

1-1 By: Oliverson (Senate Sponsor - Schwertner) H.B. No. 113
 1-2 (In the Senate - Received from the House April 21, 2021;
 1-3 May 6, 2021, read first time and referred to Committee on Business
 1-4 & Commerce; May 20, 2021, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 20, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to peer-to-peer car sharing programs.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is
 1-22 amended by adding Chapter 113 to read as follows:
 1-23 CHAPTER 113. PEER-TO-PEER CAR SHARING PROGRAMS
 1-24 SUBCHAPTER A. GENERAL PROVISIONS
 1-25 Sec. 113.0001. DEFINITIONS. In this chapter:
 1-26 (1) "Agreement" means the terms and conditions
 1-27 applicable to an owner and driver that govern the use of a shared
 1-28 vehicle through a peer-to-peer car sharing program. The term does
 1-29 not include a rental agreement as defined by Section 91.001.
 1-30 (2) "Car sharing period" means the period of time
 1-31 beginning with the delivery period or, if there is no delivery
 1-32 period, the start time and ending at the termination time.
 1-33 (3) "Delivery period" means the period of time during
 1-34 which a shared vehicle is being delivered to the location of the
 1-35 start time, if applicable, under the agreement.
 1-36 (4) "Driver" means an individual who has been
 1-37 authorized to drive the shared vehicle by the vehicle's owner under
 1-38 an agreement.
 1-39 (5) "Owner" means the registered owner, or a person or
 1-40 entity designated by the registered owner, of a vehicle made
 1-41 available for sharing to drivers through a peer-to-peer car sharing
 1-42 program.
 1-43 (6) "Peer-to-peer car sharing" means the authorized
 1-44 use of a vehicle by an individual other than the vehicle's owner
 1-45 through a peer-to-peer car sharing program. The term does not
 1-46 include the use of a private passenger vehicle from a rental company
 1-47 under the terms of a rental agreement as those terms are defined by
 1-48 Section 91.001.
 1-49 (7) "Peer-to-peer car sharing program" means a
 1-50 business platform that connects owners with drivers to enable
 1-51 vehicle sharing for financial consideration. The term does not
 1-52 include:
 1-53 (A) a service provider who is solely providing
 1-54 hardware or software as a service to a person or entity that is not
 1-55 effectuating payment of financial consideration for use of a shared
 1-56 vehicle; and
 1-57 (B) a rental company as defined by Section
 1-58 91.001.
 1-59 (8) "Shared vehicle" means a vehicle that is available
 1-60 for sharing through a peer-to-peer car sharing program. The term
 1-61 does not include the use of a private passenger vehicle from a

2-1 rental company under the terms of a rental agreement as those terms
 2-2 are defined by Section 91.001.

2-3 (9) "Start time" means the time when the shared
 2-4 vehicle becomes subject to the control of the driver at or after the
 2-5 time the reservation of a shared vehicle is scheduled to begin under
 2-6 the agreement.

2-7 (10) "Termination time" means the earliest of:

2-8 (A) the expiration of the period of time
 2-9 established for the use of a shared vehicle according to the
 2-10 agreement if the shared vehicle is returned to the location
 2-11 specified in the agreement;

2-12 (B) the time when the shared vehicle is returned
 2-13 to a location as alternatively agreed on by the owner and driver as
 2-14 communicated through a peer-to-peer car sharing program and which
 2-15 alternatively agreed on location is thereby incorporated into the
 2-16 agreement; or

2-17 (C) the time when the owner or owner's authorized
 2-18 designee takes possession and control of the shared vehicle.

2-19 Sec. 113.0002. APPLICABILITY OF CHAPTER. This chapter
 2-20 applies to automobile insurance policies in this state, including
 2-21 policies issued by a Lloyd's plan, a reciprocal or interinsurance
 2-22 exchange, or a county mutual insurance company.

2-23 Sec. 113.0003. CONSTRUCTION OF CHAPTER. Nothing in this
 2-24 chapter may be construed to:

2-25 (1) limit the liability of a peer-to-peer car sharing
 2-26 program for any act or omission of the program itself that results
 2-27 in injury to a person as a result of the use of a shared vehicle
 2-28 through the program;

2-29 (2) limit the ability of a peer-to-peer car sharing
 2-30 program to, by contract, seek indemnification from the owner or
 2-31 driver for economic loss sustained by the program resulting from a
 2-32 breach of the agreement;

2-33 (3) have implications affecting construction of
 2-34 statutes outside this chapter, including statutes related to motor
 2-35 vehicle regulation, airport regulation, or taxation;

2-36 (4) invalidate or limit an exclusion contained in an
 2-37 automobile insurance policy, including an insurance policy in use
 2-38 or approved for use that excludes coverage for automobiles made
 2-39 available for rent, sharing, hire, or any business use; or

2-40 (5) invalidate, limit, or restrict an insurer's
 2-41 ability under law to:

2-42 (A) underwrite any insurance policy; or

2-43 (B) cancel or decline to renew an insurance
 2-44 policy.

2-45 Sec. 113.0004. RULES. The commissioner of insurance may
 2-46 adopt rules necessary to implement this chapter.

2-47 SUBCHAPTER B. ASSUMPTION OF LIABILITY AND INSURANCE REQUIREMENTS

2-48 Sec. 113.0051. ASSUMPTION OF LIABILITY BY PEER-TO-PEER CAR
 2-49 SHARING PROGRAM. (a) Except as provided by Subsection (b), a
 2-50 peer-to-peer car sharing program shall assume liability of an owner
 2-51 for bodily injury or property damage to third parties or uninsured
 2-52 or underinsured motorist or personal injury protection losses by
 2-53 damaged third parties during the car sharing period in an amount
 2-54 stated in the agreement, which may not be less than, as applicable,
 2-55 the amounts:

2-56 (1) provided by Subchapter D, Chapter 601,
 2-57 Transportation Code;

2-58 (2) required for uninsured or underinsured motorist
 2-59 coverage under Section 1952.101, Insurance Code; or

2-60 (3) provided as the maximum amount of required
 2-61 personal injury protection coverage under Section 1952.153,
 2-62 Insurance Code.

2-63 (b) A peer-to-peer car sharing program is not required to
 2-64 assume liability of an owner if the owner:

2-65 (1) makes an intentional or fraudulent material
 2-66 misrepresentation or omission to the program before the car sharing
 2-67 period in which the loss occurred; or

2-68 (2) acts in concert with a driver who fails to return
 2-69 the shared vehicle in accordance with the agreement.

3-1 (c) Notwithstanding the definition of "termination time"
 3-2 under Section 113.0001 or this subchapter, the assumption of
 3-3 liability under Subsection (a) applies to bodily injury, property
 3-4 damage, uninsured and underinsured motorist, or personal injury
 3-5 protection losses by damaged third parties as required by
 3-6 Subchapter D, Chapter 601, Transportation Code, Section 1952.101,
 3-7 Insurance Code, and Section 1952.153, Insurance Code.

3-8 Sec. 113.0052. INSURANCE REQUIRED. (a) A peer-to-peer car
 3-9 sharing program shall ensure that, during each car sharing period,
 3-10 the owner and the driver are insured under an automobile liability
 3-11 insurance policy that meets the requirements of this subchapter.

3-12 (b) Insurance maintained for purposes of this subchapter:
 3-13 (1) must provide coverage in amounts not less than the
 3-14 amounts described by Section 601.072, Transportation Code;

3-15 (2) must be primary during each car sharing period;
 3-16 and

3-17 (3) must:
 3-18 (A) recognize that the shared vehicle insured
 3-19 under the policy is made available and used through a peer-to-peer
 3-20 car sharing program and specifically provide coverage for that use;

3-21 or
 3-22 (B) not exclude the use of a shared vehicle by a
 3-23 driver.

3-24 (c) The coverage requirements of this subchapter may be
 3-25 satisfied by:

3-26 (1) automobile insurance maintained by the owner;

3-27 (2) automobile insurance maintained by the driver;

3-28 (3) automobile insurance maintained by the
 3-29 peer-to-peer car sharing program; or

3-30 (4) a combination of Subdivisions (1), (2), and (3).

3-31 (d) If a claim occurs in another state with minimum
 3-32 financial responsibility limits higher than the amounts described
 3-33 by Section 601.072, Transportation Code, during the car sharing
 3-34 period, the coverage maintained under Subsection (a) must satisfy
 3-35 the difference in minimum coverage amounts to the applicable policy
 3-36 limits.

3-37 Sec. 113.0053. AUTOMOBILE INSURANCE POLICY EXCLUSIONS. An
 3-38 automobile insurer may exclude any coverage and the duty to defend
 3-39 or indemnify for any claim afforded under an owner's automobile
 3-40 insurance policy during a car sharing period, including an
 3-41 exclusion of:

3-42 (1) liability coverage for bodily injury and property
 3-43 damage;

3-44 (2) personal injury protection coverage;

3-45 (3) uninsured and underinsured motorist coverage;

3-46 (4) medical payments coverage;

3-47 (5) comprehensive physical damage coverage; and

3-48 (6) collision physical damage coverage.

3-49 Sec. 113.0054. CLAIMS RELATED TO PEER-TO-PEER CAR SHARING.

3-50 (a) An insurer or peer-to-peer car sharing program providing
 3-51 coverage under Section 113.0052(a) shall assume primary liability
 3-52 for a claim when:

3-53 (1) a dispute exists as to who was in control of the
 3-54 shared vehicle at the time of the loss and the program does not have
 3-55 available, did not retain, or fails to provide the information
 3-56 required by Section 113.0103; or

3-57 (2) a dispute exists as to whether the shared vehicle
 3-58 was returned to the alternatively agreed upon location described by
 3-59 Section 113.0001(10)(B).

3-60 (b) If, at the time of a claim, the automobile insurance
 3-61 maintained by an owner or driver has lapsed or does not provide the
 3-62 coverage required under this subchapter, insurance maintained by a
 3-63 peer-to-peer car sharing program shall provide the coverage
 3-64 beginning with the first dollar of a claim and the program shall
 3-65 defend the claim.

3-66 (c) Coverage under an automobile insurance policy
 3-67 maintained by the peer-to-peer car sharing program may not be
 3-68 dependent on another automobile insurer first denying a claim.
 3-69 Another automobile insurance policy is not required to first deny a

4-1 claim.

4-2 Sec. 113.0055. VICARIOUS LIABILITY. Notwithstanding any
 4-3 other law, a peer-to-peer car sharing program and an owner are not
 4-4 liable under a theory of vicarious liability in accordance with 49
 4-5 U.S.C. Section 30106 or under any state or local law that imposes
 4-6 liability solely based on vehicle ownership.

4-7 Sec. 113.0056. CONTRIBUTION. An automobile insurer that
 4-8 defends or indemnifies a claim against a shared vehicle that is
 4-9 excluded under the terms of the insurer's policy may seek recovery
 4-10 against the peer-to-peer car sharing program's automobile insurer
 4-11 if the claim is:

4-12 (1) made against the shared vehicle's owner or the
 4-13 shared vehicle's driver for loss or injury that occurs during the
 4-14 car sharing period; and

4-15 (2) excluded under the terms of the insurer's policy.

4-16 Sec. 113.0057. INSURABLE INTEREST. (a) Notwithstanding
 4-17 any other law, a peer-to-peer car sharing program has an insurable
 4-18 interest in a shared vehicle during the car sharing period.

4-19 (b) Nothing in this section creates a duty on a peer-to-peer
 4-20 car sharing program to maintain the coverage required under this
 4-21 subchapter.

4-22 (c) A peer-to-peer car sharing program may own and maintain
 4-23 as the named insured one or more policies of automobile insurance
 4-24 that separately or in combination provide coverage for:

4-25 (1) liability assumed by the program under an
 4-26 agreement;

4-27 (2) liability of the owner;

4-28 (3) damage to or loss of the shared vehicle; or

4-29 (4) liability of the driver.

4-30 Sec. 113.0058. INSURANCE REQUIREMENTS. (a) An insurance
 4-31 policy providing coverage described by Section 113.0057(c)(2) or
 4-32 (4) must expressly provide liability coverage, without prior notice
 4-33 to the insurer, for all shared vehicles during the car sharing
 4-34 period, subject to any conditions or exclusions permitted by this
 4-35 chapter.

4-36 (b) An insurer authorized to engage in the business of
 4-37 insurance in this state or an eligible surplus lines insurer may
 4-38 issue an insurance policy described by Section 113.0057(c).

4-39 (c) A peer-to-peer car sharing program is not required to
 4-40 itemize or charge the owner or driver the amount payable as premium
 4-41 under a policy described by Section 113.0057(c) that is allocable
 4-42 to coverage provided to the owner or driver if:

4-43 (1) for the owner, the coverage is included without an
 4-44 additional or itemized charge in the fee charged by the program for
 4-45 the applicable car share reservation; or

4-46 (2) for the driver, the coverage is included without
 4-47 an additional or itemized charge in the cost of the reservation of
 4-48 the shared vehicle.

4-49 SUBCHAPTER C. PEER-TO-PEER CAR SHARING PROGRAM RESPONSIBILITIES

4-50 Sec. 113.0101. REQUIRED DISCLOSURES AND NOTICE. (a) Each
 4-51 agreement entered into in this state must disclose to the owner and
 4-52 the driver:

4-53 (1) any right of the peer-to-peer car sharing program
 4-54 to seek indemnification from the owner or driver for economic loss
 4-55 sustained by the program resulting from a breach of the agreement;

4-56 (2) that an automobile insurance policy issued to the
 4-57 owner for the shared vehicle or to the driver does not provide a
 4-58 defense or indemnification for any claim asserted by the
 4-59 peer-to-peer car sharing program;

4-60 (3) that the peer-to-peer car sharing program's
 4-61 insurance coverage on the owner and the driver is in effect only
 4-62 during each car sharing period;

4-63 (4) that, for any use of the shared vehicle by the
 4-64 driver after the termination time, the owner and driver may not have
 4-65 insurance coverage;

4-66 (5) the daily rate, fees, and, if applicable, any
 4-67 insurance costs that are charged to the owner or driver;

4-68 (6) that the owner's automobile insurance may not
 4-69 provide coverage for a shared vehicle;

5-1 (7) an emergency telephone number through which
 5-2 personnel capable of fielding roadside assistance and other
 5-3 customer service inquiries may be reached; and

5-4 (8) if applicable, any condition under which a driver
 5-5 must maintain a personal automobile insurance policy with certain
 5-6 applicable coverage limits on a primary basis to book a shared
 5-7 vehicle.

5-8 (b) When a person registers as an owner on a peer-to-peer
 5-9 car sharing program and before the owner makes a shared vehicle
 5-10 available for car sharing on the program, the program shall provide
 5-11 written notice to the owner that, if the shared vehicle has a lien
 5-12 against it, the shared vehicle's use through the program, including
 5-13 use without physical damage coverage, may violate the terms of the
 5-14 contract with the lienholder.

5-15 Sec. 113.0102. AUTHORIZATION TO DRIVE REQUIRED. A
 5-16 peer-to-peer car sharing program may not enter into an agreement
 5-17 with a driver unless the driver who will operate the shared vehicle:

5-18 (1) is a resident of this state and holds a driver's
 5-19 license issued by this state that authorizes the driver to operate
 5-20 vehicles of the class of the shared vehicle;

5-21 (2) is a nonresident of this state and:

5-22 (A) holds a driver's license issued by the state
 5-23 or country of the driver's residence that authorizes the driver to
 5-24 operate vehicles of the class of the shared vehicle; and

5-25 (B) is at least the same age as that required of a
 5-26 resident of this state to drive; or

5-27 (3) is otherwise specifically authorized by this state
 5-28 to drive vehicles of the class of the shared vehicle.

5-29 Sec. 113.0103. RECORD RETENTION. (a) A peer-to-peer car
 5-30 sharing program shall keep and maintain a record of:

5-31 (1) the name and address of each driver who has entered
 5-32 into an agreement with the program; and

5-33 (2) the driver's license number and place of issuance
 5-34 of each driver and individual who will operate a shared vehicle
 5-35 under the program.

5-36 (b) A peer-to-peer car sharing program shall collect and
 5-37 verify records related to use of a shared vehicle under the program,
 5-38 including:

5-39 (1) the times the vehicle is used;

5-40 (2) car sharing period pick-up and drop-off locations;

5-41 (3) money received by the owner; and

5-42 (4) fees paid by the driver.

5-43 (c) A peer-to-peer car sharing program shall provide
 5-44 information collected under Subsection (b) on request to the owner,
 5-45 the owner's insurer, or the driver's insurer to facilitate a claim
 5-46 coverage investigation, settlement, negotiation, or litigation.

5-47 (d) A peer-to-peer car sharing program shall retain
 5-48 information collected under Subsection (b) for a period of not less
 5-49 than the limitations period provided under Section 16.003, Civil
 5-50 Practice and Remedies Code, for a personal injury suit.

5-51 Sec. 113.0104. RESPONSIBILITY FOR CAR SHARING EQUIPMENT.

5-52 (a) A peer-to-peer car sharing program is solely responsible for
 5-53 any equipment, including a global positioning system device or
 5-54 other special equipment, placed in or on a shared vehicle used under
 5-55 the program to monitor or facilitate the car sharing transaction.
 5-56 The program shall agree to indemnify and hold harmless the
 5-57 vehicle's owner for any damage to or theft of such equipment during
 5-58 the car sharing period not caused by the owner.

5-59 (b) A peer-to-peer car sharing program may seek indemnity
 5-60 from a driver for any loss of or damage to equipment described by
 5-61 Subsection (a) that occurs during the car sharing period.

5-62 Sec. 113.0105. AUTOMOBILE SAFETY RECALL. (a) When a person
 5-63 registers as an owner on a peer-to-peer car sharing program and
 5-64 before the owner makes a shared vehicle available for car sharing on
 5-65 the program, the program shall:

5-66 (1) verify that the vehicle does not have a safety
 5-67 recall for which repairs have not been made; and

5-68 (2) notify the owner of the requirements under
 5-69 Subsection (b).

6-1 (b) If an owner receives notice of a safety recall on a
6-2 shared vehicle:

6-3 (1) before the vehicle has been made available as a
6-4 shared vehicle on a peer-to-peer car sharing program, the owner may
6-5 not make the vehicle available as a shared vehicle on the program
6-6 until the safety recall repair has been made;

6-7 (2) while the vehicle is available as a shared vehicle
6-8 on a peer-to-peer car sharing program, the owner shall remove the
6-9 vehicle from the program as soon as practicably possible after
6-10 receiving the safety recall notice and until the safety recall
6-11 repair has been made; or

6-12 (3) while the vehicle is being used in the possession
6-13 of a driver, the owner shall notify the peer-to-peer car sharing
6-14 program as soon as practicably possible after receiving the safety
6-15 recall notice to allow the owner to address the safety recall
6-16 repair.

6-17 SECTION 2. (a) Chapter 113, Business & Commerce Code, as
6-18 added by this Act, applies only to an automobile insurance policy
6-19 delivered, issued for delivery, or renewed on or after January 1,
6-20 2022. An automobile insurance policy delivered, issued for
6-21 delivery, or renewed before January 1, 2022, is governed by the law
6-22 as it existed immediately before the effective date of this Act, and
6-23 that law is continued in effect for that purpose.

6-24 (b) Chapter 113, Business & Commerce Code, as added by this
6-25 Act, applies only to a peer-to-peer car sharing agreement entered
6-26 into on or after January 1, 2022.

6-27 SECTION 3. This Act takes effect September 1, 2021.

6-28 * * * * *