

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 446**

Introduced by Bostar, 29.

Read first time January 13, 2023

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to motor vehicles; to adopt the Peer-to-Peer

2 Vehicle Sharing Program Act; and to provide an operative date.

3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 15 of this act shall be known and may be  
2 cited as the Peer-to-Peer Vehicle Sharing Program Act.

3           Sec. 2. For purposes of the Peer-to-Peer Vehicle Sharing Program  
4 Act, unless the context otherwise requires:

5           (1) Agreement means the terms and conditions applicable to an owner  
6 and a driver that govern the use of a vehicle shared through a peer-to-  
7 peer vehicle sharing program. Agreement does not mean a rental agreement  
8 as defined in section 44-4067;

9           (2) Delivery period means the period of time during which a vehicle  
10 is being delivered to the location at which the start time begins, if  
11 applicable, as documented by the agreement;

12           (3) Driver means an individual who has been authorized to drive a  
13 vehicle by an owner under an agreement;

14           (4) Owner means the registered owner, or a person or entity  
15 designated by the registered owner, of a vehicle made available for  
16 sharing through a peer-to-peer vehicle sharing program;

17           (5) Peer-to-peer vehicle sharing program or program means a business  
18 platform that connects owners with drivers to enable the sharing of  
19 vehicles for financial consideration. A program is not a transportation  
20 network company as defined in section 75-323 or a rental car company as  
21 defined in section 44-4067;

22           (6) Sharing means the authorized use of a vehicle by an individual  
23 other than an owner through a peer-to-peer vehicle sharing program;

24           (7) Sharing period means the period of time that commences with the  
25 delivery period or, if there is no delivery period, that commences with  
26 the start time and, in either case, ends at the termination time;

27           (8) Start time means the time when a vehicle becomes subject to the  
28 control of a driver at or after the time the reservation is scheduled to  
29 begin as documented in the records of a program;

30           (9) Termination time means the earliest of the following events:

31           (a) The expiration of the agreed upon period of time established for

1 the use of a vehicle according to the terms of the agreement if the  
2 vehicle is delivered to the location specified in the agreement;

3 (b) When a vehicle is returned to an alternative location as agreed  
4 upon by the owner and driver as communicated through the peer-to-peer  
5 vehicle sharing program. Such alternative location shall be incorporated  
6 into the agreement; and

7 (c) When an owner, or the owner's authorized designee, takes  
8 possession and control of the vehicle; and

9 (10) Vehicle means a motor vehicle as defined in section 60-471 that  
10 is available for use through a peer-to-peer vehicle sharing program.  
11 Vehicle does not include a motor vehicle used as or offered for use as a  
12 rental vehicle under section 44-4067.

13 Sec. 3. (1) Except as provided in subsection (2) of this section, a  
14 peer-to-peer vehicle sharing program shall assume financial liability on  
15 behalf of an owner for any claim for bodily injury or property damage to  
16 third parties or uninsured and underinsured motorist losses during the  
17 sharing period in an amount stated in the agreement. Such amount shall  
18 not be less than the amount required in section 60-310.

19 (2) The assumption of financial liability by a program under  
20 subsection (1) of this section does not apply if the owner:

21 (a) Makes a material, intentional, or fraudulent misrepresentation,  
22 or a material, intentional, or fraudulent omission, to a program relating  
23 to the vehicle or the agreement prior to the sharing period in which the  
24 assumption of such liability would otherwise be required; or

25 (b) Acts in concert with a driver to trigger the assumption of such  
26 liability that would otherwise be required.

27 (3) The assumption of financial liability under subsection (1) of  
28 this section applies to bodily injury, property damage, and uninsured and  
29 underinsured motorist losses by injured third parties.

30 Sec. 4. (1) A program shall require during each sharing period that  
31 the owner and driver are insured under a motor vehicle liability

1 insurance policy that:

2 (a) Provides financial responsibility in amounts no less than the  
3 minimum amounts required by section 60-310; and

4 (b)(i) Recognizes that the vehicle is made available and used  
5 through the program; or

6 (ii) Does not exclude use of the vehicle by a driver through the  
7 program.

8 (2) The financial responsibility required under subsection (1) of  
9 this section may be satisfied by motor vehicle liability insurance or  
10 other acceptable means of demonstrating financial responsibility in  
11 Nebraska, voluntarily maintained by:

12 (a) The owner;

13 (b) The driver;

14 (c) The program; or

15 (d) Any combination of owner, driver, and program.

16 (3) The financial responsibility described in subsection (1) of this  
17 section and satisfied pursuant to subsection (2) of this section shall be  
18 the primary coverage during the sharing period in the event that a claim  
19 occurs in another state with minimum financial responsibility limits  
20 higher than those required under section 60-310, and during the sharing  
21 period the coverage maintained under subsection (2) of this section shall  
22 satisfy any difference in minimum coverage amounts, up to the applicable  
23 policy limits.

24 (4) The insurer, insurers, or program providing coverage under  
25 section 3 or 4 of this act shall assume primary financial liability for a  
26 claim when:

27 (a) A dispute exists as to who was in control of the vehicle at the  
28 time of the loss and the program does not have available, did not retain,  
29 or fails to provide the information required by section 7 of this act; or

30 (b) A dispute exists as to whether the vehicle was returned to the  
31 alternative location pursuant to subdivision (9)(b) of section 2 of this

1 act.

2 (5) If financial responsibility maintained by the owner or the  
3 driver in accordance with subsection (2) of this section has lapsed or  
4 does not provide the required financial responsibility, the program or  
5 its insurer shall provide the coverage required by subsection (1) of this  
6 section beginning with the first dollar of a claim and have the duty to  
7 defend such claim except under circumstances as set forth in subsection  
8 (2) of section 3 of this act.

9 (6) Financial responsibility maintained by the program shall not be  
10 dependent on another insurer first denying a claim, nor shall another  
11 motor vehicle liability insurance policy be required to first deny a  
12 claim.

13 (7) Nothing in the Peer-to-Peer Vehicle Sharing Program Act:

14 (a) Limits the liability of a program for any act or omission of the  
15 program itself that results in injury or economic loss to any person as a  
16 result of the use of a vehicle through the program; or

17 (b) Limits the ability of a program, by contract, to seek  
18 indemnification from an owner or a driver for economic loss sustained by  
19 the program resulting from a breach of the terms and conditions of an  
20 agreement by such owner or driver.

21 Sec. 5. At the time an owner makes a vehicle available for use  
22 through a program and immediately prior to each time such owner offers  
23 such vehicle for use through such program, the program shall notify the  
24 owner that if the vehicle has a lien against it, the use of the vehicle  
25 through the program, including such use without physical damage insurance  
26 coverage, may violate the terms of the contract with the lienholder.

27 Sec. 6. (1) An authorized insurer that writes motor vehicle  
28 liability insurance in Nebraska may exclude any and all coverage and the  
29 duty to defend or indemnify for any claim afforded under the owner's  
30 motor vehicle liability insurance policy, including:

31 (a) Liability coverage for bodily injury and property damage;

- 1       (b) Personal injury protection coverage;
- 2       (c) Uninsured and underinsured motorist coverage;
- 3       (d) Medical payments coverage;
- 4       (e) Comprehensive physical damage coverage; and
- 5       (f) Collision physical damage coverage.

6       (2) Nothing in the this section invalidates, limits, or restricts an  
7 insurer's ability under existing law to underwrite any insurance policy.  
8 Nothing in the Peer-to-Peer Vehicle Sharing Program Act invalidates,  
9 limits, or restricts an insurer's ability to cancel and nonrenew  
10 insurance policies.

11       Sec. 7. (1) A program shall collect and verify records pertaining  
12 to the use of a vehicle, including sharing periods, sharing period pick-  
13 up and drop-off locations, fees paid by each driver, and revenue received  
14 by each owner.

15       (2) A program shall provide the information collected pursuant to  
16 subsection (1) of this section upon request to the owner, the owner's  
17 insurer, and the driver's insurer to facilitate a claim coverage  
18 investigation, settlement, negotiation, or litigation.

19       (3) A program shall retain the records required in this section for  
20 a period of not less than four years.

21       Sec. 8. An insurer that defends or indemnifies a claim arising from  
22 the operation of a vehicle that is excluded under the terms of its policy  
23 shall have the right to seek recovery against the motor vehicle insurer  
24 of the program if the claim is made against the owner or driver for loss  
25 or injury that occurs during the sharing period.

26       Sec. 9. (1) A program shall have an insurable interest in a vehicle  
27 during the sharing period.

28       (2) Nothing in this section shall impose liability on a program to  
29 maintain the coverage required by section 3 or 4 of this act.

30       (3) A program may own and maintain as the named insured one or more  
31 policies of motor vehicle liability insurance that provides coverage for:

- 1        (a) Liabilities assumed by the program under an agreement;
- 2        (b) Liability of an owner or driver; or
- 3        (c) Damage or loss to a vehicle.

4        Sec. 10. A program and an owner shall be exempt from vicarious  
5 liability in accordance with 49 U.S.C. 30106(a), as such section existed  
6 on January 1, 2023, and under any state or local law that imposes  
7 liability solely based on vehicle ownership.

8        Sec. 11. (1) Each agreement made in Nebraska shall disclose to each  
9 owner and driver:

10        (a) Any right of the program to seek indemnification from an owner  
11 or a driver for economic loss sustained by the program resulting from a  
12 breach of the terms and conditions of the agreement by such owner or  
13 driver;

14        (b) That a motor vehicle liability insurance policy issued to an  
15 owner or a driver may not provide a defense or indemnity for any claim  
16 asserted by the program;

17        (c) That a program's financial responsibility afforded to each owner  
18 and driver is available only during the sharing period;

19        (d) That for any use of a vehicle by a driver after the termination  
20 time, a driver or owner may not have coverage;

21        (e) The daily rate, fees, costs, and, if applicable, any insurance  
22 or protection package costs that are charged to an owner or a driver; and

23        (f) That an owner's motor vehicle liability insurance may not  
24 provide coverage for the vehicle.

25        (2) Each agreement made in Nebraska shall disclose to each driver:

26        (a) An emergency telephone number to contact personnel capable of  
27 fielding roadside assistance and other customer service inquiries; and

28        (b) Any conditions under which a driver shall maintain a personal  
29 motor vehicle liability insurance policy and any required coverage limits  
30 on a primary basis in order to use a vehicle through the program.

31        Sec. 12. A program shall have sole responsibility for any

1 equipment, such as a global positioning system or other special  
2 equipment, that is put in or on a vehicle to monitor or facilitate  
3 sharing and shall agree to indemnify and hold harmless the owner for any  
4 damage to or theft of such equipment during the sharing period not caused  
5 by the owner. A program has the right to seek indemnity from a driver for  
6 any loss or damage to such equipment that occurs during the sharing  
7 period.

8       Sec. 13. (1) At the time an owner makes a vehicle available for use  
9 by a program and immediately prior to each time the owner offers such  
10 vehicle for use by such program, the program shall:

11       (a) Verify that the vehicle does not have any safety recalls for  
12 which the repairs have not been made; and

13       (b) Notify the owner of the requirements under subsection (2) of  
14 this section.

15       (2) An owner shall:

16       (a) Not make a vehicle available for use through a program if the  
17 owner has received actual notice of a safety recall on such vehicle until  
18 the safety recall repair has been made;

19       (b) Upon receipt of actual notice of a safety recall on a vehicle  
20 when such vehicle is offered for use through a program, remove the  
21 vehicle from availability as soon as practicably possible and until the  
22 safety recall repair has been made; and

23       (c) Upon receipt of actual notice of a safety recall on a vehicle,  
24 and when the vehicle is in the possession of a driver, notify the program  
25 of the safety recall so that the program may notify the driver and the  
26 vehicle can be removed from use until the owner makes the necessary  
27 safety recall repair.

28       Sec. 14. (1) A program shall not enter into an agreement with any  
29 driver unless such driver:

30       (a) Holds an operator's license issued in Nebraska authorizing the  
31 driver to operate vehicles of the class of vehicle used by the program;



1 or

2 (b) Is a nonresident who:

3 (i) Holds a driver's license or an operator's license issued by the  
4 state or country of the driver's residence that authorizes the driver in  
5 that state or country to drive vehicles of the class of vehicle used by  
6 the program; and

7 (ii) Is at least the same age as that required of a resident to  
8 drive in Nebraska.

9 (2) A program shall keep a record of:

10 (a) The name and address of each driver; and

11 (b) The driver's license number and place of issuance of such  
12 license for each driver who operates a vehicle under an agreement.

13 Sec. 15. Nothing in the Peer-to-Peer Vehicle Sharing Program Act  
14 shall be construed to limit the powers of an airport authority under  
15 Nebraska law.

16 Sec. 16. This act becomes operative on January 1, 2024.