

§7403-A. Insurance requirements for peer-to-peer car sharing

1. Insurance coverage during car sharing period; liability. The following requirements apply to insurance coverage and liability during a car sharing period.

A. A peer-to-peer car sharing program shall assume the liability, except as provided in paragraph B, of a shared vehicle owner for bodily injury or property damage to 3rd parties or uninsured and underinsured motorists or personal injury protection losses during the car sharing period in an amount stated in the car sharing program agreement as long as the amount is not less than minimum requirements in Title 29-A, section 1605. [PL 2021, c. 352, §8 (NEW).]

B. Notwithstanding the definition of "car sharing termination time" as set forth in section 7402, subsection 5, the assumption of liability under paragraph A does not apply when:

- (1) 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; or
- (2) A shared vehicle owner is acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of car sharing program agreement. [PL 2021, c. 352, §8 (NEW).]

C. Notwithstanding the definition of "car sharing termination time" as set forth in section 7402, subsection 5, the assumption of liability under paragraph A applies to bodily injury or property damage to 3rd parties or uninsured and underinsured motorist or personal injury protection losses as required by Title 29-A, section 1605. [PL 2021, c. 352, §8 (NEW).]

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 provides insurance coverage in amounts not less than the minimum amounts set forth in Title 29-A, section 1605 and:

- (1) Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; or
- (2) Does not exclude use of a shared vehicle by a shared vehicle driver. [PL 2021, c. 352, §8 (NEW).]

E. The requirement for insurance coverage described under paragraph D may be satisfied by providing evidence of a motor vehicle liability insurance maintained by:

- (1) A shared vehicle owner;
- (2) A shared vehicle driver;
- (3) A peer-to-peer car sharing program; or
- (4) A shared vehicle owner, a shared vehicle driver and a peer-to-peer car sharing program collectively. [PL 2021, c. 352, §8 (NEW).]

F. Insurance coverage that meets the requirements of paragraph D and obtained in accordance with paragraph E must be primary coverage during each car sharing period and, in the event that a claim occurs in another state with minimum financial responsibility limits higher than in Title 29-A, section 1605, during the car sharing period the coverage maintained under paragraph E must satisfy the difference in minimum coverage amounts up to the applicable policy limits. [PL 2021, c. 352, §8 (NEW).]

G. The insurer, insurers or peer-to-peer car sharing program providing coverage in accordance with paragraph D or E shall assume primary liability for a claim when:

- (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 section 7404-A subsection 4; or
- (2) A dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location as required under section 7402, subsection 5, paragraph B. [PL 2021, c. 352, §8 (NEW).]

H. If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with paragraph E has lapsed or does not provide the required coverage, insurance maintained by a peer-to-peer car sharing program must provide the coverage required by paragraph D beginning with the first dollar of a claim, and the peer-to-peer car sharing program has the duty to defend that claim except under circumstances set forth in paragraph B. [PL 2021, c. 352, §8 (NEW).]

I. Coverage under a motor vehicle liability insurance policy maintained by the peer-to-peer car sharing program may not be dependent on another insurer's first denying a claim or a requirement in another insurance policy to first deny a claim. [PL 2021, c. 352, §8 (NEW).]
[PL 2021, c. 352, §8 (NEW).]

2. Exclusions in motor vehicle liability insurance policies. An insurer that writes motor vehicle liability insurance in the 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:

- A. Liability coverage for bodily injury and property damage; [PL 2021, c. 352, §8 (NEW).]
- B. Personal injury protection coverage; [PL 2021, c. 352, §8 (NEW).]
- C. Uninsured and underinsured motorist coverage; [PL 2021, c. 352, §8 (NEW).]
- D. Medical payments coverage; [PL 2021, c. 352, §8 (NEW).]
- E. Comprehensive physical damage coverage; and [PL 2021, c. 352, §8 (NEW).]
- F. Collision physical damage coverage. [PL 2021, c. 352, §8 (NEW).]

This subsection does not invalidate or limit 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 for rent, sharing or hire or for any business use. This subsection does not invalidate, limit or restrict an insurer's ability under existing law to underwrite any insurance policy or to cancel or not renew any insurance policy.
[PL 2021, c. 352, §8 (NEW).]

3. Exemption; vicarious liability. A peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability consistent with 49 United States Code, Section 30106 and under any state or local law that imposes liability solely based on vehicle ownership.
[PL 2021, c. 352, §8 (NEW).]

4. Contribution against indemnification. An insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy has the right to seek recovery against the insurer of the peer-to-peer car sharing program if the claim is:

- A. Made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the car sharing period; and [PL 2021, c. 352, §8 (NEW).]
 - B. Excluded under the terms of its policy. [PL 2021, c. 352, §8 (NEW).]
- [PL 2021, c. 352, §8 (NEW).]

5. Insurable interest. Notwithstanding any other law, statute, rule or regulation to the contrary, a peer-to-peer car sharing program has an insurable interest in a shared vehicle during the car sharing

period. This section does not impose liability on a peer-to-peer car sharing program to maintain the coverage mandated by subsection 1. 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 provides coverage for:

- A. Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car sharing program agreement; [PL 2021, c. 352, §8 (NEW).]
 - B. Any liability of the shared vehicle owner; [PL 2021, c. 352, §8 (NEW).]
 - C. Damage or loss to the shared motor vehicle; or [PL 2021, c. 352, §8 (NEW).]
 - D. Any liability of the shared vehicle driver. [PL 2021, c. 352, §8 (NEW).]
- [PL 2021, c. 352, §8 (NEW).]

6. Construction. This section does not limit the liability of the 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 or limit the ability of a peer-to-peer car sharing program to, by contract, 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. [PL 2021, c. 352, §8 (NEW).]

SECTION HISTORY

PL 2021, c. 352, §8 (NEW).

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