



2023 ASSEMBLY BILL 395

September 5, 2023 - Introduced by Representatives DUCHOW, NEYLON, GOEBEN, GUNDRUM, KITCHENS, MURSAU, O'CONNOR, RETTINGER, SCHMIDT, ZIMMERMAN and STUBBS, cosponsored by Senators STAFSHOLT, BALLWEG, CABRAL-GUEVARA and COWLES. Referred to Committee on Transportation.

1 **AN ACT to amend** 77.99, 77.995 (2), 344.57 (5), 344.57 (6) and 344.57 (7); and **to**
2 **create** 344.51 (4), 344.581 and 632.362 of the statutes; **relating to:**
3 requirements for and insurance related to peer-to-peer motor vehicle sharing
4 programs.

Analysis by the Legislative Reference Bureau

This bill generally requires that peer-to-peer motor vehicle sharing programs assume liability, as specified under the bill, for the owners of shared vehicles and sets certain other requirements on those programs.

Under the bill, a peer-to-peer motor vehicle sharing program is a business platform that connects a motor vehicle owner with an individual to enable the individual's use of the motor vehicle for financial consideration. The individual must have a driver's license to be able to participate in the sharing program.

The bill requires the sharing program to assume liability for the shared vehicle owner for bodily injury or property damage to third parties, or for uninsured and underinsured motorist or personal injury protection losses, in amounts stated in the sharing agreement, which cannot be less than the minimum coverage required under Wisconsin law. However, the sharing program is not required to assume liability if the vehicle owner makes an intentional or fraudulent material misrepresentation or omission or is acting in concert with a driver who fails to return the motor vehicle in accordance with the sharing agreement.

The bill also requires the sharing program to ensure that each shared vehicle owner and driver are insured under a policy that provides coverage in amounts no

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less than the minimum required under Wisconsin law. That required coverage may be provided under primary insurance maintained by the shared vehicle owner, the shared vehicle driver, the sharing program, or any combination of those. The bill requires that the insurer, insurers, or sharing program providing coverage must provide primary coverage if there is a dispute about who controlled the vehicle at the time of the loss and the program does not retain information required under the bill or if there is a dispute about whether the vehicle was dropped off at a location specified in the sharing agreement. Under the bill, the sharing program's insurance must cover the loss beginning with the first dollar and has the duty to defend if the driver's or owner's insurance has lapsed or does not provide the required coverage. The bill gives the sharing program an insurable interest in the motor vehicle during the period it is being shared and allows the sharing program to own and maintain coverage specified under the bill.

The bill allows insurers writing motor vehicle insurance to exclude coverage, including liability for bodily injury and property damage and uninsured and underinsured motorists coverage, and to refuse to defend or indemnify for any claim under a shared vehicle owner's policy.

The bill exempts sharing programs and shared vehicle owners from liability in accordance with a federal law that exempts a vehicle owner who rents or leases the vehicle from liability for harm to persons or property that results from or arises out of the use, operation, or possession of the vehicle during the rental or lease if the owner is engaged in the business of renting or leasing motor vehicles and there is no negligence or criminal wrongdoing on the part of the owner. The bill also exempts sharing programs and shared vehicle owners from state laws regarding financial responsibility for rented vehicles and damage waivers and liability in the context of vehicle rental agreements.

The bill requires the sharing program to verify that the shared vehicle is not the subject of a safety recall at the time the vehicle is registered with the program. A shared vehicle owner that receives a safety recall notice must remove the vehicle from the program and refrain from sharing it until the repairs are made and, if the vehicle is in the possession of a shared vehicle driver, notify the sharing program of the recall.

The bill requires the sharing program to disclose certain information to shared vehicle owners and drivers, including information related to insurance coverage and the daily rates and fees, and to retain information about the sharing transactions. Additionally, at the time a vehicle owner registers with a sharing program, the sharing program must inform the owner of the responsibilities relating to safety recalls and that sharing the vehicle may violate an agreement with a lienholder.

Under the bill, the sharing program has responsibility for any equipment that is put in or on the vehicle to monitor or facilitate the sharing transaction. The sharing program must agree to indemnify and hold harmless the owner for any damage or theft to that equipment not caused by the owner, but has the right to seek indemnity from the driver for such loss or damage.

Finally, the bill also specifies that sharing programs and shared vehicle owners are not establishments primarily engaged in the short-term rental of passenger cars

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for purposes of the local rental car tax and the short-term rental of vehicles for the purposes of the state rental vehicle fee, if the applicable sales and use taxes are paid for the purchase of the shared motor vehicle.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 77.99 of the statutes is amended to read:

2 **77.99 Imposition.** A local exposition district under subch. II of ch. 229 may
3 impose a tax at the rate of 3 percent of the sales price on the rental, but not for
4 rental and not for rental as a service or repair replacement vehicle, within the
5 district's jurisdiction under s. 229.43, of Type 1 automobiles, as defined in s. 340.01
6 (4) (a), by establishments primarily engaged in short-term rental of passenger cars
7 without drivers, for a period of 30 days or less, unless the sale is exempt from the sales
8 tax under s. 77.54 (1), (4), (7) (a), (7m), (9) or (9a). If the state makes a payment under
9 s. 229.50 (7) to a district's special debt service reserve fund, a majority of the district's
10 authorized board of directors may vote to increase the tax rate under this subchapter
11 to 4 percent. A resolution to adopt the taxes imposed under this section, or an
12 increase in the tax rate, shall be effective on the first January 1, April 1, July 1, or
13 October 1 following the adoption of the resolution or tax increase. For purposes of
14 this section, a peer-to-peer motor vehicle sharing program, as defined in s. 632.362
15 (1) (g), or a shared vehicle owner, as defined in s. 632.362 (1) (i), is not an
16 establishment primarily engaged in short-term rental of passenger cars without
17 drivers, if the applicable taxes under s. 77.52 or 77.53 have been paid for the purchase
18 of the shared motor vehicle.

19 **SECTION 2.** 77.995 (2) of the statutes is amended to read:

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1 77.995 (2) There is imposed a fee at the rate of 5 percent of the sales price on
2 the rental, but not for rental and not for rental as a service or repair replacement
3 vehicle of Type 1 automobiles, as defined in s. 340.01 (4) (a); of recreational vehicles,
4 as defined in s. 340.01 (48r); of motor homes, as defined in s. 340.01 (33m); and of
5 camping trailers, as defined in s. 340.01 (6m) by establishments primarily engaged
6 in short-term rental of vehicles without drivers, for a period of 30 days or less, unless
7 the sale is exempt from the sales tax under s. 77.54 (1), (4), (7) (a), (7m) or (9a). There
8 is also imposed a fee at the rate of 5 percent of the sales price on the rental of
9 limousines. For purposes of this subsection, a peer-to-peer motor vehicle sharing
10 program, as defined in s. 632.362 (1) (g), or a shared vehicle owner, as defined in s.
11 632.362 (1) (i), is not an establishment primarily engaged in short-term rental of
12 vehicles without drivers, if the applicable taxes under s. 77.52 or 77.53 have been
13 paid for the purchase of the shared motor vehicle.

14 **SECTION 3.** 344.51 (4) of the statutes is created to read:

15 344.51 (4) This section does not apply to a motor vehicle sharing agreement,
16 as defined in s. 632.362 (1) (b); a peer-to-peer motor vehicle sharing program, as
17 defined in s. 632.362 (1) (g); or a shared vehicle owner, as defined in s. 632.362 (1) (i).

18 **SECTION 4.** 344.57 (5) of the statutes is amended to read:

19 344.57 (5) “Rental agreement” means a written agreement setting forth the
20 terms and conditions governing the use of a private passenger vehicle provided for
21 rent by a rental company. “Rental agreement” does not include a motor vehicle
22 sharing agreement, as defined in s. 632.362 (1) (b).

23 **SECTION 5.** 344.57 (6) of the statutes is amended to read:

24 344.57 (6) “Rental company” means a person in the business of providing
25 private passenger vehicles for rent to the public. “Rental company” does not include

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1 a person operating a peer-to-peer motor vehicle sharing program, as defined in s.
2 632.362 (1) (g), or a shared vehicle owner, as defined in s. 632.362 (1) (i).

3 **SECTION 6.** 344.57 (7) of the statutes is amended to read:

4 344.57 (7) “Renter” means the person who rents a private passenger vehicle
5 from a rental company under a rental agreement. “Renter” does not include a shared
6 vehicle driver, as defined in s. 632.362 (1) (h).

7 **SECTION 7.** 344.581 of the statutes is created to read:

8 **344.581 Peer-to-peer motor vehicle sharing. (1) DEFINITIONS.** In this
9 section:

10 (a) “Motor vehicle sharing agreement” has the meaning given in s. 632.362 (1)

11 (b).

12 (b) “Motor vehicle sharing duration” has the meaning given in s. 632.362 (1) (d).

13 (c) “Peer-to-peer motor vehicle sharing program” has the meaning given in s.
14 632.362 (1) (g).

15 (d) “Shared vehicle driver” has the meaning given in s. 632.362 (1) (h).

16 (e) Notwithstanding s. 344.01 (2) (cm), “shared vehicle owner” has the meaning
17 given in s. 632.362 (1) (i).

18 **(2) OPERATOR’S LICENSE REQUIRED.** A peer-to-peer motor vehicle sharing
19 program may not enter into a motor vehicle sharing agreement with an individual
20 who will operate a shared motor vehicle unless the individual satisfies any of the
21 following:

22 (a) The individual holds an operator’s license under ch. 343 that authorizes the
23 individual to operate a motor vehicle of the class of the shared motor vehicle.

24 (b) The individual is a nonresident of this state who satisfies all of the following:

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1 1. The individual holds a license issued by the state or country of the
2 individual's residence that authorizes the individual to operate a motor vehicle of the
3 class of the shared motor vehicle in that state or country.

4 2. The individual has attained the age of 18.

5 **(3) RESPONSIBILITY FOR CERTAIN EQUIPMENT.** A peer-to-peer motor vehicle
6 sharing program has sole responsibility for any equipment, including a global
7 positioning system or other special equipment, that is put in or on a motor vehicle
8 to monitor or facilitate the motor vehicle sharing transaction. The peer-to-peer
9 motor vehicle sharing program shall agree to indemnify and hold harmless the
10 shared vehicle owner for any damage to or theft of equipment described under this
11 subsection during the motor vehicle sharing duration that is not caused by the
12 shared vehicle owner. The peer-to-peer motor vehicle sharing program has the right
13 to seek indemnity from the shared vehicle driver for any loss or damage to equipment
14 described under this subsection during the motor vehicle sharing duration.

15 **(4) SAFETY RECALLS.** (a) At the time a motor vehicle owner registers as a shared
16 vehicle owner through a peer-to-peer motor vehicle sharing program and before the
17 shared vehicle owner makes a motor vehicle available for sharing, the peer-to-peer
18 motor vehicle sharing program shall do all of the following:

19 1. Verify that the shared motor vehicle is not the subject of a safety recall for
20 which the repairs have not been made.

21 2. Notify the shared vehicle owner of the shared vehicle owner's responsibilities
22 under par. (b).

23 (b) A shared vehicle owner that receives notice of a safety recall on the shared
24 motor vehicle shall do all of the following, as applicable:

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1 1. Refrain from making the motor vehicle available for sharing until the safety
2 recall repair has been made.

3 2. If the motor vehicle has been made available for sharing before receipt of the
4 notice of recall, remove the motor vehicle from the peer-to-peer motor vehicle
5 sharing program as soon as practicable after receipt of the notice and until the safety
6 recall repair has been made.

7 3. If the motor vehicle is in possession of the shared vehicle driver at the time
8 of receipt of the notice of recall, notify the peer-to-peer motor vehicle sharing
9 program of the recall as soon as practicable after receipt of the notice.

10 **(5) RECORD RETENTION.** For each individual who will operate a shared motor
11 vehicle under a motor vehicle sharing agreement, a peer-to-peer motor vehicle
12 sharing program shall keep a record of the individual's name and address, the
13 individual's operator's license number, and the state or foreign country that issued
14 the individual's operator's license.

15 **SECTION 8.** 632.362 of the statutes is created to read:

16 **632.362 Peer-to-peer motor vehicle sharing. (1) DEFINITIONS.** In this
17 section:

18 (a) "Motor vehicle" has the meaning given in s. 344.01 (2) (b).

19 (b) "Motor vehicle sharing agreement" means an agreement providing the
20 terms and conditions, applicable to a shared vehicle driver and shared vehicle owner,
21 that govern the use of a shared motor vehicle through a peer-to-peer motor vehicle
22 sharing program.

23 (c) "Motor vehicle sharing delivery period" means the period during which a
24 shared motor vehicle is being delivered to the location of the motor vehicle sharing

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1 initiation time, if applicable, as documented by the governing motor vehicle sharing
2 agreement.

3 (d) “Motor vehicle sharing duration” means the period that commences with
4 the motor vehicle sharing delivery period or, if there is no motor vehicle sharing
5 delivery period, that commences with the motor vehicle sharing initiation time and,
6 in either case, ends at the motor vehicle sharing termination time.

7 (e) “Motor vehicle sharing initiation time” means the time when the motor
8 vehicle to be shared becomes subject to the control of the shared vehicle driver at or
9 after the time the reservation of a shared motor vehicle is scheduled to begin as
10 documented in the records of a peer-to-peer motor vehicle sharing program.

11 (f) “Motor vehicle sharing termination time” means the earliest of the following:

12 1. The expiration of the time agreed upon for the use of the shared motor vehicle
13 according to the terms of the motor vehicle sharing agreement, if the shared motor
14 vehicle is delivered to the location that is specified in the motor vehicle sharing
15 agreement.

16 2. The time the shared motor vehicle is returned by the shared vehicle driver
17 to a location as alternatively agreed upon by the shared vehicle owner and shared
18 vehicle driver, as communicated through a peer-to-peer motor vehicle sharing
19 program, which alternatively agreed upon location shall be incorporated into the
20 motor vehicle sharing agreement.

21 3. The time the shared vehicle owner regains possession and control of the
22 shared motor vehicle.

23 (g) “Peer-to-peer motor vehicle sharing program” means a business platform
24 that connects motor vehicle owners with individuals to enable the authorized use of
25 a motor vehicle by an individual other than the owner for financial consideration.

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1 (h) "Shared vehicle driver" means an individual who is authorized to drive a
2 shared motor vehicle under a motor vehicle sharing agreement through a
3 peer-to-peer motor vehicle sharing program and who is not the shared vehicle
4 owner.

5 (i) "Shared vehicle owner" means the registered owner, or a person or entity
6 designated by the registered owner, of a motor vehicle that is available for sharing
7 through a peer-to-peer motor vehicle sharing program.

8 **(2) INSURANCE COVERAGE DURING SHARING.** (a) A peer-to-peer motor vehicle
9 sharing program shall, except as provided in par. (b), assume liability of a shared
10 vehicle owner for bodily injury or property damage to 3rd parties, or for uninsured
11 and underinsured motorist or personal injury protection losses, in amounts stated
12 in the motor vehicle sharing agreement that are no less than the amounts specified
13 in s. 344.33 (2) during the motor vehicle sharing duration.

14 (b) Notwithstanding the definition of motor vehicle sharing termination time,
15 the assumption of liability under par. (a) does not apply to a shared vehicle owner
16 when any of the following occurs:

17 1. The shared vehicle owner makes an intentional or fraudulent material
18 misrepresentation or omission to the peer-to-peer motor vehicle sharing program
19 before the motor vehicle sharing duration in which the loss occurred.

20 2. The shared vehicle owner acts in concert with a shared vehicle driver who
21 fails to return the shared motor vehicle pursuant to the terms of a motor vehicle
22 sharing agreement.

23 (c) Notwithstanding the definition of motor vehicle sharing termination time,
24 the assumption of liability under par. (a) applies to bodily injury, property damage,

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1 and uninsured and underinsured motorist or personal injury protection losses by
2 damaged 3rd parties as required by s. 344.33 (2).

3 (d) A peer-to-peer motor vehicle sharing program shall ensure that, during
4 each motor vehicle sharing duration, the shared vehicle owner and the shared
5 vehicle driver are insured under a motor vehicle liability insurance policy that
6 provides insurance coverage in amounts no less than the minimum amounts set forth
7 in s. 344.33 (2) and that satisfies any of the following:

8 1. The policy recognizes that the shared motor vehicle insured under the policy
9 is made available and used through a peer-to-peer motor vehicle sharing program.

10 2. The policy does not exclude use of a shared motor vehicle by a shared vehicle
11 driver.

12 (e) The insurance requirement described under par. (d) may be satisfied by
13 motor vehicle liability insurance maintained by any of the following:

14 1. A shared vehicle owner.

15 2. A shared vehicle driver.

16 3. A peer-to-peer motor vehicle sharing program.

17 4. Any combination of the persons described in subds. 1. to 3.

18 (f) The coverage maintained under par. (e) that is satisfying the insurance
19 requirement under par. (d) shall be primary during each motor vehicle sharing
20 duration and, in the event that a claim occurs in another state with minimum
21 financial responsibility limits higher than the amounts specified in s. 344.33 (2)
22 during the motor vehicle sharing duration, the coverage maintained under par. (e)
23 shall satisfy the difference in minimum coverage amounts, up to the applicable policy
24 limits.

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1 (g) The insurer, insurers, or peer-to-peer motor vehicle sharing program
2 providing coverage under pars. (d) and (e) shall assume primary coverage if any of
3 the following applies:

4 1. A dispute exists as to who was in control of the shared motor vehicle at the
5 time of the loss, and the peer-to-peer motor vehicle sharing program does not have
6 available, does not retain, or fails to provide the information specified under sub. (9).

7 2. A dispute exists as to whether the shared motor vehicle was returned to an
8 alternatively agreed upon location specified in the motor vehicle sharing agreement.

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

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

19 (j) Nothing in this section does any of the following:

20 1. Limits the liability of a peer-to-peer motor vehicle sharing program for any
21 act or omission of the peer-to-peer motor vehicle sharing program itself that results
22 in injury to any person as a result of the use of a shared motor vehicle through the
23 peer-to-peer motor vehicle sharing program.

24 2. Limits the ability of a peer-to-peer motor vehicle sharing program to seek
25 indemnification, under the terms of a motor vehicle sharing agreement, from the

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1 shared vehicle owner or shared vehicle driver for economic loss sustained by the
2 peer-to-peer motor vehicle sharing program resulting from a breach of the terms of
3 the motor vehicle sharing agreement.

4 **(3) INSURABLE INTEREST.** A peer-to-peer motor vehicle sharing program shall
5 have an insurable interest in a shared motor vehicle during the motor vehicle
6 sharing duration. Nothing in this subsection creates liability on the peer-to-peer
7 motor vehicle sharing program to maintain the coverage required under sub. (2) (d).
8 The peer-to-peer motor vehicle sharing program may own and maintain as the
9 named insured one or more policies of motor vehicle liability insurance that provides
10 coverage for any of the following:

11 (a) Liabilities to be assumed by the peer-to-peer motor vehicle sharing
12 program under a motor vehicle sharing agreement.

13 (b) Any liability of the shared vehicle owner.

14 (c) Damage or loss to the shared motor vehicle.

15 (d) Any liability of the shared vehicle driver.

16 **(4) EXCLUSIONS IN MOTOR VEHICLE LIABILITY POLICIES.** (a) An insurer that writes
17 motor vehicle liability insurance in this state may exclude any coverage and may
18 refuse to defend or indemnify any claim under a shared vehicle owner's liability
19 policy, including any of the following coverages:

20 1. Liability coverage for bodily injury and property damage.

21 2. Personal injury protection.

22 3. Uninsured and underinsured motorists coverage.

23 4. Medical payments.

24 5. Comprehensive physical damage.

25 6. Collision physical damage.

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1 (b) Nothing in this section invalidates or limits any exclusion contained in a
2 motor vehicle liability insurance policy, including any policy in use or approved for
3 use that excludes coverage for motor vehicles that are made available for rent,
4 sharing, or hire or for any business use.

5 (c) Nothing in this section invalidates, limits, or restricts an insurer's ability,
6 as otherwise allowed under law, to underwrite an insurance policy or to cancel or not
7 renew an insurance policy.

8 **(5) REQUIRED DISCLOSURES.** Each peer-to-peer motor vehicle sharing program
9 shall include in any agreement made in this state with a shared vehicle owner or
10 shared vehicle driver all of the following disclosures:

11 (a) Any right of the peer-to-peer motor vehicle sharing program to seek
12 indemnification from the shared vehicle owner or shared vehicle driver for economic
13 loss sustained by the peer-to-peer motor vehicle sharing program resulting from a
14 breach of the terms and conditions of the motor vehicle sharing agreement.

15 (b) That a motor vehicle liability insurance policy issued to a shared vehicle
16 owner for the shared motor vehicle or to the shared vehicle driver does not provide
17 a defense or indemnification for any claim asserted against him or her by the
18 peer-to-peer motor vehicle sharing program.

19 (c) That the peer-to-peer motor vehicle sharing program's insurance coverage
20 on the shared vehicle owner and the shared vehicle driver is in effect only during the
21 motor vehicle sharing duration and that, for any use of the shared motor vehicle by
22 the shared vehicle driver other than during the motor vehicle sharing duration, the
23 shared vehicle driver and the shared vehicle owner might not have insurance
24 coverage.

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1 (d) The daily rate, fees, and, if applicable, any insurance or protection package
2 costs that are charged to the shared vehicle owner or the shared vehicle driver.

3 (e) That the motor vehicle liability insurance policy of the shared vehicle owner
4 might not provide coverage for a shared motor vehicle.

5 (f) An emergency telephone number of personnel who are capable of fielding
6 roadside assistance and other customer service inquiries.

7 (g) Any conditions under which a shared vehicle driver, in order to make a
8 reservation for a shared motor vehicle, must maintain a personal motor vehicle
9 insurance policy that is primary coverage with certain applicable coverage limits.

10 **(6) NOTIFICATION OF IMPLICATIONS OF LIEN.** At the time a motor vehicle owner
11 registers as a shared vehicle owner through a peer-to-peer motor vehicle sharing
12 program and before the shared vehicle owner makes a motor vehicle available for
13 sharing, the peer-to-peer motor vehicle sharing program shall notify the shared
14 vehicle owner that, if the shared motor vehicle has a lien against it, the use of the
15 shared motor vehicle through the peer-to-peer motor vehicle sharing program,
16 including any use without coverage for physical damage, may violate the terms of
17 any agreement with the lienholder.

18 **(7) LIABILITY EXEMPTION.** Any peer-to-peer motor vehicle sharing program and
19 any shared vehicle owner are exempt from liability consistent with 49 USC 30106
20 and under any state or local law that imposes liability solely based on vehicle
21 ownership.

22 **(8) CONTRIBUTION AGAINST INDEMNIFICATION.** A motor vehicle insurer that
23 defends or indemnifies a claim against a shared motor vehicle that is excluded under
24 the terms of the policy shall have the right to seek recovery against the motor vehicle
25 insurer of the peer-to-peer motor vehicle sharing program if the claim is made

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1 against the shared vehicle owner or the shared vehicle driver for loss or injury that
2 occurs during the motor vehicle sharing duration and is excluded under the terms
3 of the policy.

4 **(9) RECORD RETENTION.** A peer-to-peer motor vehicle sharing program shall
5 collect and verify records pertaining to the use of a shared motor vehicle, including
6 times used, motor vehicle pick up and drop off locations, fees paid by a shared vehicle
7 driver, and revenues received by the shared vehicle owner. To facilitate a claims
8 coverage investigation, settlement, negotiation, or litigation, the peer-to-peer motor
9 vehicle sharing program shall provide, upon request, the records collected under this
10 subsection to the shared vehicle owner, the insurer of the shared vehicle owner, or
11 the insurer of the shared vehicle driver. The peer-to-peer motor vehicle sharing
12 program shall retain the records collected under this subsection for a period not less
13 than the applicable time limit for bringing an action specified under ch. 893.

14 **SECTION 9. Effective date.**

15 (1) This act takes effect on the first day of the 10th month beginning after
16 publication.

17 **(END)**