

Enrolled
House Bill 3149

Sponsored by Representative CANNON, Senator EDWARDS; Representatives BAILEY, DOHERTY, HOYLE, KOMP, Senator DINGFELDER

CHAPTER

AN ACT

Relating to personal vehicle sharing.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 5 of this 2011 Act are added to and made a part of the Insurance Code.

SECTION 2. As used in sections 2 to 5 of this 2011 Act:

(1) "Owner's insurance policy" means a private passenger motor vehicle liability insurance policy that includes:

(a) All coverage necessary to comply with the financial or future responsibility requirements of ORS chapter 806;

(b) The personal injury protection coverage required under ORS 742.518 to 742.542;

(c) The uninsured motorist coverage required under ORS 742.500 to 742.506; and

(d) Any optional coverage selected by the owner.

(2) "Personal vehicle sharing" means the use of a private passenger motor vehicle by persons other than the vehicle's registered owner in connection with a personal vehicle sharing program.

(3) "Personal vehicle sharing program" means a legal entity qualified to do business in this state engaged in the business of facilitating the sharing of private passenger motor vehicles for noncommercial use by individuals within this state.

(4) "Private passenger motor vehicle" means a four-wheel passenger or station wagon type motor vehicle insured under a motor vehicle liability insurance policy covering a single individual or individuals residing in the same household as the named insured.

(5) "Program insurance policy" means a motor vehicle liability insurance policy that is obtained by the personal vehicle sharing program and that:

(a) Includes all coverage needed to comply with the financial or future responsibility requirements of ORS chapter 806;

(b) Includes the personal injury protection coverage required under ORS 742.518 to 742.542;

(c) Includes the uninsured motorist coverage required under ORS 742.500 to 742.506;

(d) Includes comprehensive property damage coverage for the vehicle;

(e) Includes collision property damage coverage for the vehicle; and

(f) Does not include any other optional coverage selected by the owner of the vehicle and included in the owner's insurance policy.

SECTION 3. For each vehicle that the program facilitates the use of, a personal vehicle sharing program shall:

(1) Provide a program insurance policy with coverage for the vehicle, the designated operator of the vehicle and all persons who, with the consent of the named insured, use the motor vehicle insured under the policy. The limits for any coverage included in the program insurance policy that is also included in the owner's insurance policy must be equal to or greater than the coverage limits provided in the owner's insurance policy, as reported to the program by the owner. However, the program may not provide liability coverage that is less than three times the limits specified in ORS 806.070.

(2) Provide the vehicle's registered owner with a proof of compliance with the insurance requirements of this section and the financial or future responsibility requirements of ORS chapter 806, a copy of which must be maintained in the vehicle by the vehicle's registered owner at all times when the vehicle is operated by any person other than the vehicle's registered owner pursuant to the program.

(3) Collect, maintain and make available to the vehicle's registered owner, the vehicle's registered owner's primary motor vehicle liability insurer and any government agency as required by law, at the cost of the program:

(a) Verifiable electronic records that identify the date and time, initial and final locations of the vehicle and miles driven when the vehicle is under the control of a person other than the vehicle's registered owner pursuant to the program; and

(b) Any information concerning damages or injuries arising out of personal vehicle sharing pursuant to the program.

(4) Not knowingly permit the vehicle to be operated as a commercial vehicle by a personal vehicle sharing user while engaged in personal vehicle sharing. For the purposes of this subsection, "commercial vehicle" has the meaning given that term in ORS 826.001.

(5) Ensure that the vehicle is a private passenger motor vehicle.

(6) Facilitate the installation, operation and maintenance of signage and computer hardware and software necessary for the vehicle to be used in the program.

(7) Indemnify the vehicle's registered owner for the cost of damage or theft of equipment installed under subsection (6) of this section and any damage caused to the vehicle by the installation, operation or maintenance of the equipment.

(8) Provide the vehicle's registered owner and any person operating the vehicle pursuant to the program with a disclosure that contains information explaining the requirements of this section.

SECTION 4. (1) Notwithstanding any provision in the owner's insurance policy and notwithstanding ORS chapters 742, 806, 822 and 825 and ORS 30.010 to 30.100, 30.135, 30.480 and 30.485, in the event of any loss or injury that occurs at any time when the vehicle is under the operation and control of a person, other than the vehicle's registered owner, pursuant to a personal vehicle sharing program, or is otherwise under the control of a personal vehicle sharing program, the program shall assume all liability of the vehicle owner and shall be considered the vehicle owner for all purposes.

(2) Nothing in subsection (1) of this section:

(a) Limits the liability of a personal vehicle sharing program for any acts or omissions by the program that result in injury to any persons as a result of the use or operation of the program; or

(b) Limits the ability of the personal vehicle sharing program to, by contract, seek indemnification from the vehicle's registered owner for any claims paid by the personal vehicle sharing program for any loss or injury resulting from fraud or material misrepresentation in the maintenance of the vehicle by the vehicle's registered owner.

(3) A personal vehicle sharing program continues to be liable under subsection (1) of this section until:

(a) The vehicle is returned to a location designated by the program; and

(b)(A) The expiration of the time period established for the vehicle occurs;
(B) The intent to terminate the vehicle's personal vehicle sharing use is verifiably communicated to the program; or

(C) The vehicle's registered owner takes possession and control of the vehicle.

(4)(a) A personal vehicle sharing program shall assume liability for a claim in which a dispute exists as to who was in control of a private passenger motor vehicle when the loss giving rise to the claim occurred.

(b) The insurer of the vehicle shall indemnify the program to the extent of the insurer's obligation under the owner's insurance policy, if it is determined that the vehicle's registered owner was in control of the vehicle at the time of the loss.

(5) If a private passenger motor vehicle's registered owner is named as a defendant in a civil action for any loss or injury that occurs at any time when the vehicle is under the operation and control of a person, other than the vehicle's registered owner, pursuant to a personal vehicle sharing program, or is otherwise under the control of a personal vehicle sharing program, the program shall have the duty to defend and indemnify the vehicle's registered owner.

(6) Notwithstanding any provision in the owner's insurance policy, while the vehicle is under the operation and control of a person, other than the vehicle's registered owner, pursuant to a personal vehicle sharing program, or is otherwise under the control of a personal vehicle sharing program:

(a) The insurer of the vehicle on file with the Department of Transportation may exclude any and all coverage afforded under the insurer's policy; and

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

(7) An owner's insurance policy for a private passenger motor vehicle may not be canceled, voided, terminated, rescinded or nonrenewed solely on the basis that the vehicle has been made available for personal vehicle sharing pursuant to a personal vehicle sharing program that is in compliance with the provisions of sections 2 to 5 of this 2011 Act.

SECTION 5. A private passenger motor vehicle insured by the vehicle's registered owner under an owner's insurance policy may not be classified as a commercial motor vehicle, for-hire motor vehicle, permissive use motor vehicle or livery solely because the vehicle's registered owner allows the vehicle to be used for personal vehicle sharing if:

(1) The personal vehicle sharing is conducted under a personal vehicle sharing program.

(2) The annual revenue received by the vehicle's registered owner that was generated by the personal vehicle sharing does not exceed the annual expenses of owning and operating the vehicle, including depreciation, interest, lease payments, motor vehicle loan payments, insurance, maintenance, parking, fuel, cleaning, automobile repair and costs associated with personal vehicle sharing, including but not limited to the installation, operation and maintenance of computer hardware and software, signage identifying the vehicle as a personal vehicle sharing vehicle and any fees charged by a personal vehicle sharing program.

SECTION 6. Sections 2 to 5 of this 2011 Act apply to insurance policies issued or renewed on or after the effective date of this 2011 Act.

Passed by House March 21, 2011

Repassed by House June 8, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate June 6, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State