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**S. 611**

**STATUS INFORMATION**

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Summary: Peer-to-peer car sharing

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 3/8/2023 Senate Introduced and read first time (Senate Journal‑page 10)

 3/8/2023 Senate Referred to Committee on **Transportation** (Senate Journal‑page 10)

 3/9/2023 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[03/08/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/611_20230308.docx)

[03/09/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/611_20230309.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 56‑36‑10 SO AS TO CREATE THE PEER‑TO‑PEER CAR SHARING ACT; BY ADDING SECTION 56‑36‑20 SO AS TO PROVIDE DEFINITIONS; BY ADDING SECTION 56‑36‑30 SO AS TO PROVIDE FOR LIABILITY, INSURANCE REQUIREMENTS, AND DEFINE EXCEPTIONS; BY ADDING SECTION 56‑36‑40 SO AS TO PROVIDE REQUIREMENTS FOR RECORDKEEPING, SAFETY RECALL REPAIRS, AND INSURANCE COVERAGE; BY ADDING SECTION 56‑36‑50 SO AS TO PROVIDE THE LIMITS OF THE TRANSACTION FOR PURPOSES OF SALES TAX; BY ADDING SECTION 56‑36‑60 SO AS TO PROVIDE FOR PROMULGATION OF REGULATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 56 of the S.C. Code is amended by adding:

 CHAPTER 36

 Peer‑to‑Peer Car Sharing Act

 Section 56‑36‑10. (A)Where any provision of this chapter conflicts with any other provision of law, the provisions of this chapter will supersede any such conflicting or contradictory provision.

 (B) The provisions of Section 38‑43‑500 and Title 56, Chapter 31, are not applicable to this chapter.

 Section 56‑36‑20. As used in this chapter:

 (1) “Peer‑to‑peer car sharing” means the authorized use of a shared vehicle by an individual other than the vehicle’s owner through a peer‑to‑peer car sharing program pursuant to the provisions of this chapter.

 (2) “Peer‑to‑peer car sharing program” or “program” means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration.

 (3) “Car sharing program agreement” or “agreement” means the terms and conditions that govern the use, duration of time, and location for transfer of possession of a shared vehicle through a peer‑to‑peer car sharing program.

 (4) “Shared vehicle” means a vehicle that is available for sharing through a peer‑to‑peer car sharing program.

 (5) “Shared vehicle driver” means an individual who has been authorized to drive the shared vehicle pursuant to a valid car sharing program agreement.

 (6) “Shared vehicle owner” means the registered owner, or designee of the registered owner, of a shared vehicle.

 (7) “Car sharing delivery period” means the period of time during which a shared vehicle is being delivered to the location for transfer of possession of the shared vehicle pursuant to the agreement.

 (8) “Car sharing period” means the period of time from:

 (a) the car sharing delivery period until the car sharing termination time; or,

 (b) if there is no car sharing delivery period, the car sharing start time until the car sharing termination time.

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

 (10) “Car sharing termination time” means the earliest of the following events:

 (a) the expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement, provided that the shared vehicle is delivered to the location agreed upon in the car sharing agreement;

 (b) when the shared vehicle is returned to a location as alternately agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer‑to‑peer car sharing program, which alternatively agreed upon location shall be incorporated into the car sharing program agreement; or

 (c) when the shared vehicle owner or owner’s designee takes possession and control of the shared vehicle.

 (11) “Applicable taxes” means, with respect to shared vehicles purchased in South Carolina, sales taxes levied under Title 12, Chapter 36 and any tax imposed under authority of Title 4, Chapter 10. With respect to vehicles not purchased in South Carolina, applicable taxes means the sales, use, excise or other tax generally due upon the purchase of a motor vehicle in the jurisdiction in which the shared vehicle was purchased.

 (12) “Peer‑to‑peer car sharing transaction” means the payment of monetary consideration from a shared vehicle driver in exchange for the use of a shared vehicle for peer‑to‑peer car sharing.

 Section 56‑36‑30. (A) Except as provided in subsection (B) a peer‑to‑peer car sharing program shall assume liability of a shared vehicle owner for any death, bodily injury, or property damage to third parties or uninsured motorist losses that are proximately caused by the operation of the shared vehicle during the car sharing period in an amount stated in the peer‑to‑peer car sharing program agreement. That amount shall not be less than that specified in Section 38‑77‑140.

 (B) Notwithstanding the definition of “car sharing termination time” in Section 56‑36‑20, the assumption of liability pursuant to subsection (A) does not apply if:

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

 (2) the shared vehicle driver and shared vehicle owner conspire to have the driver fail to return the shared vehicle, in violation of the agreement.

 (C) Notwithstanding the definition of “car sharing termination time” in Section 56‑36‑20 the assumption of liability under subsection (A) applies to death, bodily injury, and property losses by damaged third parties required by Section 38‑77‑140 and uninsured motorist losses by damaged third parties required by Section 38‑77‑150.

 (D) A peer‑to‑peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are each insured under a motor vehicle insurance policy that provides insurance coverage in amounts not less than the minimum amounts set forth in Section 38‑77‑140; and

 (1) recognizes that the shared vehicle insured under the policy is made available and used through a peer‑to‑peer car sharing program, or

 (2) does not exclude the use of a shared vehicle by a shared vehicle driver.

 (E) The insurance coverage required under subsection (D) may be satisfied by motor vehicle liability insurance maintained by:

 (1) a shared vehicle owner;

 (2) a shared vehicle driver;

 (3) a peer‑to‑peer car sharing program; or

 (4) any combination of a shared vehicle owner, shared vehicle driver, or a peer‑to‑peer car sharing program.

 (F) The insurance described in subsection (E) that is satisfying the insurance requirement of subsection (D) shall be primary during each car sharing period. If a claim occurs in another state with minimum financial responsibility limits higher than those set forth in Section 38‑77‑140, during the car sharing period, the coverage maintained under subsection (E) shall satisfy the difference in minimum coverage amounts, up to the applicable policy limits.

 (G) The insurer or peer‑to‑peer car sharing program providing the coverage under subsection (D) or (E) shall assume primary liability for a claim when:

 (1) a dispute exists regarding who was in control of the shared vehicle at the time of the loss and the peer‑to‑peer car sharing program does not have available, did not retain, or fails to provide the information required by subsection (M) or

 (2) a dispute exists regarding whether the shared vehicle was returned to the alternatively agreed upon location as required under Section 56‑30‑10(b).

 (H) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (E) has lapsed or does not provide the required coverage, insurance maintained by a peer‑to‑peer car sharing program shall provide the coverage required by subsection (D) beginning with the first dollar of a claim and have the duty to defend such claim except under circumstances as set forth in subsection (B).

 (I) Coverage under an automobile insurance policy maintained by the peer‑to‑peer car sharing program shall not be dependent on another automobile insurer first denying a claim nor shall another automobile insurance policy be required to first deny a claim.

 (J) Nothing in this chapter:

 (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 vehicle through a peer‑to‑peer car sharing program; or

 (2) limits the ability of the peer‑to‑peer car sharing program, by contract, to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss resulting from a breach of the car sharing program agreement.

 (K) When a shared vehicle owner registers as a shared vehicle owner with a peer‑to‑peer car sharing program and before the shared vehicle owner makes the shared vehicle available for sharing, the peer‑to‑peer car sharing program shall notify the owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer‑to‑peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

 (L)(1) An authorized insurer that writes motor vehicle liability insurance in this State may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner’s motor vehicle liability insurance policy including but not limited to:

 (a) liability coverage for death, bodily injury, and property damage;

 (b) uninsured and underinsured motorist coverage;

 (c) medical payments coverage;

 (d) comprehensive physical damage coverage; and

 (e) collision physical damage coverage.

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

 (3) Nothing in this chapter invalidates, limits, or restricts an insurer’s ability under existing law to underwrite any insurance policy. Nothing in this chapter invalidates, limits, or restricts an insurer’s ability under existing law to cancel and non‑renew policies.

 (M)(1)(a) A peer‑to‑peer car sharing program shall collect and verify records pertaining to the use of a shared vehicle, including, but not limited to:

 (i) times used;

 (ii) car sharing period pickup and drop off locations;

 (iii) fees paid by the shared vehicle driver; and

 (iv) revenues received by the shared vehicle owner.

 (b) Upon request, the program shall provide that information to facilitate a claim coverage investigation, settlement, negotiation, or litigation to:

 (i) the shared vehicle owner;

 (ii) the shared vehicle owner’s insurer; and

 (iii) the shared vehicle driver’s insurer.

 (2) The peer‑to‑peer car sharing program shall retain the records for no less than the duration of the applicable personal injury statute of limitations.

 (N) A peer‑to‑peer car sharing program and a shared vehicle owner shall be exempt from vicarious liability consistent with 49 U.S.C. § 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

 (O) A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy shall have the right to seek recovery against the motor vehicle insurer of the peer‑to‑peer car sharing program if the claim is:

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

 (2) excluded under the terms of its policy.

 (P)(1) A peer‑to‑peer car sharing program shall have an insurable interest in a shared vehicle during the car sharing period.

 (2) Nothing in this section requires a peer‑to‑peer car sharing program to maintain the coverage mandated by this section.

 (3) A peer‑to‑peer car sharing program may own and maintain as the named insured one or more policies of motor vehicle liability insurance that provides coverage for:

 (a) liabilities assumed by the peer‑to‑peer car sharing program under a peer‑to‑peer car sharing program agreement;

 (b) any liability of the shared vehicle owner;

 (c) damage or loss to the shared motor vehicle; or

 (d) any liability of the shared vehicle driver.

 Section 56‑36‑40. (1) Each car sharing program agreement made in this State shall disclose to the shared vehicle owner and the shared vehicle driver:

 (a) 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 car sharing program agreement;

 (b) that a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared 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;

 (c) that the peer‑to‑peer car sharing program’s insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

 (d) the daily rate, fees, and if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;

 (e) that the shared vehicle owner’s motor vehicle liability insurance may not provide coverage for a shared vehicle;

 (f) an emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries; and

 (g) if there are conditions under which a shared vehicle driver must maintain a personal automobile insurance policy with certain applicable coverage limits on a primary basis in order to book a shared motor vehicle.

 (2)(a) A peer‑to‑peer car sharing program may not enter into a peer‑to‑peer car sharing agreement with a driver unless the driver who will operate the shared vehicle:

 (i) holds a valid driver’s license issued under the provisions of Title 56, Chapter 1, that authorizes the driver to operate vehicles of the class of the shared vehicle; or

 (ii) is a nonresident who:

 (1) is at least the same age as that required of a resident to drive; and

 (2) has a driver’s license issued by the driver’s resident state or country that authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle.

 (b) A peer‑to‑peer car sharing program shall keep record of:

 (i) the name and current address of the shared vehicle driver;

 (ii) the number of the driver’s license of the shared vehicle driver and each other person who will operate the shared vehicle; and

 (iii) the place of issuance of the driver’s license.

 (3) A peer‑to‑peer car sharing program shall have sole responsibility for any equipment, such as a GPS system or other special equipment that is put in or on the vehicle to monitor or facilitate the car sharing transaction and shall agree to indemnify and hold harmless the vehicle owner for any damage to or theft of such equipment during the sharing period not caused by the vehicle owner. The peer‑to‑peer car sharing program has the right to seek indemnity from the shared vehicle driver for any loss or damage to such equipment that occurs during the sharing period.

 (4)(a) When a vehicle owner registers as a shared vehicle owner with a peer‑to‑peer car sharing program and before the shared vehicle owner makes the shared vehicle available on the peer‑to‑peer car sharing program, the peer‑to‑peer car sharing program shall:

 (i) verify that the shared vehicle does not have any safety recalls for which repairs have not been made; and

 (ii) notify the owner of the requirement under subsection (b).

 (b)(i) If the shared vehicle owner has actual notice of a safety recall on the shared vehicle, the shared vehicle owner may not make the shared vehicle available on the peer‑to‑peer car sharing program until the safety recall repair is complete.

 (ii) If a shared vehicle owner receives notice of a safety recall on the shared vehicle while the shared vehicle is available on the peer‑to‑peer car sharing program and in the shared vehicle owner’s possession, the owner shall remove the shared vehicle as available on the peer‑to‑peer car sharing program, as soon as practicably possible after receiving notice and until the safety recall repair is complete.

 (iii) If a shared vehicle owner receives actual notice of a safety recall while the shared vehicle is in the possession of a shared vehicle driver, as soon as practicably possible after receiving notice of the safety recall, the shared vehicle owner shall notify the peer‑to‑peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

 Section 56‑36‑50. A peer‑to‑peer car sharing transaction shall only be a sale that is subject to the sales taxes imposed under Title 12, Chapter 36, and under any tax imposed under the authority of Title 4, Chapter 10, if the peer‑to‑peer car‑sharing transaction involves a shared vehicle upon the purchase of which applicable taxes were not paid.

 Section 56‑36‑60. The Department of Insurance may promulgate regulations necessary to administer and enforce the provisions of this chapter.

SECTION 2. This act takes effect nine months after approval by the Governor.

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