

KANSAS OFFICE of  
**REVISOR of STATUTES**

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**MEMORANDUM**

To: Senate Committee on Financial Institutions and Insurance  
From: Office of Revisor of Statutes  
Date: March 21, 2021

Subject: Bill Brief for HB 2379

<sup>2379</sup> HB ~~2346~~ is largely a reintroduction of a leftover bill from the 2020 legislative session, with some minor changes. Originally introduced as SB 352, the bill was heard in this committee on February 13, 2020 and subsequently died. The bill was then passed out of the Senate Committee on Financial Institutions and Insurance as Substitute for SB 282, where it died on General Orders.

HB 2346 would enact an entirely new program, called the Peer-to-Peer Vehicle Sharing Act.

**Section 1:** Citation of the act.

**Section 2:** Definitions section. Please note that many of the definitions start with the same words or phrase, such as "shared vehicle," "shared vehicle owner," or "shared vehicle driver," which should not be confused with phrases that can also start with the same words in a different order, such as "vehicle sharing period," "vehicle sharing start time," etc.

**Sections 3, 5, 8** all deal with insurance provisions. Key points here:

- With certain exceptions, during the vehicle sharing period, the peer-to-peer vehicle sharing program assumes liability of a shared vehicle owner for bodily injury or property damage to third parties for uninsured and under insured motorist or personal injury protection losses.
- The peer-to-peer vehicle sharing program is required to verify during each vehicle sharing period that the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that meets at least statutory minimum coverage requirements.
- Insurers may exclude coverage and the duty to defend or indemnify any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy.
- A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy shall of the right to seek contribution against the motor vehicle insurer of the peer-to-peer vehicle sharing program if the claim is made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the vehicle sharing period.

**Section 4** requires the program notify the shared vehicle owner that if the vehicle has a lien against it, use of the vehicle through the program, including use without physical damage coverage could violate the terms of the contract with the lienholder. This notification is required to occur between the time that the vehicle owner registers as a shared vehicle owner and the time that the shared vehicle owner makes a vehicle available as a shared vehicle on the program.

**Sections 6** requires the program to collect, verify and retain records for a period not less than two years.

**Section 7** pertains to vicarious liability and exempts a shared vehicle owner and a peer-to-peer vehicle sharing program from vicarious liability claims that arise based solely on vehicle ownership.

**Section 9** states that a peer-to-peer vehicle sharing program shall have an insurable interest in a shared vehicle during the vehicle sharing period.

**Section 10** deals with disclosures that the program is required to make to the shared vehicle owner and the shared vehicle driver, as appropriate. Some of the key provisions here:

- 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 vehicle sharing program.
- The peer-to-peer vehicle sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each vehicle sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the vehicle sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage.

**Section 11** pertains to drivers licenses and requires that:

A peer-to-peer vehicle sharing program shall not enter into a peer-to-peer vehicle sharing program agreement with a driver unless:

- The driver who will operate the vehicle holds a Kansas DL that authorizes the driver to operate vehicles of the class of the shared vehicle; or
- the driver is a nonresident who has a driver's license issued by the driver's home state or country and is at least of the legal age required to drive in the state of Kansas.

**Section 12** pertains to equipment that may be installed in a shared vehicle to monitor or facilitate transactions and states that:

- the peer-to-peer vehicle sharing program shall have sole responsibility for any equipment and shall agree to indemnify and hold harmless the vehicle owner for any damage to or theft of such equipment during the sharing period not caused by the vehicle owner.

**Section 13** deals with auto safety recalls. Requires that the peer-to-peer vehicle sharing program verify that the shared vehicle does not have any outstanding safety recalls requiring repair and addresses situations where safety recalls arise.

**Section 14** amends the definitions section of the Kansas collision damage waiver act. The following exclusions would be added to the current language based on the new definitions in Section 2.

- Lessor would not include a peer-to-peer vehicle sharing program or a shared vehicle owner.
- Lessee would not include a shared vehicle driver.
- Rental agreement would not include a vehicle sharing program agreement.
- Rental motor vehicle would not include a shared vehicle.

The bill passed the House committee of the whole unanimously on a vote of 123 to 0, and would become effective on January 1, 2022.