

SB232 INTRODUCED



1 LHK2AA-1
2 By Senator Elliott
3 RFD: Finance and Taxation General Fund
4 First Read: 20-Apr-23
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4 SYNOPSIS:

5 This bill would authorize peer-to-peer car
6 sharing programs, which are business platforms that
7 connect vehicle owners with drivers, to enable the
8 sharing of vehicles for financial consideration in this
9 state.

10 This bill would provide requirements for the
11 operation of a peer-to-peer car sharing program,
12 including insurance requirements, notification
13 requirements, record keeping and reporting
14 requirements, liability requirements, consumer
15 protection disclosure requirements, and safety recall
16 requirements.

17 This bill would also provide that lessors of
18 vehicles used in peer-to-peer car sharing in the state
19 who have paid taxes due upon purchase of the vehicle in
20 the jurisdiction where it was purchased shall not be
21 subject to privilege or license taxes on gross proceeds
22 of vehicle rental or leasing.

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25 A BILL
26 TO BE ENTITLED
27 AN ACT
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SB232 INTRODUCED

Relating to motor vehicles; establishing the Peer-to-Peer Car Sharing Program Act; to provide for the operation of peer-to-peer car sharing programs in the state; and to amend Section 40-12-222, Code of Alabama 1975, to exclude lessors of peer-to-peer car sharing vehicles from liability for certain taxes on the proceeds of vehicle rental and leasing.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This section shall be known and may be cited as the Peer-to-Peer Car Sharing Program Act.

Section 2. As used in this section, the following words have the following meanings:

(1) CAR SHARING DELIVERY PERIOD or DELIVERY PERIOD. The period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement.

(2) CAR SHARING PERIOD or SHARING PERIOD. The period of time that commences with the car sharing delivery period or, if there is no car sharing delivery period, that commences with the car sharing start time and, in either case, ends at the car sharing termination time.

(3) CAR SHARING START TIME or START TIME. 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.

(4) CAR SHARING TERMINATION TIME or TERMINATION TIME.



SB232 INTRODUCED

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, if the shared vehicle is delivered to the agreed upon location in the car sharing program agreement.

b. When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and the 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.

c. When the shared vehicle owner, or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle.

(5) PEER-TO-PEER CAR SHARING or SHARING. The authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program. The term does not include a rental or leasing transaction of tangible personal property which is subject to Article 4 of Chapter 12 of Title 40, Code of Alabama 1975, except as provided by Section 40-12-222(a)(2), Code of Alabama 1975.

(6) PEER-TO-PEER CAR SHARING PROGRAM. A business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. The term does not include any of the following:

a. A person engaging or continuing within this state in the business of leasing or renting any automotive vehicle or truck trailer, semitrailer, or house trailer which is subject



SB232 INTRODUCED

to Article 4 of Chapter 12 of Title 40, Code of Alabama 1975.

b. A person facilitating a rental transaction of tangible personal property which is subject to Article 4 of Chapter 12 of Title 40, Code of Alabama 1975.

c. A motor vehicle rental company licensed pursuant to Section 27-7-5.1, Code of Alabama 1975.

d. A person facilitating rental transactions as used in Section 40-2-11(7)(c), Code of Alabama 1975.

(7) PEER-TO-PEER CAR SHARING PROGRAM AGREEMENT or AGREEMENT. The terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program. The term does not include any of the following;

a. A car rental service provider solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for the use of a shared vehicle.

b. A motor vehicle rental agreement governed by Section 32-15-6, Code of Alabama 1975.

c. Hiring, leasing, or renting a motor vehicle under a rental agreement governed by Section 32-15-6, Code of Alabama 1975.

d. A rental agreement with a motor vehicle rental company licensed pursuant to Section 27-7-5.1, Code of Alabama 1975.

(8) SHARED VEHICLE or VEHICLE. A vehicle that is available for sharing through a peer-to-peer car sharing program. The term does not include an automotive vehicle or a



SB232 INTRODUCED

truck trailer, semitrailer, or house trailer that is subject to Article 4 of Chapter 12 of Title 40, Code of Alabama 1975, except as provided by Section 40-12-222(a)(2), Code of Alabama 1975.

(9) SHARED VEHICLE DRIVER or DRIVER. An individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement. The term does not include a person hiring, leasing, or renting a motor vehicle under an agreement with a motor vehicle rental company licensed pursuant to Section 27-7-5.1, Code of Alabama 1975.

(10) SHARED VEHICLE OWNER or OWNER. The registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program. The term does not include any of the following:

a. A lessor that is subject to Article 4 of Chapter 12 of Title 40, Code of Alabama 1975, except as provided by Section 40-12-222(a)(2), Code of Alabama 1975.

b. A motor vehicle rental company licensed pursuant to Section 27-7-5.1, Code of Alabama 1975.

Section 3.(a) Except as provided in subsection (b), a peer-to-peer car sharing program shall assume liability of a shared vehicle owner for bodily injury or property damage to third parties or uninsured and underinsured motorists or personal injury protection losses during the car sharing period, in an amount stated in the peer-to-peer car sharing program agreement. The amount shall not be less than the proof of financial responsibility required under Chapter 7, Title



SB232 INTRODUCED

32, Code of Alabama 1975.

(b) Notwithstanding the definition of "car sharing termination time," the assumption of liability under subsection (a) does not apply to any shared vehicle owner under either of the following circumstances:

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

(2) When a shared vehicle owner acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

(c) Notwithstanding the definition of "car sharing termination time," the assumption of liability under subsection (a) would apply to bodily injury, property damage, uninsured and underinsured motorist, or personal injury protection losses by damaged third parties required under Chapter 7 of Title 32, Code of Alabama 1975.

(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 insured under a motor vehicle liability insurance policy that does all of the following:

(1) Provides insurance coverage in amounts no less than the minimum amounts required for proof of financial responsibility under Section 32-7-2, Code of Alabama 1975.

(2) Does either of the following:

a. Recognizes that the shared vehicle insured under the



SB232 INTRODUCED

policy is made available and used through a peer-to-peer car sharing program.

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

(e) The insurance required under subsection (d) may be purchased by any of the following:

(1) A shared vehicle owner.

(2) A shared vehicle driver.

(3) A peer-to-peer car sharing program.

(4) Any combination of a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car sharing program.

(f) The insurance required in subsection (e), that is satisfying the requirement of subsection (d), shall be primary during each car sharing period, and in the event that a claim occurs in another state with minimum financial responsibility limits higher than those set forth in Section 32-7-2, Code of Alabama 1975, 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, insurers, or peer-to-peer car sharing program providing coverage under subsection (d) or (e) shall assume primary liability for a claim when either of the following occurs:

(1) A dispute exists as to who was in control of the shared motor 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



SB232 INTRODUCED

Section 6.

(2) A dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location, as required under Section 2(4)(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 shall 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 may not be dependent on another automobile insurer first denying a claim, and may not require another automobile insurance policy to first deny a claim.

(j) Nothing in this section does any of the following:

(1) Limits the ability of a 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.

(2) Limits the ability of the peer-to-peer car sharing program to seek indemnification, by contract, 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



SB232 INTRODUCED

program agreement.

Section 4. When a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program, and before the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall notify the shared vehicle 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 lien holder.

Section 5. (a) 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, all of the following:

(1) Liability coverage for bodily injury and property damage.

(2) Personal injury protection coverage.

(3) Uninsured and underinsured motorist coverage.

(4) Medical payments coverage.

(5) Comprehensive physical damage coverage.

(6) Collision physical damage coverage.

(b) Nothing in this act 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



SB232 INTRODUCED

for rent, sharing, hire, or for any business use.

(c) Nothing in this act invalidates, limits, or restricts an insurer's ability under existing law to underwrite any insurance policy. Nothing in this act invalidates, limits, or restricts an insurer's ability under existing law to cancel and nonrenew policies.

Section 6. (a) A peer-to-peer car sharing program shall collect and verify records pertaining to the use of all vehicles used in a peer-to-peer car sharing program, including, but not limited to, all of the following:

- (1) The number of times the vehicle is used.
- (2) Car sharing period pick up and drop off locations.
- (3) Fees paid by the shared vehicle driver.
- (4) Revenues received by the shared vehicle owner.

(b) To facilitate a claim coverage investigation, settlement, negotiation, and litigation, the peer-to-peer car sharing program, upon request, shall provide the records collected under subsection (a) to the shared vehicle owner, the shared vehicle owner's insurer, or the shared vehicle driver's insurer.

(c) The peer-to-peer car sharing program shall retain the records for a time period not less than the applicable personal injury statute of limitations.

Section 7. A peer-to-peer car sharing program and a shared vehicle owner shall not be liable, vicariously or otherwise, by reason of making a shared vehicle available for use through the peer-to-peer car sharing program or by being the owner of a shared vehicle, for harm to persons or property



SB232 INTRODUCED

that occurs during the car sharing period.

Section 8. 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 contribution from the motor vehicle insurer of the peer-to-peer car sharing program if the claim is both of the following:

(1) Made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the car sharing period.

(2) Excluded under the terms of its policy.

Section 9. (a) Notwithstanding any law to the contrary, a peer-to-peer car sharing program shall have an insurable interest in a shared vehicle during the car sharing period.

(b) Nothing in this section shall create liability on a peer-to-peer car sharing program to maintain the coverage mandated by Section 3.

(c) 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 provide coverage for any of the following:

(1) Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car sharing program agreement.

(2) Any liability of the shared vehicle owner.

(3) Damage or loss to the shared motor vehicle.

(4) Any liability of the shared vehicle driver.

Section 10. Each car sharing program agreement made in



SB232 INTRODUCED

this state shall disclose to the shared vehicle owner and the shared vehicle driver all of the following:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) That the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle.

(6) An emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries.



SB232 INTRODUCED

(7) Whether 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.

Section 11. (a) A peer-to-peer car sharing program may not enter into a peer-to-peer car sharing program agreement with an individual who will operate the shared vehicle unless he or she meets any of the following requirements:

(1) Holds a driver license issued under Section 32-6-1, Code of Alabama 1975, that authorizes him or her to operate vehicles of the class of the shared vehicle.

(2) Is a nonresident who meets both of the following requirements:

a. Has a driver license issued by the state or country of his or her residence which authorizes him or her to drive vehicles of the class of the shared vehicle.

b. Is 16 years of age or older.

(3) Is specifically authorized by Section 32-6-2, Code of Alabama 1975, to drive vehicles of the class of the shared vehicle.

(b) A peer-to-peer car sharing program shall keep a record of all of the following:

(1) The name and address of the shared vehicle driver.

(2) The driver license of the shared vehicle driver and each other person, if any, who will operate the shared vehicle.

(3) The place of issuance of the driver license.

Section 12. (a) A peer-to-peer car sharing program



SB232 INTRODUCED

shall have sole responsibility for any equipment, including a Global Positioning System or other special equipment, that is placed in or on the vehicle to monitor or facilitate the car sharing transaction.

(b) A peer-to-peer car sharing program shall indemnify and hold harmless the shared vehicle owner for any damage to or theft of such equipment during the sharing period not caused by the vehicle owner.

(c) A peer-to-peer car sharing program may seek indemnity from the shared vehicle driver for any loss or damage to such equipment that occurs during the sharing period.

Section 13. (a) When a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program, and before a shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall do both of the following:

(1) Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made.

(2) Notify the shared vehicle owner of the requirements under subsection (b).

(b) (1) If a shared vehicle owner has received an actual notice of a safety recall on the vehicle, the shared vehicle owner may not make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.



SB232 INTRODUCED

(2) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car sharing program, the shared vehicle owner shall change the status of the vehicle to unavailable as soon as practicably possible. The shared vehicle may not be listed as available until the safety recall repair has been made.

(3) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is in the possession of a shared vehicle driver and engaged in peer-to-peer car sharing during a sharing period, the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall as soon as practicably possible after receiving the notice of the safety recall. The shared vehicle may not be listed as available until the safety recall repair has been made.

Section 14. Section 40-12-222, Code of Alabama 1975, is amended to read as follows:

"§40-12-222

(a) (1) In addition to all other taxes now imposed by law, there is hereby levied and shall be collected a privilege or license tax on each person engaging or continuing within this state in the business of leasing or renting tangible personal property at the rate of four percent of the gross proceeds derived by the lessor from the lease or rental of tangible personal property.

(2) ~~The~~ a. Except as provided in paragraph b., the privilege or license tax on each person engaging or continuing



SB232 INTRODUCED

within this state in the business of leasing or renting any automotive vehicle or truck trailer, semitrailer, or house trailer shall be at the rate of one and one-half percent of the gross proceeds derived by the lessor from the lease or rental of such automotive vehicle or truck trailer, semitrailer, or house trailer.

b. For purposes of paragraph a. only, the business of leasing or renting an automotive vehicle includes peer-to-peer car sharing as defined in the Peer-to-Peer Car Sharing Program Act. Any gross proceeds derived by the lessor from peer-to-peer car sharing shall be subject to the tax set forth in that paragraph if, and only if, the applicable sales and use taxes were not paid upon purchase of the shared vehicle in the jurisdiction in which the shared vehicle owner purchased the vehicle.

(3) The tax levied in this article shall not apply to any leasing or rental, as lessor, by the state, or any municipality or county in the state, or any public corporation organized under the laws of the state, including, without limiting the generality of the foregoing, any corporation organized under the provisions of Sections 11-54-80 through 11-54-101.

(4) The privilege or license tax on each person or firm engaging or continuing within this state in the business of the leasing and rental of linens and garments shall be at the rate of two percent of the gross proceeds derived by the lessor from the lease or rental of the linens and garments.

(b) Notwithstanding subsection (a), nothing shall



SB232 INTRODUCED

prohibit a lessor subject to a state or local privilege or license tax from passing the amounts on to a lessee by adding the taxes to the leasing price or otherwise; provided, however, that all amounts passed on to the lessee shall be includable in the gross proceeds derived from the lease of tangible personal property which shall be subject to the privilege or license tax owed by the lessor.

(c) The state and applicable local privilege or license taxes applicable to a lease or rental transaction to which a lessor is subject shall be determined as follows:

(1) Except for automotive vehicles as provided in subdivision (2), the following shall apply:

a. When tangible personal property is delivered to the lessee by the lessor or his or her agent, the privilege or license tax levy shall be determined based on where the property is delivered.

b. When tangible personal property is picked up at the lessor's rental location by the lessee or his or her agent, the privilege or license tax levy shall be determined based on the rental location.

(2) For automotive vehicles required to be registered pursuant to Section 32-6-61, each lease payment is considered a separate lease transaction and occurs in the location as provided below and the following rules shall apply:

a. The privilege or license tax levy on any nonrecurring gross proceeds due at the inception of the lease to a new motor vehicle dealer or a used motor vehicle dealer licensed pursuant to Section 40-12-391, including any



SB232 INTRODUCED

capitalized cost reduction or other fee that is retained by the dealer in connection with its initiation of the lease, shall be determined based on the location of the dealer where the lease was initiated.

b. The privilege or license tax levy on gross proceeds other than those described in paragraph a., including the initial lease or rental payment and all subsequent lease or rental payments, shall be determined based on the garage address of the lessee as provided to the county licensing official. The lessor is considered to be engaging or continuing within this state in the business of leasing or renting tangible personal property when its lessee has a garage address within this state."

Section 15. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.