

1 SB224
2 195999-2
3 By Senator Waggoner
4 RFD: Transportation and Energy
5 First Read: 03-APR-19

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8 SYNOPSIS: Under existing law, motor vehicle rentals
9 and leases are subject to insurance, taxation, and
10 licensing requirements and obligations.

11 This bill would provide that private
12 passenger automobiles and pickup trucks are subject
13 to those same insurance, taxation, and licensing
14 requirements and obligations when used as a rental
15 vehicle in a private motor vehicle rental program.

16 This bill would also provide liability and
17 property and casualty insurance coverage
18 requirements for a private motor vehicle rental
19 program and program provider.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 Relating to motor vehicle rentals; to provide that
26 private motor vehicle rentals are subject to all insurance,
27 taxation, and licensing laws and rules relating to the rental

1 of motor vehicles; and to provide for insurance requirements
2 for the rental of such vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. (a) As used in this act, the following
5 terms shall have the following meanings:

6 (1) GROUP POLICY. An insurance policy issued
7 pursuant to Section 3.

8 (2) MOTOR VEHICLE. A motor vehicle, as defined by
9 Section 32-1-1.1, Code of Alabama 1975, that has a gross
10 weight rating of ten thousand pounds or less and is not used
11 for the commercial delivery or transportation of goods or
12 materials.

13 (3) PERSON. An individual, corporation, a limited
14 liability company, a limited partnership, a limited liability
15 partnership, a partnership, an association, or a similar
16 entity or any combination of the foregoing acting in concert.

17 (4) PRIVATE MOTOR VEHICLE or VEHICLE. A motor
18 vehicle, owned by or leased to a person and registered to the
19 same person, that is insured, or subject to being insured,
20 under a personal automobile liability insurance policy
21 insuring a single individual or individuals residing in the
22 same household, as the named insured, but does not include a
23 motor vehicle with three or less wheels.

24 (5) PRIVATE MOTOR VEHICLE RENTAL. The use of a
25 private motor vehicle by an individual other than the
26 registrant, in connection with a private motor vehicle rental
27 program.

1 (6) PRIVATE MOTOR VEHICLE RENTAL PROGRAM or RENTAL
2 PROGRAM. Any means, digital or otherwise, by which a private
3 motor vehicle rental is facilitated by a private motor vehicle
4 rental program provider.

5 (7) PRIVATE MOTOR VEHICLE RENTAL PROGRAM PROVIDER or
6 PROGRAM PROVIDER. The person who is responsible for operating,
7 facilitating, or administering the private motor vehicle
8 rental program.

9 (8) PRIVATE MOTOR VEHICLE RENTAL OWNER or OWNER. The
10 registrant or registrants of a private motor vehicle available
11 for rent through a private motor vehicle rental program.

12 (9) PRIVATE MOTOR VEHICLE RENTER or RENTER. An
13 individual, other than the private motor vehicle rental owner,
14 who rents the owner's vehicle through a private motor vehicle
15 rental program.

16 (10) PROGRAM RENTAL PERIOD or RENTAL PERIOD. The
17 period of time when a renter takes possession and control of a
18 vehicle available for private vehicle rental, including the
19 period of time when the vehicle becomes under the control of
20 the program provider and continuing until both of the
21 following conditions are met:

22 a. The vehicle is returned or retrieved under any of
23 the following conditions:

24 1. Retrieved by the owner or the owner's designee.

25 2. Returned to a location agreed upon by the owner
26 and the renter.

1 3. Returned to a location designated by the program
2 provider.

3 b. One of the following occurs:

4 1. The time period established through the rental
5 program expires.

6 2. The renter communicates in writing to the program
7 provider or owner that the rental period is terminated.

8 3. The program provider or owner takes possession
9 and control of the vehicle.

10 (11) REGISTRANT. A vehicle owner or operator who is
11 issued a registration for a motor vehicle.

12 Section 2. (a) In addition to any other requirements
13 provided in this act, private motor vehicle rentals are
14 subject to all laws and rules relating to the rental of motor
15 vehicles, including, but not limited to, insurance, license,
16 and tax requirements and obligations, including, but not
17 limited to, the requirements of Article 4, commencing with
18 Section 40-12-220, of Chapter 12 of Title 40, Code of Alabama
19 1975; and any and all municipal and county insurance, license,
20 and tax requirements and obligations.

21 (b) A private motor vehicle rental program provider
22 that operates, facilitates, or administers a private motor
23 vehicle rental program shall be deemed to be engaging or
24 continuing within this state in the business of leasing or
25 renting motor vehicles. The program provider shall be
26 responsible for remitting the privilege or license tax levied
27 under Section 40-12-222, Code of Alabama 1975, for the gross

1 proceeds derived by the program provider for the lease or
2 rental of motor vehicles under this act and registering with
3 the Department of Revenue as a private motor vehicle rental
4 program provider.

5 (c) For purposes of the ad valorem tax assessment
6 rate under Section 40-8-1, Code of Alabama 1975, every private
7 motor vehicle that is used in a private motor vehicle rental
8 program for a private motor vehicle rental shall be assessed
9 as Class II property. A program provider shall maintain for a
10 period of three years approved documentation that every
11 private motor vehicle used in the program provider's private
12 motor vehicle rental program has been assessed and taxed as
13 Class II property and upon request by the Department of
14 Revenue, the program provider shall provide such documentation
15 to the department. Failure to provide the documentation when
16 requested may result in revocation of the program provider's
17 authority to operate in this state for a period up to three
18 years. If a private motor vehicle in the program provider's
19 rental program is not assessed and taxed as Class II property,
20 the program provider is liable for any differential.

21 (d) Nothing in this act shall prohibit an airport
22 from charging a program provider a fee or prohibit an airport
23 from requiring a program provider to enter into an airport
24 concession agreement prior to operating a private motor
25 vehicle rental program on the property of the airport.

26 Section 3. (a) (1) A program provider, during the
27 rental period for a vehicle engaged in a private motor vehicle

1 rental facilitated by the program provider, shall procure
2 group insurance coverage. The group policy, at a minimum,
3 shall provide primary automobile liability insurance at least
4 equal to the minimum financial responsibility requirements for
5 personal passenger motor vehicles required under Chapter 7 of
6 Title 32, Code of Alabama 1975. The insurance shall be for the
7 driver and authorized occupants of the vehicle.

8 (2) Insurance required by this subsection may only
9 be placed with an insurer licensed under state law or with a
10 surplus lines insurer eligible under state law that has a
11 credit rating of no less than A- from A.M. Best or A from
12 Demotech or a similar rating from another rating agency
13 recognized by the Department of Insurance.

14 (3) The rate charged by an insurer for a group
15 policy issued under this section shall be filed with the
16 Department of Insurance on a file and use basis.

17 (4) An insurer that issues a group policy under this
18 section, when issuing the policy, shall identify the private
19 motor vehicle rental program and program provider as the named
20 insureds. The policy shall provide coverage, without requiring
21 prior notice to the insurer, for all private motor vehicles
22 during the rental period. The policy shall provide that the
23 vehicles' renters and authorized or permissive operators and
24 occupants are included as insureds under the policy to the
25 same extent as insureds under a private passenger motor
26 vehicle policy.

1 (b) A program provider may offer or sell insurance
2 in connection with the use of a vehicle in the private motor
3 vehicle rental program only if the program provider is
4 licensed pursuant to Section 27-7-5.1, Code of Alabama 1975.

5 (c) A program provider shall provide the registered
6 owner of a vehicle engaged in private vehicle rental that was
7 facilitated by the provider with suitable proof of compliance
8 with the insurance requirements of this section. Proof of
9 insurance coverage satisfying this section and the
10 requirements of Chapter 7 of Title 32, Code of Alabama 1975,
11 shall be maintained in the vehicle by the owner or made
12 available in an electronic form to the renter while the
13 vehicle is operated by the renter, or any person other than
14 the owner, pursuant to a private motor vehicle rental program.

15 (d) A vehicle may not be operated for commercial use
16 or as a vehicle for hire by a renter while engaged in a
17 private motor vehicle rental.

18 (e) For each rental transaction under a private
19 motor vehicle rental program, the program provider shall
20 provide each renter with all of the following:

21 (1) Access to an insurance identification card
22 approved for use by the state in which the vehicle is
23 registered, or other documentation that is able to be carried
24 in the vehicle or electronically accessible by the renter at
25 all times during the rental period and proves the insurance
26 coverage required under subsection (a) is in full force and
27 effect.

1 (2) The means, via a toll free number, email
2 address, or other form of communication, with a law
3 enforcement officer or other officer of the state, to confirm
4 in real time that the insurance coverage required under
5 subsection (a) is in full force and effect.

6 (f) Every vehicle used in a private motor vehicle
7 rental program shall be a private motor vehicle. A violation
8 of this subsection may result in the suspension or termination
9 of a private motor vehicle program provider's privilege to
10 conduct business in this state for a period up to three years
11 or a fine of not more than one thousand dollars (\$1,000), or
12 both.

13 (g) (1) Every private motor vehicle program provider
14 shall facilitate the installation, operation, and maintenance
15 of its own signage and computer hardware and software to the
16 extent necessary for the vehicle to be used in its private
17 motor vehicle rental program.

18 (2) Every private motor vehicle program provider
19 shall indemnify and hold harmless the owner of a vehicle used
20 in the program provider's rental program for the cost of
21 damage or theft of equipment installed by the program provider
22 under subdivision (1) for any damage caused to the vehicle by
23 the installation, operation, or maintenance of the equipment.

24 (h) Every private motor vehicle program provider, at
25 the cost of program provider, shall collect from the owner,
26 maintain, and make available, to any government agency as
27 required by law, all of the following:

1 a. The primary motor vehicle liability insurer of
2 each vehicle in the program provider's rental program.

3 b. The primary automobile, excess, or umbrella
4 insurer of each renter in the program provider's rental
5 program.

6 c. The following information pertaining to any
7 incidents that occurred during the rental period:

8 1. Verifiable records of the rental period for the
9 vehicle, and, to the extent possible, verifiable electronic
10 records of the time, initial and final locations of the
11 vehicle, and miles driven.

12 2. In instances where an insurance claim has been
13 filed with a group insurer, any and all information relevant
14 to the claim, including payments by the program provider
15 concerning accidents, damages, and injuries.

16 (i) Every private motor vehicle program provider,
17 prior to the first use or operation of a private motor vehicle
18 pursuant to enrollment in a private motor vehicle program,
19 shall give notice to owners and renters in the rental program
20 of both of the following:

21 a. That during the rental period, the owner's
22 insurer may exclude any and all coverage afforded to its
23 policy and that the owner's insurer may notify the insured
24 that it has no duty to defend or indemnify any person or
25 organization for liability for any loss that occurs during the
26 rental period.

1 b. That the group policy and physical damage
2 coverage contract may not provide coverage outside of the
3 rental period.

4 (j) (1) Any notice or disclosure required to be
5 provided or otherwise made available by a program provider
6 shall be deemed to be timely and effectively made when the
7 notice or disclosure is provided or delivered electronically
8 at or before the time required by a master or member agreement
9 in effect at the time of the rental. For purposes of this act,
10 the term master or member agreement includes, but is not
11 limited to, any of the following:

12 a. A service offered by a program provider that
13 allows customers to bypass a retail service location and
14 obtain a product or service directly.

15 b. A service where a program provider does not
16 require the renter to execute a rental agreement at the time
17 of the rental.

18 c. A service where the renter does not receive the
19 rental terms and conditions at the time of the rental.

20 (2) Electronic or written acceptance is a valid form
21 of acceptance of any notice or disclosure performed under this
22 act, and acceptance is effective until the acceptance is
23 affirmatively withdrawn by the renter.

24 (3) Any notice or disclosure made under this act is
25 exempt from any placement or stylistic display requirements,
26 including, but not limited to, location, font size, typeset,
27 or other specifically stated description; provided, however,

1 that the notice or disclosure is generally consistent in
2 appearance with the entirety of the communication in which it
3 is contained.

4 (4) If a program provider facilitates a rental
5 through digital, electronic, or other means that allows a
6 customer to obtain possession of a private motor vehicle
7 without in-person contact with an agent or employee of the
8 program provider, or where the renter does not execute a
9 rental contract at the time of the rental, the program
10 provider shall be deemed to have met all obligations to
11 physically inspect a renter's driver's license under either of
12 the following circumstances:

13 a. At the time of enrollment in the rental program,
14 or anytime thereafter, the master or member agreement, or
15 other means of establishing the use of the program provider's
16 services, requires verification that the renter is a licensed
17 driver.

18 b. Prior to the renter taking possession of the
19 rental vehicle, the program provider verifies the renter's
20 identity.

21 Section 4. (a) Notwithstanding any provision of law
22 to the contrary, in the event of a loss or injury that occurs
23 during the rental period or while the private motor vehicle is
24 otherwise under the control of a private vehicle rental
25 program provider, the program provider shall be deemed the
26 owner of the vehicle for all purposes, including liability.
27 The program provider shall retain such liability under all

1 circumstances, regardless of the existence of a lapse in the
2 group policy or any insurance policy under which the program
3 provider is insured or whether the liability is covered under
4 the group policy or any insurance policy under which the
5 program provider is insured.

6 (b) A program provider's group insurance policy
7 shall provide coverage during the rental period for an owner's
8 private motor vehicle.

9 (c) When a dispute exists between the renter, rental
10 program provider, and owner regarding who was in control of
11 the vehicle when a loss occurs giving rise to a claim, the
12 insurer providing group liability insurance to the private
13 motor vehicle rental program pursuant to subsection (a) of
14 Section 4 and group physical damage insurance to the private
15 motor vehicle rental program pursuant to subsection (d) of
16 Section 4 shall assume liability for the claim. The rental
17 program shall notify the owner's private motor vehicle insurer
18 of any dispute under this subsection within 10 business days
19 of becoming aware that the dispute exists.

20 (d) If the owner of a vehicle, or its insurer, is
21 named as a defendant in a civil action for a loss or injury
22 that occurs during any time within the rental period, or
23 otherwise under the control of a private motor vehicle rental
24 program, the rental program's group liability insurance
25 insurer, pursuant to subsection (a) of Section 4, shall have
26 the duty to defend and indemnify the owner and the owner's

1 insurer, subject to the provisions of subsection (c) of this
2 section.

3 (e) When a private motor vehicle is used by a person
4 other than its owner pursuant to a private motor vehicle
5 rental facilitated through a private motor vehicle rental
6 program, all of the following shall apply:

7 (1) The insurer of the vehicle's owner may exclude
8 any and all coverage for liability, uninsured, underinsured,
9 collision physical damage and comprehensive physical damage
10 benefits, and first-party benefits that may otherwise be
11 afforded pursuant to its policy.

12 (2) The primary and excess insurer or insurers of
13 the owner of the vehicle used in the rental program may notify
14 the insured that it has no duty to defend or indemnify any
15 person or organization for liability for any loss that occurs
16 during the rental period of the vehicle in the rental program.

17 (f) No private contract or policy may diminish the
18 automobile insurance requirements under this act.

19 Section 5. (a) A program provider shall do all of
20 the following:

21 (1) Verify that each private motor vehicle used in
22 the program provider's rental program does not have a safety
23 recall issued for the vehicle, or, if a safety recall has been
24 issued for a vehicle, verify that any necessary repairs
25 associated with the safety recall have been made.

1 (2) Notify the owner of each private motor vehicle
2 used in the program provider's rental program of the
3 requirements of subdivision (1).

4 (b) If the owner of a private motor vehicle used in
5 the program provider's rental program has received an actual
6 notice of a safety recall on the private motor vehicle, the
7 private motor vehicle may not be used in the rental program
8 until the safety recall repair has been made.

9 (c) If a private motor vehicle is being used by a
10 renter in a program provider's rental program and the program
11 provider or owner of the private motor vehicle receives actual
12 notice of a safety recall on the vehicle, the program provider
13 shall remove the vehicle from participation in the program as
14 soon as practicable, but no later than 72 hours after receipt
15 of the notice. The program provider may not allow the vehicle
16 to be used in the rental program until the safety recall
17 repair has been made.

18 Section 6. The Department of Insurance and the
19 Department of Revenue may adopt rules necessary for the
20 implementation and administration of this act.

21 Section 7. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.