

STATE OF NEW YORK

6181

2017-2018 Regular Sessions

IN ASSEMBLY

February 27, 2017

Introduced by M. of A. MOYA -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the vehicle and traffic law, in relation to enacting the "personal motor vehicle sharing act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "personal motor vehicle sharing act".

3 § 2. The insurance law is amended by adding a new article 35 to read
4 as follows:

ARTICLE 35

PERSONAL MOTOR VEHICLE SHARING PROGRAMS

Section 3501. Definitions.

8 3502. Requirements for doing business.

9 3503. Liability provisions.

10 3504. Group insurance for personal motor vehicle sharing
11 programs.

12 § 3501. Definitions. In this article the following terms shall have
13 the following definitions:

14 (a) "Authorized operator" means a person, other than the owner or
15 renter, who operates a personal passenger motor vehicle during the shar-
16 ing period and who has been approved by the program to operate such
17 personal passenger motor vehicle.

18 (b) "Commissioner" means the commissioner of motor vehicles.

19 (c) "Motor vehicle" shall:

20 (1) have the meaning set forth in section one hundred twenty-five of
21 the vehicle and traffic law;

22 (2) have a gross weight rating of ten thousand pounds or less; and

23 (3) not be used for the commercial delivery or transportation of goods
24 or materials.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (d) "Personal passenger motor vehicle" means a motor vehicle owned and
2 registered in the state, and insured or subject to being insured under a
3 private passenger motor vehicle liability insurance policy insuring a
4 single individual or individuals residing in the same household, as the
5 named insured, but does not include a motor vehicle with fewer than four
6 wheels.

7 (e) "Personal motor vehicle sharing" means the use of private passen-
8 ger motor vehicles by persons other than the vehicles' owner, in
9 connection with a personal motor vehicle sharing program.

10 (f) "Personal motor vehicle sharing program" or "program" means a
11 program engaged in facilitating the sharing of private passenger motor
12 vehicles.

13 (g) "Personal motor vehicle sharing owner" or "owner" means a person,
14 other than a lienholder, having the property in or title to the personal
15 passenger motor vehicle.

16 (h) "Personal motor vehicle sharing renter" or "renter" means a
17 person, other than the personal motor vehicle sharing owner, who rents
18 the personal motor vehicle sharing owner's vehicle through a personal
19 motor vehicle sharing program.

20 (i) "Sharing period" shall have the meaning set forth in subsection
21 (c) of section three thousand five hundred three of this article.

22 (j) "Group policy" means an insurance policy issued pursuant to
23 section three thousand five hundred four of this article.

24 (k) "Permissive user" means any person using or operating a personal
25 passenger motor vehicle with the permission, express or implied, of a
26 renter in accordance with section three hundred eighty-eight of the
27 vehicle and traffic law.

28 § 3502. Requirements for doing business. (a) No personal passenger
29 motor vehicle insured shall be classified as a commercial vehicle, for-
30 hire vehicle, permissive use vehicle, taxicab, livery or any other type
31 of vehicle operated for commercial use solely because the personal motor
32 vehicle sharing owner allows it to be used for personal motor vehicle
33 sharing when the owner is a party to a valid contract with a personal
34 motor vehicle sharing program, and the owner has not knowingly placed
35 the personal passenger motor vehicle into use as a commercial vehicle or
36 as a vehicle for hire by a personal motor vehicle sharing renter while
37 engaged in personal motor vehicle sharing.

38 (b) A program shall, for each personal passenger motor vehicle that it
39 facilitates the use of, do all of the following:

40 (1) During the sharing period for a personal passenger motor vehicle
41 engaged in personal motor vehicle sharing, procure group insurance
42 coverage for each vehicle and authorized operator of the vehicle. Such
43 insurance shall, at a minimum, provide for each vehicle coverage at
44 least equal to the minimum insurance requirements for private passenger
45 motor vehicles as provided by section three hundred forty-five of the
46 vehicle and traffic law, subsection (a) of section three thousand five
47 hundred four of this article, section three thousand four hundred twenty
48 of this chapter, article fifty-one of this chapter and such other laws
49 of the state with respect to mandatory liability and first-party bene-
50 fits coverage, or coverage as otherwise required under this article. The
51 program shall provide liability coverage of one million dollars. The
52 program shall also provide property and casualty coverage including
53 comprehensive and collision protection, as further described in
54 subsection (d) of section three thousand five hundred four of this arti-
55 cle;

1 (2) Provide the personal motor vehicle sharing owner with proof of
2 compliance with the insurance requirements of this section and the
3 requirements of sections three hundred eleven and three hundred forty-
4 five of the vehicle and traffic law and article fifty-one of this chap-
5 ter in such form as the commissioner may prescribe or approve. A copy of
6 such proof shall be maintained in the vehicle by the personal motor
7 vehicle sharing owner during any time when the vehicle is operated by
8 the renter or authorized operator pursuant to a personal motor vehicle
9 sharing program;

10 (3) Shall not permit the vehicle to be operated for commercial use or
11 as a vehicle for hire by a personal motor vehicle sharing renter or
12 authorized operator while engaged in personal motor vehicle sharing;

13 (4) Provide each personal motor vehicle renter and authorized operator
14 for each vehicle rental transaction under the personal motor vehicle
15 sharing program at the time of each rental:

16 (A) access to the insurance identification card as defined in subdivi-
17 sion ten of section three hundred eleven of the vehicle and traffic law
18 applicable to such personal passenger motor vehicle and such other
19 documentation to be carried in the vehicle at all times during the shar-
20 ing period, stating in such form as the commissioner may prescribe or
21 approve that insurance coverage referred to in paragraph one of this
22 subsection is in full force and effect; and

23 (B) means of communication, in such form as the commissioner may
24 prescribe or approve, by which a police officer, the department of motor
25 vehicles or other officer of this state or any political subdivision
26 thereof may confirm in real time that the insurance coverage provided
27 for in paragraph one of this subsection is in effect;

28 (5) Shall comply with the requirements of subdivision two of section
29 three hundred twelve of the vehicle and traffic law;

30 (6) Require that the vehicles used in the personal motor vehicle shar-
31 ing program are limited to personal passenger motor vehicles;

32 (7) Facilitate the installation, operation and maintenance of its own
33 signage and computer hardware and software to the extent necessary for
34 the personal passenger motor vehicle to be used in the program;

35 (8) Indemnify and hold harmless the personal motor vehicle sharing
36 owner for the cost of damage or theft of equipment installed by the
37 program under paragraph seven of this subsection and for any damage
38 caused to the personal passenger motor vehicle by the installation,
39 operation or maintenance of such equipment;

40 (9) Collect, maintain and make available to the personal motor vehicle
41 sharing owner, the personal motor vehicle sharing owner's primary motor
42 vehicle liability insurer, the renter's and authorized operator's prima-
43 ry automobile insurer if applicable, any applicable excess or umbrella
44 insurer, and third parties involved in accidents with a renter, in
45 instances where an insurance claim has been filed with the program's
46 group insurer, the following information pertaining to incidents which
47 occurred during the renter's sharing period:

48 (A) verifiable records of the program use period for each personal
49 passenger motor vehicle, and verifiable electronic records of the time,
50 initial and final locations of the vehicle, and miles driven during the
51 program use period in which such incident occurred;

52 (B) any and all information relevant to the claim, including payments
53 by the program concerning accidents, damages and injuries; and

54 (C) the program shall also provide the department of motor vehicles
55 with a list of the personal passenger motor vehicles that participate in

1 the program which shall be updated by the program each time a new owner
2 becomes a party to a valid contract with the program.

3 (10) Ensure that the personal motor vehicle sharing owner, renter and
4 authorized operator are given notice prior to the first use or operation
5 of a motor vehicle pursuant to enrollment in a personal motor vehicle
6 sharing program, that:

7 (A) during the sharing period, the personal motor vehicle sharing
8 owner's insurer may exclude any and all coverage afforded to its policy
9 and the personal motor vehicle sharing owner's insurer shall have the
10 right to notify an insured that it shall have no duty to defend or
11 indemnify any person or organization for liability for any loss that
12 occurs during the sharing period; and

13 (B) the group policy and physical damage coverage contract may not
14 provide coverage outside of the sharing period.

15 (11) Shall not charge fees associated with a claim above and beyond
16 the deductible as required in the group policy.

17 § 3503. Liability provisions. (a) Notwithstanding any other provision
18 of law or any provision in a personal motor vehicle sharing owner's
19 automobile insurance policy, in the event of a loss or injury that
20 occurs during the sharing period, as defined in this section, or while
21 the personal passenger motor vehicle is otherwise under the control of a
22 personal motor vehicle sharing program, the program is liable. This
23 liability will extend to all permissive users of the shared vehicle
24 during the sharing period.

25 (b) Section three hundred eighty-eight of the vehicle and traffic law
26 shall apply to the vehicle's owner while the vehicle is under the
27 possession and control of a personal motor vehicle sharing renter or
28 otherwise under the control of a personal motor vehicle sharing program.
29 Nothing in this section shall limit the liability of the program for its
30 acts or omissions, or limit the liability of the personal motor vehicle
31 sharing renter for the renter's acts or omissions, that result in injury
32 to any persons as a result of the use or operation of a motor vehicle
33 while in custody of a personal motor vehicle sharing program. Nothing in
34 this section shall limit the ability of the personal motor vehicle shar-
35 ing program to, by contract, seek indemnification from the vehicle's
36 registered owner for any claims paid by the personal motor vehicle shar-
37 ing program for any loss or injury resulting from fraud or material
38 intentional misrepresentation by the personal motor vehicle sharing
39 owner, provided that the personal motor vehicle sharing program
40 discloses in the contract that:

41 (1) the personal motor vehicle sharing program is entitled to seek
42 indemnification in these circumstances; and

43 (2) the personal motor vehicle sharing owner's insurance policy may
44 not provide defense or indemnification for any loss or injury resulting
45 from fraud or material intentional misrepresentation. For the purposes
46 of this section a vehicle owner's participation in the personal motor
47 vehicle sharing program will not constitute a fraud or a material
48 misrepresentation.

49 (c) A program's group policy shall provide coverage during the sharing
50 period as recorded in the program's records for a personal motor vehicle
51 sharing owner's motor vehicle registered in this state, from when the
52 renter takes possession and control of the shared vehicle, or when
53 otherwise under the control of the program and the program shall contin-
54 ue to be liable pursuant to this section until the personal passenger
55 motor vehicle is returned to a location agreed to by the personal motor
56 vehicle sharing owner and renter, or designated by the program. The

1 shared vehicle will be deemed to be in control by the program until the
2 vehicle has been returned to the agreed upon location, irrespective of
3 any temporal reservation period.

4 (d) The insurer or insurers providing group liability insurance to the
5 personal motor vehicle sharing program pursuant to subsection (a) of
6 section three thousand five hundred four of this article and group phys-
7 ical damage insurance to the personal motor vehicle sharing program
8 pursuant to subsection (d) of section three thousand five hundred four
9 of this article shall assume liability for a claim in which a dispute
10 exists regarding who was in control of the vehicle when the loss
11 occurred giving rise to the claim, and the personal motor vehicle shar-
12 ing owner's private passenger motor vehicle insurer shall indemnify the
13 personal motor vehicle sharing program's group insurer or insurers to
14 the extent of its obligation under the applicable insurance policy, if
15 it is determined that the personal motor vehicle sharing owner was in
16 control of the vehicle at the time of the loss. Such a dispute as to
17 control shall be adjudicated pursuant to subsection (b) of section five
18 thousand one hundred five of this chapter. The personal motor vehicle
19 sharing program shall notify the personal motor vehicle sharing owner's
20 private insurer of any such dispute within fifteen business days of
21 becoming aware that such a dispute exists.

22 (e) In the event that a personal motor vehicle sharing owner or a
23 personal motor vehicle sharing owner's insurer is named as a defendant
24 in a civil action for a loss or injury that occurs during any time with-
25 in the sharing period, or otherwise under the control of a personal
26 motor vehicle sharing program, the personal motor vehicle sharing
27 program's group liability insurance insurer under subsection (a) of
28 section three thousand five hundred four of this article shall have the
29 duty to defend and indemnify the personal motor vehicle sharing owner
30 and the personal motor vehicle sharing owner's insurer, subject to the
31 provisions of subsections (b) and (d) of this section. The personal
32 motor vehicle sharing program shall notify the personal passenger motor
33 vehicle's private owner and his or her private insurance of the program
34 insurer's duty to defend and indemnify within fifteen days of the duty.

35 (f) No personal motor vehicle sharing owner's policy of insurance that
36 is subject to section three thousand four hundred twenty-five of this
37 chapter shall be cancelled, voided, terminated, rescinded, or non-re-
38 newed, solely on the basis that the personal passenger motor vehicle has
39 been made available for personal vehicle sharing pursuant to a personal
40 vehicle sharing program that is in compliance with the provisions of
41 this section. For the purposes of this section participation in the
42 personal motor vehicle sharing program shall not constitute fraud or
43 misrepresentation by the vehicle owner. Provided, however that the
44 provisions of this subsection shall not pertain to cancellations in
45 accordance with the provisions of subsection (f) of section three thou-
46 sand four hundred twenty-five of this chapter.

47 § 3504. Group insurance for personal motor vehicle sharing programs.
48 (a) An insurer which is authorized or eligible to do business in the
49 state may issue, or issue for delivery in this state, a group policy of
50 liability and property and casualty insurance to a personal motor vehi-
51 cle sharing program to insure the personal motor vehicle sharing
52 program, renters, authorized operators and occupants of the personal
53 passenger motor vehicle, as well as the program's agents, employees,
54 directors, officers and assigns; and

55 (1) such group policy shall provide first party coverage, liability,
56 property, comprehensive, collision, and uninsured/underinsured motorist

1 coverage for the personal passenger motor vehicle and its renters,
2 authorized operators and occupants for claims and damages resulting from
3 the use or operation of that vehicle during the sharing period;

4 (2) such group policy shall be primary with respect to any other
5 insurance available to the personal motor vehicle sharing owner and
6 shall be primary over any other insurance available to the personal
7 motor vehicle sharing renter;

8 (3) such insurer shall comply with the provisions of sections three
9 hundred twelve-a and three hundred thirteen of the vehicle and traffic
10 law; and

11 (4) for the purposes of group insurance written under this section
12 only, the rates charged by the insurer for group liability insurance as
13 provided for in this section shall be subject to prior approval in
14 accordance with subsection (b) of section two thousand three hundred
15 five of this chapter.

16 (b) An insurer which issues an insurance policy described in
17 subsection (a) of this section shall issue such policy identifying the
18 personal motor vehicle sharing program as the named insured; and any
19 such group policy shall include a provision that provides coverage,
20 without prior notice to the insurer, for all personal passenger motor
21 vehicles during the sharing period and such policy shall further include
22 a provision that such vehicles' renters, authorized operators and occu-
23 pants are included as insureds under the policy to the same extent that
24 they would be insureds under a private passenger motor vehicle policy
25 issued pursuant to section three thousand four hundred twenty-five of
26 this chapter and section three hundred eleven of the vehicle and traffic
27 law.

28 (c) A group policy as provided for in subsections (a) and (b) of this
29 section shall only be issued in accordance with the provisions of this
30 article.

31 (d) An insurer which is authorized or eligible to do business in the
32 state may issue a group policy of physical damage insurance to a
33 personal motor vehicle sharing program to insure against physical damage
34 or loss to personal passenger motor vehicles while such vehicles are in
35 the custody of the personal motor vehicle sharing program, personal
36 motor vehicle sharing renter or authorized operator. Such group policy
37 shall provide primary coverage for physical damage or loss either by
38 collision, comprehensive, or both, to the personal passenger motor vehi-
39 cle while it is in the custody of the personal motor vehicle sharing
40 program, a personal motor vehicle sharing renter or authorized operator.

41 (e) An insurer which issues a group insurance policy described in
42 subsection (d) of this section shall issue such policy identifying the
43 personal motor vehicle sharing program as the named insured, and any
44 such policy shall include a provision that provides primary coverage,
45 without prior notice to the insurer, for all personal passenger motor
46 vehicles during the sharing period, and shall further include a
47 provision that claims will be adjusted pursuant to section three thou-
48 sand four hundred twelve of this chapter, and it shall further include
49 physical damage coverage for damage or loss to the owner's personal
50 passenger motor vehicle incurred during the sharing period at a level no
51 less than that of third party physical damage coverage.

52 (f) A group policy as provided for in subsections (d) and (e) of this
53 section shall only be issued in accordance with the provisions of this
54 section.

55 (g) A group policy shall not have any deductible or associated fees
56 exceeding five hundred dollars.

§ 3. Subdivision 4 of section 311 of the vehicle and traffic law is amended by adding a new paragraph (e) to read as follows:

(e) In the case of a personal passenger motor vehicle that is used in connection with a personal motor vehicle sharing program, a group insurance policy issued pursuant to section three thousand five hundred four of the insurance law on such vehicle and to the renters and authorized operators of such vehicles shall be valid for any time that the vehicle is being used in connection with such personal motor vehicle sharing program. For the purposes of this paragraph, the terms "personal passenger motor vehicle" and "personal motor vehicle sharing program" shall have the same meaning as such terms are defined by section three thousand five hundred one of the insurance law.

§ 4. Section 312 of the vehicle and traffic law is amended by adding a new subdivision 1-a to read as follows:

1-a. In the case of financial security procured by a personal motor vehicle sharing program as set forth in section three thousand five hundred four of the insurance law, the program shall provide the commissioner with proof of financial security in the form of a group insurance policy covering itself and the owners of all motor vehicles registered in this state that participate in the program as insured group members, covering those vehicles while they are being used in conjunction with that program. Notwithstanding the foregoing, nothing contained in this subdivision shall be deemed to supersede the requirements of subdivision one of this section.

§ 5. Subdivision 1 of section 312-a of the vehicle and traffic law, as amended by chapter 781 of the laws of 1983, is amended to read as follows:

1. Upon issuance of an owner's policy of liability insurance, a group liability insurance policy issued to a personal motor vehicle sharing program pursuant to section three thousand five hundred four of the insurance law or other financial security required by this chapter, an insurer shall issue proof of insurance in accordance with the regulations promulgated by the commissioner pursuant to paragraph (b) of subdivision two of section three hundred thirteen of this article.

§ 6. Paragraphs (a) and (b) of subdivision 2 of section 313 of the vehicle and traffic law, as amended by chapter 509 of the laws of 1998, are amended to read as follows:

(a) Upon the termination of an owner's policy of liability insurance or a group liability insurance policy issued to a personal motor vehicle sharing program pursuant to section three thousand five hundred four of the insurance law, other than an owner's policy of liability insurance for a motorcycle, at the request of the insured or by cancellation by the insurer, the insurer shall file a notice of termination with reference to such policy, as opposed to any insured vehicle or vehicles under such policy, with the commissioner not later than thirty days following the effective date of such cancellation or other termination, in accordance with the regulations required by paragraph (c) of this subdivision. An insurer shall not file a notice of termination with the commissioner except as required by this subdivision.

(b) Upon the issuance of an owner's policy of liability insurance or a group liability insurance policy issued to a personal motor vehicle sharing program pursuant to section three thousand five hundred four of the insurance law, the insurer shall file a notice or confirmation of issuance with reference to such policy not later than fourteen days following the effective date of such issuance, and not later than seven days following the effective date for policies issued after January

1 first, two thousand one, in accordance with the regulations required by
2 paragraph (c) of this subdivision.

3 § 7. Consent orders. All consent orders agreed to by the department of
4 financial services, concerning allegations of unauthorized and/or unlaw-
5 ful operation of a car sharing program in the state of New York, and
6 involving incidents which allegedly occurred prior to the effective date
7 of this act, shall be deemed, satisfied, expired, discontinued and non-
8 renewable by all parties, on and after the effective date of this act.

9 § 8. This act shall take effect immediately.