

---

---

# A BILL FOR AN ACT

RELATING TO INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 431:10C-802, Hawaii Revised Statutes,  
2 is amended to read as follows:

3 "~~+~~§431:10C-802~~+~~ Insurance coverage during car-  
4 sharing period. (a) A peer-to-peer car-sharing program  
5 shall ~~[ensure that during each car-sharing period, the shared~~  
6 ~~car shall be insured under a motor vehicle insurance policy~~  
7 ~~that shall provide:~~

8 ~~(1) Primary insurance coverage for each shared car~~  
9 ~~available and used through a peer-to-peer car-sharing program~~  
10 ~~in amounts not] assume liability, except as provided in~~  
11 ~~subsection (b), of a shared car owner for bodily injury or~~  
12 ~~property damage to third parties or uninsured and~~  
13 ~~underinsured motorist or personal injury protection losses~~  
14 ~~during the car sharing period in an amount stated in the car-~~  
15 ~~sharing program agreement, which amount shall be no less than~~  
16 ~~\$750,000 ~~[for death, bodily injury, and property damage per~~~~  
17 ~~accident, and costs of defense outside the limits;~~



- 1       ~~(2) Primary insurance coverage for each shared car~~  
2       ~~available and used through a peer-to-peer car-~~  
3       ~~sharing program for personal injury protection~~  
4       ~~coverage that meets the minimum coverage amounts~~  
5       ~~required by section 431:10C-103.5; and~~
- 6       ~~(3) The following optional coverages, which any named~~  
7       ~~insured may elect to reject or purchase, that~~  
8       ~~provides primary coverage for each shared car~~  
9       ~~available and used through a peer-to-peer car-~~  
10       ~~sharing program:~~
- 11       ~~(A) Uninsured and underinsured motorist coverages~~  
12       ~~as provided in section 431:10C-301, which shall~~  
13       ~~be equal to the primary liability limits~~  
14       ~~specified in this section; provided that~~  
15       ~~uninsured and underinsured motorist coverage~~  
16       ~~offers shall provide for written rejection of~~  
17       ~~the coverages as provided in section 431:10C-~~  
18       ~~301;~~
- 19       ~~(B) Uninsured and underinsured motorist coverage~~  
20       ~~stacking options as provided in section~~  
21       ~~431:10C-301; provided that the offer of the~~



1                   ~~stacking options shall provide for written~~  
2                   ~~rejection as provided in section 431:10C-301;~~  
3           ~~(C) An offer of required optional additional~~  
4                   ~~insurance coverages as provided in section~~  
5                   ~~431:10C-302; and~~  
6           ~~(D) In the event the only named insured under the~~  
7                   ~~motor vehicle insurance policy issued pursuant~~  
8                   ~~to this section is the peer-to-peer car-sharing~~  
9                   ~~program, the insurer or the peer-to-peer car-~~  
10                   ~~sharing program shall:~~  
11                   ~~(i) Disclose the coverages in writing to the~~  
12                   ~~peer-to-peer car-sharing driver;~~  
13                   ~~(ii) Disclose to the peer-to-peer car-sharing~~  
14                   ~~driver in writing that all optional~~  
15                   ~~coverages available may not have been~~  
16                   ~~purchased under sections 431:10C-301 and~~  
17                   ~~431:10C-302; and~~  
18                   ~~(iii) Obtain a written acknowledgement from the~~  
19                   ~~peer-to-peer car-sharing driver of receipt~~  
20                   ~~of the written disclosures required in~~  
21                   ~~paragraphs (1) and (2). The standard~~



1 ~~disclosure forms used in paragraphs (1)~~  
2 ~~and (2), and every modification of such~~  
3 ~~forms intended to be used, shall be filed~~  
4 ~~with the commissioner within fifteen days~~  
5 ~~of providing such disclosure to the peer-~~  
6 ~~to-peer car-sharing driver. The insurer~~  
7 ~~or the peer-to-peer car-sharing program~~  
8 ~~shall also send to the peer-to-peer car-~~  
9 ~~sharing driver every modified disclosure~~  
10 ~~form within fifteen days of the filing of~~  
11 ~~such modified disclosure form and comply~~  
12 ~~with paragraph (3). Such disclosures and~~  
13 ~~acknowledgement may be sent and received~~  
14 ~~by electronic means].~~

15 (b) Notwithstanding the definition of "car sharing  
16 termination time", the assumption of liability under  
17 subsection (a) shall not apply to any shared vehicle owner  
18 when:

19 (1) A shared car owner makes an intentional or  
20 fraudulent material misrepresentation or omission to



1           the peer-to-peer car-sharing program before the car-  
2           sharing period in which the loss occurred; or

3           (2) Acting in concert with a shared car driver who fails  
4           to return the shared car pursuant to the terms of  
5           car-sharing program agreement.

6           (c) Notwithstanding the definition of "car sharing  
7           termination time", the assumption of liability under  
8           subsection (a) shall apply to bodily injury, property damage,  
9           uninsured and underinsured motorist or personal injury  
10           protection losses by damaged third parties required by  
11           section 431:10C-301.

12           (d) A peer-to-peer car-sharing program shall ensure  
13           that, during each car-sharing period, the shared car owner  
14           and shared car driver are insured under a motor vehicle  
15           insurance policy that, with regard to the shared car driver,  
16           provides insurance coverage in amounts no less than the  
17           minimum amounts set forth in section 431:10C-301, and that  
18           such policy:

19           (1) Recognizes that the shared car insured under the  
20           policy is made available and used through a peer-to-  
21           peer car-sharing program; or



1       (2) Does not exclude use of a shared car by a shared car  
2       driver.

3       (e) The insurance under subsection (d) may be satisfied  
4 by motor vehicle insurance maintained by:

- 5       (1) A shared car owner;
- 6       (2) A shared car driver;
- 7       (3) A peer-to-peer car-sharing program; or
- 8       (4) Any combination of policies maintained by a shared  
9       car owner, shared car driver, or peer-to-peer car-  
10       sharing program.

11       (f) The insurance in subsection (e) that is satisfying  
12 the insurance requirements of subsection (d) shall be the  
13 primary insurance during each car-sharing period.

14       (g) The insurer, insurers, or peer-to-peer car-sharing  
15 program providing coverage under subsection (d) or (e) shall  
16 assume primary liability for a claim when:

- 17       (1) A dispute exists as to who was in control of the  
18       shared car at the time of the loss and the peer-to-  
19       peer car-sharing program does not have available,  
20       did not retain, or fails to provide the information  
21       required by section 431:10C-804; or



1        (2) A dispute exists as to whether the shared car was  
2                    returned to the alternatively agreed upon location  
3                    as provided under paragraph (2) of the definition of  
4                    "car-sharing termination time".

5        The shared car's insurer shall indemnify the peer-to-peer  
6        car-sharing program to the extent of its obligation under, if  
7        any, the applicable insurance policy, if it is determined  
8        that the shared car's owner was in control of the shared car  
9        at the time of the loss.

10        [~~(b)~~] (h) If insurance maintained by a shared car owner  
11        or shared car driver in accordance with subsection [~~(a)~~] (e)  
12        has lapsed[~~, contains an exclusion for peer-to-peer car-~~  
13        ~~sharing,~~] or does not provide the required coverage,  
14        insurance maintained by a peer-to-peer car-sharing program  
15        shall provide the coverage required by subsection [~~(a)~~] (d)  
16        beginning with the first dollar of a claim and shall have the  
17        duty to defend the claim[~~-~~], except under the circumstances  
18        set forth in subsection (b).

19        [~~(e)~~] (i) Coverage under a motor vehicle insurance  
20        policy maintained by the peer-to-peer car-sharing program  
21        shall not be dependent on another motor vehicle insurer first



1 denying a claim[-], nor shall another motor vehicle insurance  
2 policy be required to first deny a claim.

3 (j) Insurers providing a motor vehicle insurance policy  
4 pursuant to this section shall offer the following optional  
5 coverages, which any named insured may elect to reject or  
6 purchase:

7 (1) Uninsured and underinsured motorist coverages for the  
8 shared car driver, as provided in section 431:10C-301,  
9 which shall be up to the primary liability limits  
10 specified in subsection (d); provided that uninsured  
11 and underinsured motorist coverage offers shall also  
12 provide for written rejection of the coverages as  
13 provided in section 431:10C-301;

14 (2) Uninsured and underinsured motorist coverage stacking  
15 options as provided in section 431:10C-301; provided  
16 that the offer of the stacking options shall also  
17 provide for written rejection as provided in section  
18 431:10C-301; and

19 (3) An offer of required optional additional insurance  
20 coverages as provided in section 431:10C-302.





1       (k) In the event the only named insured under the motor  
2 vehicle insurance policy issued pursuant to this section is the  
3 peer-to-peer car-sharing program, the insurer or the peer-to-  
4 peer car-sharing program shall:

5       (1) Disclose the coverages in writing to the shared car  
6 driver;

7       (2) Disclose to the shared car driver in writing that all  
8 optional coverages available may not have been  
9 purchased under sections 431:10C-301 and 431:10C-302;  
10 and

11       (3) Obtain acknowledgment from the shared car driver of  
12 receipt of the written disclosures required in  
13 paragraphs (1) and (2).

14       (1) Nothing in this chapter shall:

15       (1) Limit the liability of the peer-to-peer car-sharing  
16 program for any act or omission of the peer-to-peer  
17 car-sharing program that results in injury to any  
18 person as a result of the use of a shared car through  
19 a peer-to-peer car-sharing program; or

20       (2) Limit the ability of the peer-to-peer car-sharing  
21 program to, by contract, seek indemnification from the



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

5           (m) In addition to the insurance coverage required by this  
6           section, insurers offering insurance through a peer-to-peer car-  
7           sharing program shall be subject to this chapter."

8           SECTION 2. Act 56, Session Laws of Hawaii 2022, is amended  
9 by amending section 5 to read as follows:

10           "SECTION 5. This Act shall take effect on January 1,  
11 2023[~~, and shall be repealed on June 30, 2025~~]."

12           SECTION 3. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14           SECTION 4. This Act shall take effect upon its approval.



**Report Title:**

Insurance; Peer-to-Peer Car-Sharing; Shared Car Owners; Shared Car Drivers; Required Coverage; Liability

**Description:**

Amends the required coverage for shared cars that are made available through a peer-to-peer car-sharing program. Clarifies when the requirements for motor vehicle insurance coverage are satisfied. Repeals the sunset of the peer-to-peer car-sharing insurance requirements. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

