

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM  
2021 REGULAR SESSION  
**Unofficial Document**

Amend printed copy of **HB 494**

On page 1, by deleting everything after the enacting clause and inserting the following in lieu thereof:

"➔SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

**(1) As used in Sections 1 to 5 of this Act, unless the context otherwise requires:**

**(a) "Car sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement;**

**(b) "Car sharing period" means the period of time that commences with the following and ends at the car sharing termination time:**

**1. The car sharing delivery period; or**

**2. If there is no car sharing delivery period, the car sharing start time;**

**(c) "Car sharing program agreement":**

**1. Means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program; and**

**2. Does not include rental or lease agreements entered with persons operating under a U-Drive-It certificate as defined in KRS 281.010;**

Amendment No. \_\_\_\_\_

Rep. Rep. Bart Rowland \_\_\_\_\_

Committee Amendment \_\_\_\_\_

Floor Amendment \_\_\_\_\_

**Not for**

Signed: \_\_\_\_\_

LRC Drafter: \_\_\_\_\_

**Filing**

Adopted: \_\_\_\_\_

Date: \_\_\_\_\_

Rejected: \_\_\_\_\_

Doc. ID: XXXX

- (d) "Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program;**
- (e) "Car sharing termination time" means the earliest of the following:**
- 1. The expiration of the agreed-upon period of time established for use of a shared vehicle according to the terms of a car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;**
  - 2. When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program, which alternatively agreed upon location shall be incorporated into the car sharing program agreement; or**
  - 3. When the shared vehicle owner or the shared vehicle owner's authorized designee takes possession and control of the shared vehicle;**
- (f) "Peer-to-peer car sharing":**
- 1. Means the authorized use of a motor vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program; and**
  - 2. Does not include the operation of a U-Drive-It as defined in KRS 281.010;**
- (g) "Peer-to-peer car sharing program":**
- 1. Means a business platform that connects shared vehicle owners with shared vehicle drivers to enable the sharing of motor vehicles for financial consideration; and**
  - 2. Does not include:**
    - a. A person operating a U-Drive-It as defined in KRS 281.010; or**

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b. A service provider that is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle;

(h) "Shared vehicle":

1. Means a motor vehicle that is available for car sharing through a peer-to-peer car sharing program; and

2. Does not include a motor vehicle leased or rented by a person operating under a U-Drive-It certificate as defined in KRS 281.010;

(i) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement; and

(j) "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a motor vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

(2) A peer-to-peer car sharing program doing business in this state shall comply with Sections 2 and 3 of this Act.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) (a) Except as provided in paragraph (c) of this subsection, for accidents involving shared vehicles that occur during the car sharing period, a peer-to-peer car sharing program shall assume the liability of a shared vehicle owner for the following:

1. Security for the payment of tort liabilities under KRS 304.39-110;

2. Uninsured motorist coverage under KRS 304.20-020;

3. Underinsured motorist coverage under KRS 304.39-320; and

4. Basic reparation benefits as defined in KRS 304.39-020.

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**(b) The amount of liability assumed under paragraph (a) of this subsection shall:**

**1. Be stated in the car sharing program agreement; and**

**2. Not be less than the following amounts:**

**a. Except for basic repairs benefits, the amounts set forth in KRS 304.39-110; and**

**b. For basic repairs benefits, the amount set forth in KRS 304.39-020(2).**

**(c) Notwithstanding the definition of "car sharing termination time" set forth in Section 1 of this Act, the assumption of liability required under paragraph (a) of this subsection:**

**1. Shall not apply when a shared vehicle owner:**

**a. Makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the accident occurs; or**

**b. Acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement; and**

**2. Shall include liability for the minimum coverage required under KRS 304.39-080 for damages suffered by persons, other than the shared vehicle owner or shared vehicle driver, resulting from any accident involving a shared vehicle that occurs during the car sharing period.**

**(2) (a) A peer-to-peer car sharing program shall ensure that, during the car sharing period, the shared vehicle owner and the shared vehicle driver are covered under a motor vehicle liability insurance policy that:**

**1. Provides coverage that is not less than the minimum coverage required under**

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**KRS 304.39-080; and**

**2. Either:**

**a. Recognizes that the motor vehicle insured under the policy is made available and used as a shared vehicle through a peer-to-peer car sharing program; or**

**b. Does not exclude use of the motor vehicle as a shared vehicle by a shared vehicle driver.**

**(b) The requirements of paragraph (a) of this subsection may be satisfied by motor vehicle liability insurance maintained by:**

**1. The shared vehicle owner;**

**2. The shared vehicle driver;**

**3. The peer-to-peer car sharing program; or**

**4. Any combination of the persons described in this paragraph.**

**(c) 1. The insurance described in paragraph (b) of this subsection that is satisfying the insurance requirement of paragraph (a) of this subsection shall be primary during each car sharing period.**

**2. In the event a claim occurs in another state with minimum coverage limits higher than KRS 304.39-080 during the car sharing period, the coverage maintained under paragraph (b) of this subsection shall satisfy the difference in minimum coverage amounts, up to the applicable policy limits.**

**(d) The insurer, insurers, and peer-to-peer car sharing program providing coverage under paragraph (a) or (b) of this subsection shall assume primary liability for a claim if a dispute exists as to:**

**1. Who was in control of the shared vehicle at the time of the accident and the peer-to-peer car sharing program does not have available, did not retain, or**

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- fails to provide the information required under subsection (2) of Section 3 of this Act; or
2. Whether the shared vehicle was returned to the alternatively agreed upon location as required under subsection (1)(e)2. of Section 1 of this Act.
- (e) 1. The peer-to-peer car sharing program shall maintain a motor vehicle liability insurance policy that provides the following if insurance maintained by a shared vehicle owner or shared vehicle driver under paragraph (b) of this subsection has lapsed or fails to provide the coverage required under this subsection:
- a. The coverage required under this subsection, beginning with the first dollar of a claim; and
- b. Defense of claims made for coverage required under this subsection.
2. The motor vehicle liability insurance policy required under subparagraph 1. of this paragraph may exclude coverage, and the duty to defend, under circumstances set forth in subsection (1)(c)1. of this section.
- (3) A peer-to-peer car sharing program shall ensure that any motor vehicle insurance maintained by the program is not dependent upon another motor vehicle insurer or motor vehicle insurance policy first denying a claim.
- (4) Nothing in this section shall be construed to:
- (a) Limit the liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program;
- (b) Limit the ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a

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*breach of the terms and conditions of the car sharing program agreement;*

*(c) Invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing, or hire, or for any business use; or*

*(d) Invalidate, limit, or restrict an insurer's ability under existing law to:*

*1. Underwrite any insurance policy; or*

*2. Cancel and non-renew policies.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

*(1) At the time when a motor vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:*

*(a) Notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the motor vehicle as a shared vehicle through a peer-to-peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder;*

*(b) Verify that the shared vehicle does not have any safety recalls for which the repairs have not been made; and*

*(c) Notify the shared vehicle owner of the requirements under Section 4 of this Act.*

*(2) (a) A peer-to-peer car sharing program shall collect and verify records pertaining to the use of a shared vehicle, including but not limited to:*

*1. Times used;*

*2. Car sharing period pick up and drop off locations;*

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3. *Fees paid by the shared vehicle driver; and*
    4. *Revenues received by the shared vehicle owner.*
  - (b) *The peer-to-peer car sharing program shall provide the information collected under paragraph (a) of this subsection, upon request, to the following to facilitate a claim coverage investigation, settlement, negotiation, or litigation:*
    1. *The shared vehicle owner;*
    2. *The shared vehicle owner's insurer; and*
    3. *The shared vehicle driver's insurer.*
  - (c) *The peer-to-peer car sharing program shall retain the records collected for a time period not less than the applicable personal injury statute of limitations.*
- (3) *Each car sharing program agreement made in this state shall disclose to the shared vehicle owner and the shared vehicle driver:*
  - (a) *Any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement;*
  - (b) *That 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 car sharing program;*
  - (c) *That the peer-to-peer car sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver shall be in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;*
  - (d) *The daily rate, fees, and, if applicable, any insurance or protection package costs*



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- that are charged to the shared vehicle owner or the shared vehicle driver;
- (e) That the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle;
- (f) Any emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries; and
- (g) Whether there are conditions under which a shared vehicle driver must maintain a personal motor vehicle insurance policy with certain applicable coverage limits on a primary basis in order to book a shared vehicle.
- (4) (a) A peer-to-peer car sharing program shall not enter into a car sharing program agreement with a potential shared vehicle driver unless the driver:
1. Holds a driver's license issued under the laws of this state that authorizes the driver to operate vehicles of the class of the shared vehicle;
  2. Is a nonresident who:
    - a. Has a driver's license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and
    - b. Is at least the same age as that required of a resident to drive in this state; or
  3. Is otherwise authorized under the laws of this state to drive vehicles of the class of the shared vehicle.
- (b) A peer-to-peer car sharing program shall keep a record of:
1. The name and address of each shared vehicle driver;
  2. The driver's license number of each shared vehicle driver; and
  3. The place of issuance of the driver's license of each shared vehicle driver.
- (5) (a) A peer-to-peer car sharing program shall:

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1. Have sole responsibility for any equipment, such as a global positioning system (GPS) or other special equipment, that is put in or on the shared vehicle to monitor or facilitate the peer-to-peer car sharing; and
  2. Agree to indemnify and hold harmless the shared vehicle owner for any damage to or theft of the equipment during the car sharing period not caused by the shared vehicle owner.
- (b) A peer-to-peer car sharing program may seek indemnification from the shared vehicle driver for any loss or damage to the equipment that occurs during the car sharing period.
- (6) A peer-to-peer car sharing program shall comply with the rules and regulations of air boards pursuant to KRS 183.133.
- (7) A peer-to-peer car sharing program and a commercial airport, as defined in KRS 183.011, may enter into an agreement that:
- (a) Provides for the payment of a reasonable fee for access to the airport's premises;
  - (b) Provides for the sharing of certain data with the airport solely for purposes of monitoring and auditing compliance, except in no event shall any agreement require the sharing of data in violation of any federal, state, or local law; and
  - (c) Designates locations on the premises of the airport for peer-to-peer car sharing.
- ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:
- (1) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle, the shared vehicle owner shall:
- (a) Remove the shared vehicle as available on the peer-to-peer car sharing program as soon as practicably possible after receiving the notice; and
  - (b) Not make the shared vehicle available on the peer-to-peer car sharing program

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until the safety recall repair has been made.

(2) If a shared vehicle owner receives the actual notice of a safety recall while the shared vehicle is in the possession of a shared vehicle driver, the shared vehicle owner shall notify the peer-to-peer car sharing program as soon as practicably possible after receiving the notice so that the shared vehicle owner may address the safety recall repair.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

A peer-to-peer car sharing program and a shared vehicle owner shall be exempt from any vicarious liability:

(1) In accordance with 49 U.S.C. sec. 30106; and

(2) Except as provided in KRS 304.39-080 and Section 2 of this Act, under any state or local law that imposes liability solely based on vehicle ownership.

➔SECTION 6. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, the following have the same meaning as in Section 1 of this Act:

(a) "Car sharing period";

(b) "Peer-to-peer car sharing program";

(c) "Shared vehicle";

(d) "Shared vehicle driver"; and

(e) "Shared vehicle owner."

(2) An authorized insurer that writes motor vehicle liability insurance in this state may exclude any and all coverage, and the duty to defend or indemnify for any claim afforded, under a shared vehicle owner's policy for accidents involving the shared vehicle that occur during a car sharing period, including but not limited to:

(a) Security for the payment of tort liabilities under KRS 304.39-110;

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- (b) Uninsured motorist coverage under KRS 304.20-020;
  - (c) Underinsured motorist coverage under KRS 304.39-320;
  - (d) Basic reparation benefits as defined in KRS 304.39-020;
  - (e) Medical payments coverage;
  - (f) Comprehensive property damage coverage; and
  - (g) Collision property damage coverage.
- (3) An insurer that defends or indemnifies a claim against a shared vehicle shall have the right to seek recovery against the insurer that issued a motor vehicle liability insurance policy under subsection (2) of Section 2 of this Act to the peer-to-peer car sharing program if:
- (a) The claim is made against the shared vehicle owner or shared vehicle driver for damages that result from an accident occurring during the car sharing period; and
  - (b) Coverage for the claim is excluded under the terms of the insurer's policy.
- ➔SECTION 7. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:
- (1) As used in this section, the following have the same meaning as in Section 1 of this Act:
- (a) "Car sharing period";
  - (b) "Peer-to-peer car sharing program";
  - (c) "Peer-to-peer car sharing program agreement";
  - (d) "Shared vehicle";
  - (e) "Shared vehicle driver"; and
  - (f) "Shared vehicle owner."
- (2) Notwithstanding any other provision of this subtitle, a peer-to-peer car sharing program shall have an insurable interest in a shared vehicle during the car sharing period, which shall include owning and maintaining, as the named insured, one (1) or more policies of

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**motor vehicle liability insurance that provides coverage for:**

**(a) Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car sharing program agreement;**

**(b) Any liability of the shared vehicle owner or shared vehicle driver; and**

**(c) Damage or loss to the shared vehicle.**

**(3) Nothing in this section creates liability on a peer-to-peer car sharing program to maintain the coverage required under Section 2 of this Act.**

➔Section 8. KRS 68.200 is amended to read as follows:

(1) As used in this section, unless the context clearly indicates otherwise:

(a) Motor vehicle means "vehicle" as defined in KRS 186.010(8)(a);

(b) Retailer means "retailer" as defined in KRS 139.010; and

(c) Gross rental charge means "gross rental charge" as defined in KRS 138.462.

(2) **Except as provided in subsection (3) of this section:**

**(a)** A county containing a designated city, consolidated local government, or urban-county government may levy a license fee on the rental of motor vehicles which shall not exceed three percent (3%) of the gross rental charges from rental agreements for periods of thirty (30) days or less. The license fee shall apply to retailers who receive more than seventy-five percent (75%) of their gross revenues generated in the county from gross rental charges. Any license fee levied pursuant to this subsection shall be collected by the retailer from the renters of the motor vehicles; **and** ~~[-]~~

~~**(b)(3)**~~ Revenues from rental of motor vehicles shall not be included in the gross rental charges on which the license fee is based if:

~~**1.(a)**~~ The declared gross weight of the motor vehicle exceeds eleven thousand (11,000) pounds; or

~~**2.(b)**~~ The rental is part of the services provided by a funeral director for a

funeral; or

~~3.1(e)}~~ The rental is exempted from the state sales and use tax pursuant to KRS 139.470.

**(3) The license fee under subsection (2)(a) of this section shall apply to a peer-to-peer car sharing program, as defined in Section 1 of this Act, if:**

**(a) The fee was levied on or before January 1, 2021; and**

**(b) More than seventy-five percent (75%) of the program's gross revenues generated in the county are from gross peer-to-peer car sharing charges.**

(4) A fiscal court or the legislative body of an urban-county government shall provide for collection of the license fee in the ordinance by which the license fee is levied. The revenues shall be deposited in an account to be known as the motor vehicle license fee account. The revenues may be shared among local governments pursuant to KRS 65.210 to 65.300.

(5) The county shall use the proceeds of the license fee for economic development activities. It shall distribute semiannually, by June 30 and December 31, all revenues not shared pursuant to KRS 65.210 to 65.300, to one (1) or more of the following entities if it has established, or contracted with, the entity for the purposes of economic development and is satisfied that the entity is promoting satisfactorily the county's economic development activities:

(a) A riverport authority established by the county pursuant to KRS 65.520; or

(b) An industrial development authority established by the county pursuant to KRS 154.50-316; or

(c) A nonprofit corporation as defined in KRS 273.161(4) which has been organized for the purpose of promoting economic development.

The entity shall make a written request for funds from the motor vehicle license fee account

by May 31 and November 30, respectively.

- (6) (a) As used in this section, "designated city" means a city on the registry maintained by the Department for Local Government under this subsection.
- (b) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the first, second, and third class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

➔Section 9. KRS 186.630 is amended to read as follows:

- (1) No person shall rent a motor vehicle to any other person if the latter is not licensed, unless he is a nonresident whose home state or country does not require that an operator be licensed.
- (2) No person shall rent a motor vehicle to another until he has inspected the operator's license of the person to whom the vehicle is to be rented and compared and verified the signature on the license with the signature of that person written in his presence.
- (3) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle rented, the name and address of the person to whom the vehicle is rented, the number of his license and the date and place of issuance of his license. That record shall be open to inspection by any police officer or employee of the cabinet.
- (4) This section shall not apply to peer-to-peer car sharing as defined in Section 1 of this Act.**

➔Section 10. This Act takes effect on January 1, 2022."