

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers
(Amended at ARRS Committee)

601 KAR 1:114. Peer-to-peer services.

RELATES TO: KRS 186.050, 189.290, 189A.010, 281.010, 281.600, 281.630, 281.6301, 281.631, 281.640, 281.655, 281.656, 281.990, 304.3-070, 304.10-070, 304.20-020, 304.39-020(2), 304.39-040, 304.39-320, 365.522, 365.524

STATUTORY AUTHORITY: KRS 281.600(1), 281.630, 281.655

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600(1) authorizes the Department of Vehicle Regulation to promulgate administrative regulations to regulate and establish requirements for the safe operation of motor carriers. KRS 281.630 authorizes the department to establish requirements for a transportation network company to apply for authority to operate in Kentucky. KRS 281.655 requires the department to establish standards for pre-trip acceptance policies and prearranged ride liability policies for transportation network companies. This administrative regulation establishes the standards and application requirements for a transportation network company to operate in Kentucky.

Section 1. Definitions.

- (1) "Certificate" is defined by KRS 281.010(9). ~~["Basic repairation benefits" is defined by KRS 304.39-020(2).]~~
- (2) "Motor carrier" is defined by KRS 281.010(34). ~~["Certificate" is defined by KRS 281.010(9).]~~
- (3) "Operating authority" means the authority to operate under a peer-to-peer car sharing certificate. ~~["Motor carrier" is defined by KRS 281.010(34).]~~
- (4) "Peer-to-peer car sharing" is defined by KRS 281.010(40). ~~["Motor carrier vehicle" is defined by KRS 281.010(35).]~~
- (5) "Peer-to-peer car sharing certificate" is defined by KRS 281.010(41). ~~["Operating authority" is defined by KRS 281.010(41).]~~
- (6) "Peer-to-peer car sharing company" is defined by KRS 281.010(42). ~~["Passenger" is defined by KRS 281.010(39).]~~
- (7) "Peer-to-peer car sharing program" is defined by KRS 281.010(43). ~~["Peer-to-peer car sharing" is defined by KRS 281.010(40).]~~
- (8) "Personal information" is defined by KRS 61.931(6). ~~["Peer-to-peer car sharing certificate" is defined by KRS 281.010(41).]~~
- (9) "Shared vehicle" is defined by KRS 281.010(54). ~~["Peer-to-peer car sharing company" is defined by KRS 281.010(42).]~~
- (10) "Shared vehicle driver" is defined by KRS 281.010(55). ~~["Peer-to-peer car sharing program" is defined by KRS 281.010(43).]~~
- (11) "Shared vehicle owner" is defined by KRS 281.010(56). ~~["Personal information" is defined by KRS 61.931(6).]~~
- ~~[(12)] ["Underinsured vehicle coverage" is defined by KRS 304.39-320(1).]~~
- ~~[(13)] ["Uninsured vehicle coverage" is defined by KRS 304.20-020(2).]~~

Section 2. Application and Renewal.

- (1) To apply for a certificate to operate, a peer-to-peer car sharing company shall:
 - (a) Submit an application electronically using ~~Use~~ the Kentucky Motor Carrier Portal at <https://drive.ky.gov/>;
 - (b) Pay an application fee of \$250 pursuant to KRS 281.630(3)(b); and

(c) Pay a vehicle qualification fee of **fifteen (15)**~~thirty (30)~~ dollars per vehicle **or use the bulk vehicle qualification payment option in subsection (2)**~~prorated for the month the vehicle is qualified pursuant to KRS 281.631(3) and (8)~~.

(2) A peer-to-peer car sharing company with fifty-one (51) or more vehicles may qualify vehicles to operate by ~~paying a calendar year bulk qualification fee pursuant to the following schedule:~~

~~(a) Adding each vehicle using the Kentucky Motor Carrier Portal at <https://drive.ky.gov/>;~~

~~(b) Paying an application fee of \$250 pursuant to KRS 281.630(3)(b); and~~

~~(c) Paying a calendar year bulk qualification fee pursuant to the following schedule:~~

~~(a) \$1,500~~ ~~\$3,000~~ for fifty-one (51) to 100 vehicles;

~~(b) \$2,250~~ ~~\$4,500~~ for 101 to 150 vehicles;

~~(c) \$3,000~~ ~~\$6,000~~ for 151 to 200 vehicles;

~~(d) \$3,750~~ ~~\$7,500~~ for 201 to 250 vehicles;

~~(e) \$4,500~~ ~~\$9,000~~ for 251 to 300 vehicles;

~~(f) \$5,250~~ ~~\$10,500~~ for 301 to 350 vehicles;

~~(g) \$6,000~~ ~~\$12,000~~ for 351 to 400 vehicles;

~~(h) \$7,500~~ ~~\$15,000~~ for 401 to 500 vehicles; and

~~(i) \$11,250~~ ~~\$22,500~~ for 501 or more vehicles.

(3) A peer-to-peer car sharing company shall ~~annually~~ submit the following using the Kentucky Motor Carrier Portal at <https://drive.ky.gov/> to renew a certificate **no later than December 31 of each renewal year:**

(a) A certificate renewal fee of \$250 pursuant to KRS 281.630(4)(d); and

(b) A vehicle qualification fee of **fifteen (15)**~~thirty (30)~~ dollars per vehicle, **or a renewal bulk fee pursuant to the schedule in subsection (2)**~~prorated for the month the vehicle is qualified pursuant to KRS 281.631(3) and (8)~~.

(4) If a peer-to-peer car sharing company elects to use the bulk vehicle qualification~~registration~~ payment option in the initial or renewal application, the peer-to-peer car sharing company shall not be required to submit additional vehicle qualification information and fees to the Division of Motor Carriers in connection with vehicles that are added during the duration of the period for which the bulk payment was made.

(5) A peer-to-peer car sharing company shall pay a renewal bulk fee by December ~~31~~~~15~~ of each calendar year.

(6) **If a peer-to-peer car sharing company does not elect to use the bulk vehicle qualification payment option in the initial or renewal application, a** ~~A~~ peer-to-peer vehicle shall be added to the peer-to-peer car sharing company's current list by submitting a vehicle qualification fee of **fifteen (15)**~~thirty (30)~~ dollars per vehicle prorated for the month the vehicle is qualified pursuant to KRS 281.631(3) and (8) to the Division of Motor Carriers using the Kentucky Motor Carrier Portal at <https://drive.ky.gov/>.

~~(7) An application shall be submitted electronically using the Kentucky Motor Carrier Portal at <https://drive.ky.gov/>.~~

~~(8)~~ Operating authority obtained pursuant to this section shall not be transferable.

Section 3. Demonstration of Financial Responsibility and Insurance. **Before a certificate may be issued or renewed, a** ~~A~~ peer-to-peer car sharing company shall **file or have on file with the department proof of insurance that demonstrates that the peer-to-peer car sharing company meets the motor vehicle insurance coverage requirements in KRS 365.522**~~maintain primary automobile insurance that complies with the provisions set forth in KRS 281.655~~.

Section 4. Recordkeeping ~~{Insurance Exclusions}~~. Pursuant to KRS 365.524(2), a peer-to-peer car sharing company shall collect and verify records pertaining to the use of a shared vehicle and provide the information collected to facilitate a claim coverage investigation, settlement, negotiation, or litigation, as provided in that subsection.

~~{(1)} {An automobile insurer whose policy excludes coverage for a peer-to-peer car sharing company vehicle shall have no duty to defend or indemnify a claim for personal or property damages.}~~

~~{(2)} {In a claims coverage investigation, the peer-to-peer car sharing company and an insurer potentially providing coverage shall cooperate to facilitate the exchange of relevant information with directly involved parties.}~~

~~{(3)} {Information relevant to a claims coverage situation shall include:}~~

~~{(a)} {The name of the insurer or potential insurer of the vehicles of the peer-to-peer car sharing company; and}~~

~~{(b)} {A complete description of the insurance coverage including the exclusions and limits.}~~

~~{Section 5:} {Vehicles.}~~

~~{(1)} {A vehicle used for peer-to-peer car sharing shall be added by using the Kentucky Motor Carrier Portal at <https://drive.ky.gov/> and submitting the fees required in Section 2 of this administrative regulation.}~~

~~{(2)} {A peer-to-peer car sharing company shall collect and maintain the following information on the vehicles being used to provide peer-to-peer services:}~~

~~{(a)} {The VIN and license plate number; and}~~

~~{(b)} {An electronic copy of the current peer-to-peer certificate.}~~

Section 5. ~~{Section 6:} {Passenger}~~ Service.

(1) A peer-to-peer car sharing company shall adopt a policy of non-discrimination based on the following:

~~{(a)} {Destination;}~~

~~(a) {(b)} Race or color;~~

~~(b) {(c)} National origin;~~

~~(c) {(d)} Religious belief or affiliation;~~

~~(d) {(e)} Sex; and~~

~~(e) {(f)} Disability.;~~

~~{(g)} {Age; and}~~

~~{(h)} {The presence of a service animal.}~~

(2) A peer-to-peer car sharing company shall make the notifications and disclosures to shared vehicle drivers and shared vehicle owners provided in KRS 365.524.~~{provide the following information to the public on its Web site and mobile device application software:}~~

~~{(a)} {A schedule of its rates or the method used to calculate rates and peak pricing; and}~~

~~{(b)} {A passenger support telephone number or email address where a suspected violation may be immediately reported.}~~

~~{(3)} {A peer-to-peer car sharing company shall provide the following information to a person requesting peer-to-peer car sharing:}~~

~~{(a)} {The expected cost of service; and}~~

~~{(b)} {A photograph or description, including license plate number, of the vehicle that will be used for the service.}~~

Section 6. ~~{Section 7:} Terms of Service.~~ A peer-to-peer car sharing company shall not disclose to a third party the personal information of a shared vehicle driver or shared vehicle owner unless:

~~{(1)} {The peer-to-peer car sharing company shall not require a hold harmless or indemnification clause in the terms of service for a customer that may be used to evade the insurance requirements of this administrative regulation and KRS Chapter 281.}~~

~~{(2)} {A peer-to-peer car sharing company shall not disclose to a third party the personally identifiable information of a user of the peer-to-peer car sharing program unless:}~~

(1) ~~{(a)}~~ The peer-to-peer car sharing company obtains the shared vehicle driver's or shared vehicle owner's~~{user's}~~ consent to disclose or provides notice in its privacy policy about the disclosure~~{personally identifiable information}~~;

(2) ~~{(b)}~~ The disclosure is required to comply with a legal obligation; or

(3) ~~{(c)}~~ The disclosure is required to protect or defend the terms of use of the service or to investigate violations of the terms of use.

Section 7. ~~{Section 8.}~~ Penalties.

(1) A peer-to-peer car sharing company that operates in violation of the requirements of this administrative regulation shall be fined pursuant to KRS 281.990(1).

(2) A peer-to-peer car sharing company that operates in violation of the terms of its certificate or permit or operates without a valid permit shall be fined ~~{per occurrence}~~ pursuant to KRS 281.990(2).

(3) A peer-to-peer car sharing company that fails to produce requested records and information pursuant to KRS 281.820 within one week~~{forty-eight (48) hours}~~ of the request by the department shall be fined \$200.

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