



KANSAS AUTOMOBILE DEALERS ASSOCIATION

February 24, 2021

To: The Honorable Richard Proehl, Chairman and Members of the House Transportation Committee

From: Pat Barnes, General Counsel

Re: HB 2379 - AN ACT concerning transportation; relating to peer-to-peer vehicle sharing; insurance requirements; liability; recordkeeping; consumer protection; etc.

Good morning, Mr. Chairman and Members of the Committee, I am Pat Barnes, general counsel for the Kansas Automobile Dealers Association.

Our view of HB 2379 is fairly straight forward and unchanged from last session (SB 352, by comparison). We believe our concerns can best be resolved for us as a regulated industry with a few additions to the current terminology which effectively excludes us. Our members have a wide variety of customer and business arrangements that we feel will be impacted such that it would insert a level of uncertainty and complexity in whether or not we need to address the requirements of this bill in common transactions that we enter. Like last year, our concern lies in the definitions setting forth peer to peer arrangements, but also statutory references, mixed terms and how those relationships are handled, what is required, liability determinations and things of that nature.

More specifically, we have loaner and demonstrator arrangements with our employees and customers in a variety of circumstances ranging from short term use of vehicles to longer term arrangements. Though this bill makes some changes from last year, it doesn't resolve our situation. We also have relationships with customers and our business models of such a variety that it becomes difficult for us to determine where this proposed law might impact us. This is particularly so with respect to how we place our insurance, the requirements that would need to be dealt with and how indemnity obligations are handled, particularly with employee related workers compensation matters and how they are dealt with in situations involving third party liability assignments with collisions. We address these matters in our current operational model and the law has a basis for doing so which is not uncertain.

There may be merit outside of our regulated industry in defining this segment of business. However, as a broad sector of the automobile industry we also think common business practices and the regulations and laws under which the automobile industry operates are sufficient for us. As such, we have proposed a simple solution for our concerns. We would suggest amending the bill to exempt those who are subject to the Dealers and Manufacturers Licensing Act in Kansas engaged in certain transactions that might be confused with peer to peer sharing arrangements. The amendments would read as set forth in the memo accompanying this testimony which summarizes them.

Thank you for your time and attention today. I would be happy to respond to any questions you may have.

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KADA AMENDMENTS PROPOSED FOR HB2379

Peer to Peer Vehicle Arrangements

Starting at line 17 on page 1 of the bill add the italicized portion in context as shown for each of the referenced paragraphs appearing in New Section 2 of the bill, starting with subparagraph b:

(b) "Peer-to-peer vehicle sharing" means the authorized use of a shared vehicle by an individual other than the shared vehicle's owner through a peer-to-peer vehicle sharing program. "Peer-to-peer vehicle sharing" does not mean rental or lease of a motor vehicle for purposes of K.S.A. 79-5117, and amendments thereto, *nor the use of a vehicle for demonstration purposes or as a leased, temporary loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq .*

Likewise, at line 22 of subparagraph c add the italicized portion:

(c) "Peer-to-peer vehicle sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. "Peer-to-peer vehicle sharing program" does not mean a rental car company and does not include a lessor, as defined in K.S.A. 50-656, and amendments thereto, *nor the use of a vehicle for demonstration purposes or which is a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq .*

At line 28 of subparagraph d add the italicized portion:

(d) "Vehicle sharing program agreement" means the terms and conditions applicable to a shared vehicle owner, a shared vehicle driver and a peer-to-peer vehicle sharing program that govern the use of a shared vehicle through a peer-to-peer vehicle sharing program. "Vehicle sharing program agreement" does not include a rental agreement, as defined in K.S.A. 50-656, and amendments thereto, *nor a vehicle which is used for demonstration purposes or is leased, temporarily loaned or a borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq .*

On page 1, at line 32 of subparagraph e add the italicized portion:

(e) "Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer vehicle sharing program. "Shared vehicle" does not include a rental vehicle, as defined in K.S.A. 50-656, and amendments thereto, *nor a vehicle which is for demonstration purposes or leased, temporarily loaned or a borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq .*

On page 1, at line 36 of subparagraph f add the italicized portion:

(f) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a vehicle sharing program agreement. "Shared vehicle driver" does not include a lessee, as defined in K.S.A. 50-656, and amendments thereto, *nor the operator of a vehicle*

which is a demonstration vehicle or leased, temporarily loaned or a borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq .

On page 2, lines 6 and 7 add the italicized portion:

(g) "Shared vehicle owner" means 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 vehicle sharing program. "Shared vehicle owner" does not include a lessor, as defined in K.S.A. 50-656, and amendments thereto. A "shared vehicle owner" is not a rental car company, *leasing company* or any similar term, under any statute or rule and regulation, *nor an owner of a vehicle which is used for demonstration purposes or is leased, temporarily loaned or a borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq.*