209 through a peer-to-peer car-sharing program.

210 (2) INSURANCE COVERAGE REQUIREMENTS.-

211 (a)1. A peer-to-peer car-sharing program shall ensure
212 during each peer-to-peer car-sharing period that the shared
213 vehicle owner and the shared vehicle driver are insured under a
214 motor vehicle insurance policy that provides all of the
215 following:

216 a. Property damage liability coverage that meets the
217 minimum coverage amounts required under s. 324.022.

218 b. Bodily injury liability coverage limits as specified in
219 s. 324.021(7) (a) and (b).

220 c. Personal injury protection benefits that meet the
221 minimum coverage amounts required under s. 627.736.

222 d. Uninsured and underinsured vehicle coverage as required
223 under s. 627.727.

224 2. The peer-to-peer car-sharing program shall also ensure
225 that the motor vehicle insurance policy under subparagraph 1.:

226 a. Recognizes that the shared vehicle insured under the
227 policy is made available and used through a peer-to-peer car-
228 sharing program; and

229 b. Does not exclude the use of a shared vehicle by a shared
230 vehicle driver.

231 (b)1. The insurance requirements under paragraph (a) may be
232 satisfied by a motor vehicle insurance policy maintained by:

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- 233 a. A shared vehicle owner;
234 b. A shared vehicle driver;
235 c. A peer-to-peer car-sharing program; or
236 d. A combination of a shared vehicle owner, a shared
237 vehicle driver, and a peer-to-peer car-sharing program.
- 238 2. The insurance policy maintained in subparagraph 1. which
239 satisfies the insurance requirements under paragraph (a) is
240 primary during each peer-to-peer car-sharing period.
- 241 3.a. If the insurance maintained by a shared vehicle owner
242 or shared vehicle driver in accordance with subparagraph 1.
243 lapses or does not provide the coverage required under paragraph
244 (a), the insurance maintained by the peer-to-peer car-sharing
245 program must provide the coverage required under paragraph (a)
246 beginning with the first dollar of a claim and must defend such
247 claim, except under circumstances as set forth in subparagraph
248 (3) (a)2.
- 249 b. Coverage under a motor vehicle insurance policy
250 maintained by the peer-to-peer car-sharing program may not be
251 dependent on another motor vehicle insurer first denying a
252 claim, and another motor vehicle insurance policy is not
253 required to first deny a claim.
- 254 c. Notwithstanding any other law to the contrary, a peer-
255 to-peer car-sharing program has an insurable interest in a
256 shared vehicle during the peer-to-peer car-sharing period. This
257 sub-subparagraph does not create liability for a network for
258 maintaining the coverage required under paragraph (a) and under
259 this paragraph, if applicable.
- 260 d. A peer-to-peer car-sharing program may own and maintain
261 as the named insured one or more policies of motor vehicle

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262 insurance which provide coverage for:

263 (I) Liabilities assumed by the peer-to-peer car-sharing
264 program under a peer-to-peer car-sharing program agreement;

265 (II) Liability of the shared vehicle owner;

266 (III) Liability of the shared vehicle driver;

267 (IV) Damage or loss to the shared motor vehicle; or

268 (V) Damage, loss, or injury to persons or property to
269 satisfy the personal injury protection and uninsured and
270 underinsured motorist coverage requirements of this section.

271 e. Insurance required under paragraph (a), when maintained
272 by a peer-to-peer car-sharing program, may be provided by an
273 insurer authorized to do business in this state which is a
274 member of the Florida Insurance Guaranty Association or by an
275 eligible surplus lines insurer that has a superior, excellent,
276 exceptional, or equivalent financial strength rating by a rating
277 agency acceptable to the office. A peer-to-peer car-sharing
278 program is not transacting in insurance when it maintains the
279 insurance required under this section.

280 (3) LIABILITIES AND INSURANCE EXCLUSIONS.-

281 (a) Liability.-

282 1. A peer-to-peer car-sharing program shall assume
283 liability, except as provided in subparagraph 2., of a shared
284 vehicle owner for bodily injury or property damage to third
285 parties or uninsured and underinsured motorist or personal
286 injury protection losses during the peer-to-peer car-sharing
287 period in amounts stated in the peer-to-peer car-sharing program
288 agreement. Such amounts may not be less than those set forth in
289 ss. 324.021(7) (a) and (b), 324.022, 627.727, and 627.736,
290 respectively.

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291 2. The assumption of liability under subparagraph 1. does
292 not apply if a shared vehicle owner:

293 a. Makes an intentional or fraudulent material
294 misrepresentation or omission to the peer-to-peer car-sharing
295 program before the peer-to-peer car-sharing period in which the
296 loss occurs; or

297 b. Acts in concert with a shared vehicle driver who fails
298 to return the shared vehicle pursuant to the terms of the peer-
299 to-peer car-sharing program agreement.

300 3. A peer-to-peer car-sharing program shall assume primary
301 liability for a claim when it is providing, in whole or in part,
302 the insurance required under paragraph (2) (a) and:

303 a. A dispute exists as to who was in control of the shared
304 motor vehicle at the time of the loss; and

305 b. The peer-to-peer car-sharing program does not have
306 available, did not retain, or fails to provide the information
307 required under subsection (5).

308
309 The shared vehicle owner's insurer shall indemnify the peer-to-
310 peer car-sharing program to the extent of the insurer's
311 obligation, if any, under the applicable insurance policy if it
312 is determined that the shared vehicle owner was in control of
313 the shared motor vehicle at the time of the loss.

314 (b) Exclusions in motor vehicle insurance policies.—An
315 authorized insurer that writes motor vehicle liability insurance
316 in this state may exclude any coverage and the duty to defend or
317 indemnify for any claim afforded under a shared vehicle owner's
318 motor vehicle insurance policy, including, but not limited to:

319 1. Liability coverage for bodily injury and property

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320 damage;

321 2. Personal injury protection coverage;

322 3. Uninsured and underinsured motorist coverage;

323 4. Medical payments coverage;

324 5. Comprehensive physical damage coverage; and

325 6. Collision physical damage coverage.

326

327 This paragraph does not invalidate or limit any exclusion
328 contained in a motor vehicle insurance policy, including any
329 insurance policy in use or approved for use which excludes
330 coverage for motor vehicles made available for rent, sharing, or
331 hire or for any business use.

332 (c) Contribution against indemnification.—A shared vehicle
333 owner's motor vehicle insurer that defends or indemnifies a
334 claim against a shared vehicle which is excluded under the terms
335 of its policy has the right to seek contribution against the
336 motor vehicle insurer of the peer-to-peer car-sharing program if
337 the claim is made against the shared vehicle owner or the shared
338 vehicle driver for loss or injury that occurs during the peer-
339 to-peer car-sharing period.

340 (4) NOTIFICATION OF IMPLICATIONS OF LIEN.—At the time a
341 motor vehicle owner registers as a shared vehicle owner on a
342 peer-to-peer car-sharing program and before the shared vehicle
343 owner may make a shared vehicle available for peer-to-peer car
344 sharing on the peer-to-peer car-sharing program, the peer-to-
345 peer car-sharing program must notify the shared vehicle owner
346 that, if the shared vehicle has a lien against it, the use of
347 the shared vehicle through a peer-to-peer car-sharing program,
348 including the use without physical damage coverage, may violate

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349 the terms of the contract with the lienholder.

350 (5) RECORDKEEPING.—A peer-to-peer car-sharing program
351 shall:

352 (a) Collect and verify records pertaining to the use of a
353 shared vehicle, including, but not limited to, the times used,
354 fees paid by the shared vehicle driver, and revenues received by
355 the shared vehicle owner.

356 (b) Retain the records in paragraph (a) for a period of not
357 less than the applicable personal injury statute of limitations.

358 (c) Provide the information contained in the records under
359 paragraph (a) upon request to the shared vehicle owner, the
360 shared vehicle owner's insurer, or the shared vehicle driver's
361 insurer to facilitate a claim coverage investigation.

362 (6) CONSUMER PROTECTIONS.—

363 (a) Disclosures.—Each peer-to-peer car-sharing program
364 agreement made in this state must disclose to the shared vehicle
365 owner and the shared vehicle driver:

366 1. Any right of the peer-to-peer car-sharing program to
367 seek indemnification from the shared vehicle owner or the shared
368 vehicle driver for economic loss resulting from a breach of the
369 terms and conditions of the peer-to-peer car-sharing program
370 agreement.

371 2. That a motor vehicle insurance policy issued to the
372 shared vehicle owner for the shared vehicle or to the shared
373 vehicle driver does not provide a defense or indemnification for
374 any claim asserted by the peer-to-peer car-sharing program.

375 3. That the peer-to-peer car-sharing program's insurance
376 coverage on the shared vehicle owner and the shared vehicle
377 driver is in effect only during each peer-to-peer car-sharing

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378 period and that, for any use of the shared vehicle by the shared
379 vehicle driver after the peer-to-peer car-sharing termination
380 time, the shared vehicle driver and the shared vehicle owner may
381 not have insurance coverage.

382 4. The daily rate, fees, and, if applicable, any insurance
383 or protection package costs that are charged to the shared
384 vehicle owner or the shared vehicle driver.

385 5. That the shared vehicle owner's motor vehicle liability
386 insurance may exclude coverage for a shared vehicle.

387 6. An emergency telephone number of the personnel capable
388 of fielding calls for roadside assistance and other customer
389 service inquiries.

390 7. Any conditions under which a shared vehicle driver must
391 maintain a personal motor vehicle insurance policy with certain
392 applicable coverage limits on a primary basis in order to book a
393 shared vehicle.

394 (b) Driver license verification and data retention.-

395 1. A peer-to-peer car-sharing program may not enter into a
396 peer-to-peer car-sharing program agreement with a driver unless
397 the driver:

398 a. Holds a driver license issued under chapter 322 which
399 authorizes the driver to drive vehicles of the class of the
400 shared vehicle;

401 b. Is a nonresident who:

402 (I) Holds a driver license issued by the state or country
403 of the driver's residence which authorizes the driver in that
404 state or country to drive vehicles of the class of the shared
405 vehicle; and

406 (II) Is at least the same age as that required of a

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407 resident to drive; or

408 c. Is otherwise specifically authorized by the Department
409 of Highway Safety and Motor Vehicles to drive vehicles of the
410 class of the shared vehicle.

411 2. A peer-to-peer car-sharing program shall keep a record
412 of:

413 a. The name and address of the shared vehicle driver;

414 b. The driver license number of the shared vehicle driver
415 and of any other person who will operate the shared vehicle; and

416 c. The place of issuance of the driver license.

417 (c) Responsibility for equipment.—A peer-to-peer car-
418 sharing program has sole responsibility for any equipment that
419 is put in or on the shared vehicle to monitor or facilitate the
420 peer-to-peer car-sharing transaction, including a GPS system.
421 The peer-to-peer car-sharing program shall indemnify and hold
422 harmless the shared vehicle owner for any damage to or theft of
423 such equipment during the peer-to-peer car-sharing period which
424 is not caused by the shared vehicle owner. The peer-to-peer car-
425 sharing program may seek indemnity from the shared vehicle
426 driver for any damage to or loss of such equipment which occurs
427 outside of the peer-to-peer car-sharing period.

428 (d) Motor vehicle safety recalls.—At the time a motor
429 vehicle owner registers as a shared vehicle owner on a peer-to-
430 peer car-sharing program and before the shared vehicle owner may
431 make a shared vehicle available for peer-to-peer car sharing on
432 the peer-to-peer car-sharing program, the peer-to-peer car-
433 sharing program must:

434 1. Verify that the shared vehicle does not have any safety
435 recalls on the vehicle for which the repairs have not been made;

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436 and

437 2. Notify the shared vehicle owner that if the shared
438 vehicle owner:

439 a. Has received an actual notice of a safety recall on the
440 vehicle, he or she may not make a vehicle available as a shared
441 vehicle on the peer-to-peer car-sharing program until the safety
442 recall repair has been made.

443 b. Receives an actual notice of a safety recall on a shared
444 vehicle while the shared vehicle is made available on the peer-
445 to-peer car-sharing program, he or she must remove the shared
446 vehicle's availability on the peer-to-peer car-sharing program
447 as soon as practicable after receiving the notice of the safety
448 recall and until the safety recall repair has been made.

449 c. Receives an actual notice of a safety recall while the
450 shared vehicle is in the possession of a shared vehicle driver,
451 he or she must notify the peer-to-peer car-sharing program about
452 the safety recall as soon as practicably possible after
453 receiving the notice of the safety recall so that he or she may
454 address the safety recall repair.

455 (7) CONSTRUCTION.—This section does not limit:

456 (a) The liability of a peer-to-peer car-sharing program for
457 any act or omission of the peer-to-peer car-sharing program
458 which results in the bodily injury to a person as a result of
459 the use of a shared vehicle through peer-to-peer car sharing; or

460 (b) The ability of a peer-to-peer car-sharing program to
461 seek by contract indemnification from the shared vehicle owner
462 or the shared vehicle driver for economic loss resulting from a
463 breach of the terms and conditions of the peer-to-peer car-
464 sharing program agreement.

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Section 3. This act shall take effect October 1, 2020.