

ASSEMBLY, No. 5092

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 25, 2019

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

SYNOPSIS

Establishes personal vehicle sharing program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing a personal vehicle sharing program and
2 supplementing Title 39 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. As used in P.L. , c. (C.) (pending before the
8 Legislature as this bill):

9 “Owner’s insurance policy” means an automobile liability
10 insurance policy maintained by the private passenger automobile
11 owner pursuant to the provisions of P.L.1972, c.70 (C.39:6A-1 et
12 seq.).

13 “Personal vehicle sharing program” or “program” means a legal
14 entity qualified to do business in this State engaged in the business
15 of facilitating the sharing of a private passenger automobile for
16 noncommercial use by an individual within this State.

17 “Private passenger automobile” or “automobile” means a four-
18 wheel passenger motor vehicle insured under an automobile liability
19 insurance policy covering the named insured or individuals residing
20 in the same household as the named insured.

21 “Program insurance policy” means an automobile liability
22 insurance policy that is obtained by the personal vehicle sharing
23 program and shall include all coverages needed to comply with
24 P.L.1972, c.70 (C.39:6A-1 et seq.), and the following optional
25 coverages: comprehensive property damage coverage for the
26 automobile; or collision property damage coverage for the
27 automobile.

28

29 2. For each use of a private passenger automobile that a
30 personal vehicle sharing program facilitates through the personal
31 vehicle sharing program, the program shall:

32 a. provide a program insurance policy with coverage for the
33 automobile and all persons who, with the consent of the program,
34 control the automobile pursuant to the program. The limits for any
35 coverage included in the program insurance policy shall not provide
36 liability coverage that is less than three times the minimum
37 insurance requirements for private passenger automobiles and shall
38 not provide collision or comprehensive coverage that is less than
39 the actual cash value of the vehicle;

40 b. provide the automobile’s registered owner with proof of
41 compliance with the insurance requirements of P.L. , c. (C.)
42 (pending before the Legislature as this bill);

43 c. collect, maintain, and make available to the automobile’s
44 registered owner, the owner’s primary automobile liability insurer,
45 and to any government agency as required by law, at the cost of the
46 personal vehicle sharing program, verifiable electronic records that
47 identify the date, time, initial, and final locations of the automobile,
48 miles driven when the automobile is under the control of a person

1 other than the automobile's registered owner pursuant to a personal
2 vehicle sharing program, and any information concerning damages
3 or injuries arising out of a personal vehicle sharing program;

4 d. not knowingly permit the automobile to be operated as a
5 commercial vehicle, as defined pursuant to section 3 of P.L.1990,
6 c.103 (C.39:3-10.11), by a personal vehicle sharing program
7 participant while engaged in personal vehicle sharing;

8 e. ensure that the vehicle is a private passenger automobile;
9 and

10 f. facilitate the installation, operation, and maintenance of
11 signage and computer hardware and software necessary for the
12 automobile to be used in the program, including payment of the cost
13 of damage or theft of that equipment and any damage caused to the
14 automobile by the installation, operation, and maintenance of that
15 equipment.

16

17 3. a. Notwithstanding any law, rule, or regulation, or any
18 provision in an owner's insurance policy to the contrary, in the
19 event of a loss or injury that occurs during any time period when
20 the automobile is under the operation and control of a person, other
21 than the automobile's owner, pursuant to a personal vehicle sharing
22 program, or otherwise under the control of a personal vehicle
23 sharing program, the personal vehicle sharing program shall assume
24 all liability and shall be considered the owner of the automobile for
25 all purposes. Nothing in this section shall limit the liability of the
26 personal vehicle sharing program for its acts or omissions that result
27 in injury to any person as a result of the use or operation of a
28 personal vehicle sharing program.

29 b. A personal vehicle sharing program shall continue to be held
30 liable pursuant to this section until both of the following occur:

31 (1) the private passenger automobile is returned to a location
32 designated by the personal vehicle sharing program; and

33 (2) the earliest of one of the following occurs:

34 (a) the expiration of the time period established for the
35 particular use of the automobile;

36 (b) the intent to terminate the personal vehicle sharing use is
37 verifiably communicated to the personal vehicle sharing program;
38 or

39 (c) the automobile's owner takes possession and control of the
40 automobile.

41 c. The personal vehicle sharing program shall assume liability
42 for a claim in which a dispute exists as to who was in control of the
43 automobile when the loss occurred giving rise to the claim, and the
44 owner's insurance policy shall indemnify the personal vehicle
45 sharing program to the extent of its obligation under the applicable
46 insurance policy, if it is determined that the automobile's owner
47 was in control of the vehicle at the time of the loss.

1 d. If an automobile's registered owner is named as a defendant
2 in a civil action for any loss or injury that occurs at any time when
3 the automobile is under the operation and control of a person, other
4 than the automobile's registered owner, pursuant to a personal
5 vehicle sharing program, or is otherwise under the control of a
6 personal vehicle sharing program, the program shall have the duty
7 to defend and indemnify the automobile's registered owner.

8
9 4. a. Notwithstanding any provision in the owner's insurance
10 policy to the contrary, while the automobile is under the operation
11 and control of a person, other than the automobile's registered
12 owner, pursuant to a personal vehicle sharing program, or is
13 otherwise under the control of a personal vehicle sharing program:

14 (1) the insurer of the automobile may exclude any and all
15 coverage afforded under the owner's insurance policy; and

16 (2) a primary or excess insurer of the owners, operators, or
17 maintainers of the automobile may notify an insured that the insurer
18 has no duty to defend or indemnify any person or organization for
19 liability for any loss that occurs during the use of the automobile
20 pursuant to a personal vehicle sharing program.

21 b. An owner's insurance policy may not be cancelled, voided,
22 terminated, rescinded, or nonrenewed solely on the basis that the
23 automobile has been made available for personal vehicle sharing
24 pursuant to a personal vehicle sharing program that is in compliance
25 with P.L. , c. (C.) (pending before the Legislature as this
26 bill).

27
28 5. A private passenger automobile insured by the vehicle's
29 registered owner under the owner's insurance policy shall not be
30 classified as a commercial motor vehicle, for-hire motor vehicle,
31 permissive use motor vehicle, or autocab, limousine, or livery
32 vehicle solely because the automobile's registered owner allows the
33 automobile to be used for personal vehicle sharing if:

34 a. the personal vehicle sharing is conducted under a personal
35 vehicle sharing program; and

36 b. the annual revenue received by the automobile's registered
37 owner that was generated by the personal vehicle sharing does not
38 exceed the annual expenses of owning and operating the vehicle,
39 including depreciation, interest, lease payments, motor vehicle loan
40 payments, insurance, maintenance, parking, fuel, cleaning,
41 automobile repair, and costs associated with personal vehicle
42 sharing, including but not limited to the installation, operation, and
43 maintenance of computer hardware and software, signage
44 identifying the automobile as a personal vehicle sharing vehicle,
45 and any fees charged by a personal vehicle sharing program.

46
47 6. This act shall take effect immediately.

STATEMENT

This bill establishes a personal vehicle sharing program in this State. For each use of a private passenger automobile that a personal vehicle sharing program facilitates through the personal vehicle sharing program, the program is to:

1) provide a program insurance policy with coverage for the automobile and all persons who, with the consent of the program, control the automobile pursuant to the program. The limits for any coverage included in the program insurance policy is to not provide liability coverage that is less than three times the minimum insurance requirements for private passenger automobiles and is to not provide collision or comprehensive coverage that is less than the actual cash value of the vehicle;

2) provide the automobile's registered owner with proof of compliance with the insurance requirements of this bill;

3) collect, maintain, and make available to the automobile's registered owner, the owner's primary automobile liability insurer, and to any government agency as required by law, at the cost of the personal vehicle sharing program, verifiable electronic records that identify the date, time, initial, and final locations of the automobile, miles driven when the automobile is under the control of a person other than the automobile's registered owner pursuant to a personal vehicle sharing program, and any information concerning damages or injuries arising out of a personal vehicle sharing program;

4) not knowingly permit the automobile to be operated as a commercial vehicle, as defined pursuant to law, by a personal vehicle sharing program participant while engaged in personal vehicle sharing;

5) ensure that the vehicle is a private passenger automobile; and

6) facilitate the installation, operation, and maintenance of signage and computer hardware and software necessary for the automobile to be used in the program, including payment of the cost of damage or theft of that equipment and any damage caused to the automobile by the installation, operation, and maintenance of that equipment.

This bill provides that, notwithstanding any law, rule, or regulation to the contrary, or any provision in an owner's insurance policy, in the event of a loss or injury that occurs during any time period when the automobile is under the operation and control of a person, other than the automobile's owner, pursuant to a personal vehicle sharing program, or otherwise under the control of a personal vehicle sharing program, the personal vehicle sharing program is to assume all liability of the owner and is to be considered the owner of the automobile for all purposes. Nothing in this bill shall limit the liability of the personal vehicle sharing program for its acts or omissions that result in injury to any person

1 as a result of the use or operation of a personal vehicle sharing
2 program.

3 This bill further provides that a personal vehicle sharing program
4 is to continue to be liable until the private passenger automobile is
5 returned to a location designated by the personal vehicle sharing
6 program and the earliest of one of the following occurs:

7 1) the expiration of the time period established for the
8 particular use of the automobile;

9 2) the intent to terminate the personal vehicle sharing use is
10 verifiably communicated to the personal vehicle sharing program;
11 or

12 3) the automobile's owner takes possession and control of the
13 automobile.

14 The personal vehicle sharing program is to assume liability for a
15 claim in which a dispute exists as to who was in control of the
16 automobile when the loss occurred giving rise to the claim, and the
17 owner's insurance policy is to indemnify the personal vehicle
18 sharing program to the extent of its obligation under the applicable
19 insurance policy, if it is determined that the automobile's owner
20 was in control of the vehicle at the time of the loss.

21 The bill states that if an automobile's registered owner is named
22 as a defendant in a civil action for any loss or injury that occurs at
23 any time when the automobile is under the operation and control of
24 a person, other than the automobile's registered owner, pursuant to
25 a personal vehicle sharing program, or is otherwise under the
26 control of a personal vehicle sharing program, the program is to
27 have the duty to defend and indemnify the automobile's registered
28 owner.

29 Notwithstanding any provision in the owner's insurance policy,
30 while the automobile is under the operation and control of a person,
31 other than the automobile's registered owner, pursuant to a personal
32 vehicle sharing program, or is otherwise under the control of a
33 personal vehicle sharing program the insurer of the automobile may
34 exclude any and all coverage afforded under the owner's insurance
35 policy; and a primary or excess insurer of the owners, operators, or
36 maintainers of the automobile may notify an insured that the insurer
37 has no duty to defend or indemnify any person or organization for
38 liability for any loss that occurs during the use of the automobile
39 pursuant to a personal vehicle sharing program.

40 The bill provides that an owner's insurance policy may not be
41 cancelled, voided, terminated, rescinded, or nonrenewed solely on
42 the basis that the automobile has been made available for personal
43 vehicle sharing pursuant to a personal vehicle sharing program that
44 is in compliance with the provisions of this bill.

45 Lastly, this bill provides that a private passenger automobile
46 insured by the vehicle's registered owner under the owner's
47 insurance policy shall not be classified as a commercial motor
48 vehicle, for-hire motor vehicle, permissive use motor vehicle, or

1 autocab, limousine, or livery vehicle solely because the
2 automobile's registered owner allows the automobile to be used for
3 personal vehicle sharing if the personal vehicle sharing is conducted
4 under a personal vehicle sharing program and the annual revenue
5 received by the automobile's registered owner that was generated
6 by the personal vehicle sharing does not exceed the annual expenses
7 of owning and operating the vehicle, including depreciation,
8 interest, lease payments, motor vehicle loan payments, insurance,
9 maintenance, parking, fuel, cleaning, automobile repair, and costs
10 associated with personal vehicle sharing, including but not limited
11 to the installation, operation, and maintenance of computer
12 hardware and software, signage identifying the automobile as a
13 personal vehicle sharing vehicle and any fees charged by a personal
14 vehicle sharing program.