

2021 Kansas Statutes

8-2803. Same; liability for bodily injury and property damage; primary liability; requirements for motor vehicle insurance. (a) Except as provided in subsection (b), a peer-to-peer vehicle sharing program shall assume liability of a shared vehicle owner for bodily injury or property damage to third parties for uninsured and underinsured motorist or personal injury protection losses during the vehicle sharing period in amounts stated in the peer-to-peer vehicle sharing program agreement that shall not be less than those set forth in K.S.A. 40-3107, and amendments thereto.

(b) Notwithstanding the definition of "vehicle sharing termination time" as defined in K.S.A. 2021 Supp. 8-2802, and amendments thereto, the assumption of liability under subsection (a) shall not apply to any shared vehicle owner when:

- (1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission of fact to the peer-to-peer vehicle sharing program before the vehicle sharing period in which the loss occurred; or
- (2) acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the vehicle sharing program agreement.

(c) Notwithstanding the definition of "vehicle sharing termination time" as defined in K.S.A. 2021 Supp. 8-2802, and amendments thereto, the assumption of liability under subsection (a) shall apply to bodily injury, property damage, uninsured and underinsured motorist or personal injury protection losses by damaged third parties as required by K.S.A. 40-3107, and amendments thereto.

(d) A peer-to-peer vehicle sharing program shall ensure that, during each vehicle 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 K.S.A. 40-3107, and amendments thereto, and the policy:

- (1) Recognizes that the vehicle insured under the policy has been made available as a shared vehicle and is used through a peer-to-peer vehicle sharing program; or
- (2) does not exclude use of the vehicle by a shared vehicle driver.

(e) The insurance described under subsection (d) may be satisfied by motor vehicle liability insurance maintained by a:

- (1) Shared vehicle owner;
- (2) shared vehicle driver;
- (3) peer-to-peer vehicle sharing program;
- (4) shared vehicle owner and a peer-to-peer vehicle sharing program; or
- (5) shared vehicle driver and a peer-to-peer vehicle sharing program.

(f) The insurance described under subsection (e) that satisfies the insurance requirement of subsection (d) shall be primary during each vehicle sharing period. In the event that a claim occurs in another state with insurance policy coverage amounts that exceed the minimum amounts set forth in K.S.A. 40-3107, and amendments thereto, during the vehicle sharing period, the coverage maintained under subsection (e) shall satisfy the difference in minimum coverage amounts up to the applicable policy limits.

(g) The insurer or peer-to-peer vehicle sharing program shall assume primary liability for a claim when it is in whole or in part providing the insurance required under subsections (d) and (e) and:

- (1) A dispute exists as to who was in control of the shared vehicle at the time of the loss or a dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location as required by K.S.A. 2021 Supp. 8-2802(k), and amendments thereto; and
- (2) the peer-to-peer vehicle sharing program does not have available, did not retain or fails

to provide the information required under K.S.A. 2021 Supp. 8-2806, and amendments thereto.

(h) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) has lapsed or does not provide the required coverage, then insurance maintained by a peer-to-peer vehicle sharing program shall provide the coverage required by subsection (d) beginning with the first dollar of a claim and shall have the duty to defend such claim except under circumstances described in subsection (b).

(i) Coverage under a motor vehicle liability insurance policy maintained by the peer-to-peer vehicle sharing program shall not be dependent on another motor vehicle insurer first denying a claim nor shall another motor vehicle insurance policy be required to first deny a claim.

(j) Nothing in this section shall be construed to:

(1) Limit the liability of the peer-to-peer vehicle sharing program for any act or omission of the peer-to-peer vehicle sharing program itself that results in injury to any person as a result of the use of a shared vehicle through the peer-to-peer vehicle sharing program; or

(2) limit the ability of the peer-to-peer vehicle sharing program to contractually seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer vehicle sharing program resulting from a breach of the terms and conditions of the vehicle sharing program agreement.

History: L. 2021, ch. 55, § 3; January 1, 2022.