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## ATTORNEY GENERAL

### Peer-to-peer car sharing

#### Regulations

- Authorizes a licensed driver to rent a vehicle owner's personal motor vehicle through a peer-to-peer car sharing program and peer-to-peer car sharing agreements.
- Establishes requirements for a peer-to-peer car sharing program, including requirements that the program collect, verify, and maintain certain records pertaining to the use of each shared vehicle, and make certain disclosures to participants.
- Specifies that peer-to-peer car sharing and a peer-to-peer car sharing program agreement are consumer transactions for purposes of the Consumer Sales Practices Law.
- When the transaction is primarily for personal, family, or household purposes, specifies that any agreement between a motor vehicle leasing dealer and a lessee, or a motor vehicle renting dealer and a renter, is a consumer transaction for purposes of the Consumer Sales Practices Law.
- Authorizes the operator of a public-use airport to adopt reasonable standards, regulations, procedures, and fees related to a peer-to-peer car sharing program, and requires the relevant parties to comply with them.

#### Insurance

- Makes a general statement that the General Assembly does not intend to limit or restrict an insurer's ability to exclude coverage or underwrite any insurance policy related to peer-to-peer car sharing.
- Establishes certain insurance requirements that apply to peer-to-peer car sharing, such as minimum coverage limits, and makes the peer-to-peer car sharing program ultimately responsible for ensuring that insurance requirements are met.

### Organized Crime Investigations Commission

- Allows the Organized Crime Investigations Commission to reimburse political subdivisions for employment related costs, other than workers' compensation, of political subdivision employees who serve as directors and investigatory staff for an organized crime task force under the Commission.

### Contacting persons after accident or crime

- Prohibits health care practitioners and persons paid money or anything of value to solicit employment on behalf of another from directly contacting any party to a motor vehicle accident, any victim of a crime, or any witness to a motor vehicle accident or crime, until 30 days after the accident or crime.

- Requires the Attorney General, if the Attorney General believes a health care practitioner or person described in the previous bullet point violated this prohibition, to issue a notice and conduct a hearing and impose a fine of \$5,000 if a violation actually occurred.
- Increases the fine to \$25,000 if there is a subsequent violation of the prohibition.
- If there are three separate violations and the health care practitioner or person holds a license issued by an agency, requires the Attorney General to notify that agency of the three violations and the agency to suspend the health care practitioner's or person's license without a prior hearing and afford a hearing on request.

### **Internet Crimes Against Children Task Force**

- Requires the Ohio Internet Crimes Against Children Task Force to coordinate a state network of law enforcement agencies to support investigations into internet crimes against children.
- Requires the Task Force to support the state network of law enforcement agencies, by funding positions, providing investigative training and digital forensic support, and conducting community outreach.
- Authorizes the Attorney General to disburse funds appropriated for the Task Force to certain local agencies affiliated with the Task Force, and to the Office of the Attorney General's Crimes Against Children Initiative.
- Requires the Task Force and the Office of the Attorney General to provide a yearly progress report and summary of expenditures

### **Peer-to-peer car sharing**

(R.C. 4516.01, 4516.02, 4516.03, 4516.04, 4516.05, 4516.06, 4516.07, 4516.08, 4516.09, 4516.10, 4516.11, 4516.12, 4516.13, 4549.65, and 5739.01; Sections 757.301 and 812.15)

The act authorizes "peer-to-peer care sharing," allowing a licensed driver to rent a vehicle owner's personal motor vehicle. A vehicle owner and a licensed driver are connected through a peer-to-peer car sharing program, which is an electronically based business platform that enables vehicle sharing for financial consideration. The service is similar to Airbnb, but for motor vehicles.

#### **Basic parameters**

The act outlines basic requirements for establishing a peer-to-peer car sharing program in Ohio. As part of the basic requirements for operation, a program must collect information from any participant in the program, including names, addresses, driver's license information, insurance information, verification of current vehicle registration, and whether there are any outstanding safety recalls on the shared vehicle.

The program may not allow a peer-to-peer car sharing program agreement on its platform if the person operating the shared vehicle does not have a valid driver's license or if the shared vehicle is not properly registered.

Additionally, the peer-to-peer car sharing program must collect, verify, and maintain records pertaining to the use of each enrolled shared vehicle. The records must include information about the dates, times, and duration of time that the shared vehicle is in use and confirm that the shared vehicle driver possesses the shared vehicle. The records also must include any fees or financial consideration a shared vehicle driver pays, any revenues or other financial consideration a shared vehicle owner receives, and any other similar, pertinent information. The program must be capable of providing records, on request, to any shared vehicle owner, shared vehicle driver, or insurer, for purposes of facilitating investigation of a claim, incident, or accident. The program may provide the records to law enforcement if requested, but it must provide the records if presented with a valid warrant. The records must be retained for at least three years.

### **Peer-to-peer car sharing agreement**

The contract at the center of the peer-to-peer car sharing arrangement is the peer-to-peer car sharing agreement. A peer-to-peer car sharing program, a shared vehicle owner, and the shared vehicle driver are all parties to the agreement. The agreement sets forth the parameters of peer-to-peer car sharing, including the location(s), dates, and times for drop-off and pick-up of the vehicle, whether the time the shared vehicle owner spends delivering the vehicle is paid, and the daily rate, fees, and any costs for the insurance provided by the program (see "**Insurance**" below).

Also, the program must make a variety of disclosures to the shared vehicle owner and the shared vehicle driver. The disclosures include the program's right to seek indemnification from the shared vehicle owner or the shared vehicle driver, any insurance coverage or lack of coverage that might occur based on whether the car sharing period is in effect or whose insurance is being used, and emergency contact information.

### **Equipment and recalls**

The act specifies that a peer-to-peer car sharing program is responsible for any equipment, including GPS or program-specific equipment that facilitates peer-to-peer car sharing, that is installed in the vehicle, unless the shared vehicle driver causes damage to the equipment.

Generally, the shared vehicle owner is responsible for addressing any safety recall repairs (issued pursuant to federal law) on the shared vehicle. If a safety recall applies to a shared vehicle, the owner must remove the vehicle from the program. Or, if the vehicle is in operation, the owner must notify the program so that the car sharing period can be terminated and the vehicle returned to the owner for repair.

The program, in addition to checking for outstanding recalls before the shared vehicle is enrolled in the program, must establish commercially reasonable procedures to check for outstanding recalls after initial enrollment. The program also must provide notice to each shared vehicle owner of the owner's safety recall responsibilities.

## **Operation at airports**

The act authorizes a public-use airport operator to adopt reasonable standards, regulations, procedures, and fees that apply to peer-to-peer car sharing programs. Additionally, the operator is permitted to enter into agreements, including concession agreements, with a peer-to-peer car sharing program. In turn, the peer-to-peer car sharing program, a shared vehicle owner, and a shared vehicle driver must comply with the airport's standards, regulations, procedures, and agreements and pay all fees in a timely manner.

## **Penalties and the Consumer Sales Practices Law**

### **Peer-to-peer car sharing**

Peer-to-peer car sharing (in general) and a peer-to-peer car sharing program agreement (in particular) are consumer transactions, and thus, subject to the Uniform Commercial Code (U.C.C). For purposes of the Consumer Sales Practices Law (CSPL), the peer-to-peer car sharing program and the shared vehicle owner are considered the "suppliers" and the shared vehicle driver is considered the "consumer." Accordingly, the programs must comply with general business, contract, and advertising practices. (For instance, the peer-to-peer car sharing program agreement cannot specify that the motor vehicle being shared is a luxury vehicle if the motor vehicle is actually a low-cost vehicle.) The Attorney General enforces the CSPL and the specific remedies, fines, and procedures are established in continuing law.

The act specifies, however, that a peer-to-peer car sharing program is not liable under the CSPL if the violation results from a shared vehicle owner or shared vehicle driver providing false, misleading, or inaccurate information to the program and the program relies on the information in good faith. (For instance, if the program verifies the registration provided by a shared vehicle owner for one shared vehicle, but the shared vehicle owner provides a different vehicle to the shared vehicle driver without the program's knowledge, the program is not liable for the shared vehicle owner's deception.)

### **Motor vehicle leasing and renting dealers**

The act extends the provisions related to the U.C.C. and the CSPL to motor vehicle leasing dealers, motor vehicle renting dealers, and the agreements between those dealers and their lessees and renters (when the transaction that is the subject of the agreement is for purposes that are primarily personal, family, or household).

Additionally, the immunity extended to a program when the program relies on false information in good faith is extended to the dealers when they rely in good faith on false information provided by a lessee or renter. Those dealers are already likely subject to the U.C.C. and CSPL (for those agreements) under current federal law and it is unclear whether this provision affects their current duties or current remedies for lessees and renters.

## **Insurance**

### **General statements**

The act makes several general statements pertaining to insurance as applied to a peer-to-peer car sharing program. One statement conveys that it is not the General Assembly's

intent to either limit or restrict an insurer's ability to exclude insurance coverage from an insurance policy or an insurer's ability to underwrite an insurance policy.

Additionally, the statements convey that none of the insurance requirements specified by the act do any of the following:

1. Limit a peer-to-peer car sharing program's liability for its injurious actions or omissions;
2. Limit the program's ability to seek indemnity from a shared vehicle owner or shared vehicle driver; or
3. Create, imply, or otherwise grant insurance coverage that is not found in any motor-vehicle liability policy or other insurance policy.

### **Assumption of liability**

A peer-to-peer car sharing program assumes the liability of a shared vehicle owner for any death, bodily injury, or property damage to a third party or an uninsured or underinsured motorist that is proximately caused by the operation of a shared vehicle during the car sharing period. The amount of liability must be stated in the peer-to-peer car sharing program agreement and cannot be less than the following, which are the minimum amounts required under the Proof of Financial Responsibility Law:

- \$25,000 because of bodily injury to or death of one person in any one accident;
- \$50,000 because of bodily injury or death of two or more persons in any one accident; and
- \$25,000 because of injury to property of others in any one accident.

The assumption of liability does not apply, however, if either occurs:

- The shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the program regarding the vehicle owner's motor-vehicle liability policy (or other proof of financial responsibility) or the type or condition of the shared vehicle; or
- The shared vehicle owner and the shared vehicle driver conspire to have the shared vehicle driver fail to return the shared vehicle, in violation of the car sharing agreement.

### **Vicarious liability**

The act exempts a shared vehicle owner from vicarious liability for harm arising from the use, operation, or possession of the shared vehicle during the car sharing period. Vicarious liability is a legal concept that assigns liability an individual who did not actually cause the harm, but who has a specific, "superior" legal relationship to the person who did cause the harm. The act states that both a peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability under a federal law that exempts a motor vehicle renting dealer from vicarious liability, based on ownership, for harm caused by a renter.

But, because a program does not have an ownership interest in a shared vehicle (in contrast to the way a motor vehicle renting dealer does in a rental vehicle), it is unclear whether the provision actually exempts a program from vicarious liability, although it likely does exempt the shared vehicle owner.

### **Motor vehicle insurance**

A peer-to-peer car sharing program must ensure that, during each car sharing period, the shared vehicle owner and shared vehicle driver are each covered by a motor-vehicle liability policy or other proof of financial responsibility. The policy or proof must recognize their status as a shared vehicle owner or shared vehicle driver and provide coverage for the operation of the shared vehicle during the car sharing period. The policy or proof must be maintained in the liability amounts specified above – the minimum amounts required under the Proof of Financial Responsibility Law. The insurance requirement may be satisfied by any of the following (or combination):

- A motor-vehicle liability policy or other proof of financial responsibility that is maintained by the shared vehicle owner;
- A policy or other proof that is maintained by the shared vehicle driver;
- A policy or other proof that is maintained by the peer-to-peer car sharing program.

If the owner or driver of a shared vehicle does not provide the required minimum coverage, the insurance maintained by the program must provide appropriate coverage beginning with the first dollar of the claim and must defend the claim. The program's policy or other proof of financial responsibility cannot require the owner's or driver's policy to first deny a claim.

Additionally, if the program provides at least part of the required insurance coverage and there is a dispute over who was operating the shared vehicle at the time of the loss (and the program either does not have or cannot quickly produce the relevant records), the program must assume liability for that disputed claim. The program may seek indemnity from a shared vehicle owner, however, if the owner is determined to have been the operator at the time of the loss.

The act declares that a policy that meets the act's insurance requirements satisfies Ohio's motor vehicle proof of financial responsibility requirements. The program must examine any motor-vehicle liability policy or proof of financial responsibility held by the shared vehicle owner and the shared vehicle driver. The examination must determine whether that policy or proof provides for or excludes coverage for peer-to-peer car sharing if the owner or driver: (1) refuses the program's insurance coverage, or (2) claims that the person's policy or proof provides coverage for peer-to-peer car sharing. Additionally, the program may require increased limits of insurance beyond the minimum set by law.

### **General liability coverage**

A peer-to-peer car sharing program also must maintain at least \$1 million in coverage for the program's liability for the program's acts or omissions that are the proximate cause of death, bodily injury, or property damage to any person in any one accident because of the

operation of a shared vehicle through the program. The program can maintain that coverage in any form of insurance; it does not have to be maintained by a specific insurance policy.

## **Organized Crime Investigations Commission**

(R.C. 177.02)

The act allows the Organized Crime Investigations Commission to reimburse a political subdivision for costs incurred by the political subdivision as an employer while the political subdivision's employee is serving as a director or investigator on an organized crime task force established by the Commission. Employment costs that the Commission may reimburse include, but are not limited to, the employee's compensation and the employer's contributions to retirement funds. If the Commission reimburses a political subdivision for employment costs, it must do so from the Organized Crime Commission Fund created under continuing law.<sup>11</sup>

Under continuing law, during a task force's investigation, the director and investigators are considered employees of the state and Commission for purposes of workers' compensation premiums and tort liability. For all other employment related purposes, the director and investigators remain employees of the state or local agency from which they were selected. The law requires the Commission to pay for necessary and actual expenses but, before the act, it was silent regarding compensation and other employment costs incurred by the employing agency.

## **Contacting persons after accident or crime**

(R.C. 1349.05)

The act prohibits (1) certain health care practitioners, with the intent to obtain professional employment, or (2) persons who have been paid or given, or were offered to be paid or given, money or anything of value to solicit employment on behalf of another (hereafter "specified person"), from directly contacting in person, by telephone, or by electronic means any party to a motor vehicle accident, any victim of a crime, or any witness to a motor vehicle accident or crime until 30 days after the accident or crime. Any communication to solicit employment must be sent via the U.S. Postal Service.

If the Attorney General believes that a health care practitioner or specified person has violated this prohibition, the Attorney General must issue a notice and conduct a hearing in accordance with R.C. Chapter 119. If, after the hearing, the Attorney General determines that a violation occurred, the Attorney General must impose a fine of \$5,000 for each violation. If the Attorney General determines that a health care practitioner or specified person has committed a subsequent violation, the Attorney General must impose a fine of \$25,000 for each violation.

After determining that a health care practitioner or specified person has committed a violation on three separate occasions, and if that health care practitioner or specified person holds a license, the Attorney General must notify the licensing agency in writing. After receiving

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<sup>11</sup> R.C. 177.011, not in the act.

that notice, the agency must suspend the health care practitioner's or specified person's license without a prior hearing and must afford the health care practitioner or specified person a hearing on request in accordance with R.C. 119.06.

## **Internet Crimes Against Children Task Force**

(R.C. 195.01 and 195.02)

The act establishes certain duties of the Ohio Internet Crimes Against Children Task Force. The Task Force began in northeast Ohio with the help of a federal grant from the U.S. Department of Justice.<sup>12</sup> Federal law facilitated the establishment of a national network of coordinated task forces representing state and local law enforcement.<sup>13</sup> These task forces have certain duties under federal law, such as a duty to engage in proactive investigations, forensic examinations, and effective prosecutions of internet crimes against children, and a duty to develop multijurisdictional, multiagency responses and partnerships to internet crimes against children offenses through ongoing support to other law enforcement agencies.<sup>14</sup>

The act requires the Task Force to do all of the following:

- Consistent with its federal duties, coordinate a state network of local law enforcement agencies that assist federal, state, and local law enforcement agencies in investigations, forensic examinations, and prosecutions related to technologically facilitated sexual exploitation of children, internet crimes against children, and victim identification;
- Consistent with available funding, support the state network of law enforcement agencies by funding personnel with agencies who have demonstrated the ability to investigate and prosecute internet crimes against children;
- Support the state network of law enforcement agencies by coordinating and providing investigative training and digital forensic support through on-scene forensic facilities, laboratory computer forensic services, or by funding computer forensic hardware and software licensing to agencies who employ trained computer forensic personnel; and
- Conduct or support internet safety presentations and community outreach events throughout Ohio aimed at educating the public about the dangers of the internet and how to keep children safe while they are online.

### **Attorney General disbursement of funds**

The act requires the Attorney General to use money appropriated to the Task Force to support its operation including equipment, personnel, and training only and for no other purpose. The act also requires that the Attorney General disburse money appropriated for the purposes of the Task Force in the following manner:

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<sup>12</sup> Ohio ICAC website, <http://ohioicac.org/en-US/about.aspx>.

<sup>13</sup> 34 United States Code (U.S.C.) 21112.

<sup>14</sup> 34 U.S.C. 21114.



1. 60% to the Task Force;
2. 20% in coordination with the Task Force, to local internet crimes against children affiliated agencies in good standing with the Task Force; and
3. 20% to the crimes against children initiative within the Office of the Attorney General for investigations, forensic examinations, and prosecutions related to technologically facilitated sexual exploitation of children, internet crimes against children, and victim identification.

### **Progress report**

Annually, by January 31, the Task Force and the Attorney General's office must provide to the General Assembly a summary of the previous calendar year's expenditures and progress in combating Internet crimes against children. They must include in the report annual statistics, including statistics from affiliated agencies, consistent with the reporting requirements of the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention's Internet Crimes Against Children Task Force Program.