

## Peer-to-Peer Car Sharing

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### Issues

This report provides an overview of “peer-to-peer car sharing,” including (1) what it is and how it compares to traditional car rental, (2) its policy implications, and (3) state laws regulating it.

### Summary

“Peer-to-peer (P2P) car sharing” refers to sharing privately-owned vehicles, for money, over an internet platform operated by a third-party. It is often referred to as “Airbnb for cars,” because of its similarity to other companies and business models that are part of the “sharing economy.”

As other digital-era models like ride and accommodation sharing did, P2P car sharing is disrupting an established industry (i.e., the car rental industry). While it has increased competition in the car rental market by providing consumers with additional choice, it presents questions of regulatory fairness and adequacy. Thus, lawmakers and regulators in many states are considering how their existing regulatory schemes may apply to P2P car sharing and whether there should be changes.

Traditional car rental companies maintain that, because P2P car sharing companies also make money through car rental, they should follow the same rules. But P2P car sharing companies say their business model is different, and that existing rules do not apply to them. It is often unclear whether state car rental laws apply to P2P car sharing companies, and this uncertainty has policy implications for insurance and liability, consumer protection and public safety, taxes and fees, and airport use.

At least 13 states have laws regulating P2P car sharing, generally separate from the regulatory structure that applies to car rental. Each state law addresses insurance and liability concerns,

setting minimum insurance coverage requirements and closing potential insurance gaps. Most of the laws have consumer protections, such as requiring vehicle owners to address safety recalls before sharing their cars. And many of the laws have provisions on (1) taxes and fees, such as subjecting P2P car sharing to the same taxes as car rental, exempting it, or establishing separate taxes and (2) airport use agreements.

## **P2P Car Sharing vs. Traditional Car Rental**

### ***What is P2P car sharing?***

“Peer-to-peer car sharing” refers to sharing privately-owned vehicles, for money, over an internet platform operated by a third-party. It is part of the “sharing economy,” where individuals share private assets, often through online platforms; examples include accommodation sharing (e.g., Airbnb) and ride sharing through Transportation Network Companies (e.g., Uber and Lyft).

The most prominent P2P car sharing company is [Turo](#), which is available in every state but New York. (New York’s group insurance laws effectively prohibit P2P car sharing in the state.) Other P2P companies include [Getaround](#) and [Just Share It](#), which are available in a handful of states. In general, these companies enable owners to list their vehicles on the company site, set their prices, and communicate with drivers through the site.

According to the [National Conference of State Legislatures](#) (NCSL), P2P car sharing’s popularity has grown substantially in recent years, due in part to the flexibility it offers consumers. P2P car sharing platforms offer a greater selection of locations, vehicle types, and rental prices (e.g., both daily and hourly) than traditional car rental companies. Renters can choose the exact vehicle they want to rent and pick it up in their neighborhood, rather than having to travel to car rental locations typically by airports or in cities. Vehicle owners can use P2P car sharing to defray the cost of owning a car or start a small business with a small fleet of vehicles.

P2P car sharing companies argue that, additionally, their model benefits the environment by encouraging better use of existing vehicle assets. P2P car sharing provides people with more flexible access to cars, making it easier for people to forgo car ownership. It also helps consumers defray the high cost of electric vehicles.

### ***How is P2P Car Sharing Different from Traditional Car Rental?***

The answer to this question depends on who you ask. Traditional car rental companies say there is no difference between them and P2P car sharing companies because they provide consumers the same service: the temporary transfer of a vehicle, without a driver, for money. But P2P car sharing

companies say they are not car rental companies because they do not own vehicles, set rates, or operate physical locations to facilitate rentals. Instead, they say they are technology companies that provide an online platform for car sharing transactions between individuals (see [public hearing testimony](#), Connecticut Senate Bill (SB) 216 (2020)).

Legally, it is often unclear whether P2P car sharing companies are considered car rental companies. We discuss this and the implications in the next section.

## **Legal and Policy Implications**

Traditional car rental companies say that P2P car sharing companies are avoiding regulation based on technicalities, thus having a competitive advantage and providing a potentially substandard, unregulated service. The car sharing companies say that traditional car rental companies are threatened by their model and trying to legislate them out of business. P2P car sharing companies do not necessarily oppose regulation, but they want to be regulated separately from traditional car rental and for any regulation to be tailored to their business model (see [“Will this New Law Kill Car Sharing?”](#) *Forbes*).

Whether a P2P car sharing company is a car rental company depends on the wording of applicable statutes. For example, whether a business must be licensed as a car rental company in Connecticut appears to turn on whether it is engaged in the business of renting cars, but the law does not provide a definition for what “engage in the business” of renting cars means ([CGS § 14-15](#)). (For more information on Connecticut’s car rental laws, see OLR Report [2018-R-0326](#).)

Thus, many existing state laws that regulate car rental services in the areas of insurance and liability, consumer protection, taxes, and airport use may not clearly apply to P2P car sharing. This legal gray area presents a challenge for states.

### ***Insurance and Liability***

State insurance laws typically do not neatly apply to P2P car sharing. There are more parties to a P2P car sharing transaction than with traditional car rental (i.e., the company, the vehicle owner, and the renter), and the vehicle ownership structure is different, blurring the lines between commercial and personal vehicles. Without state regulation accounting for the different aspects of the P2P car sharing model, vehicle owners and drivers who engage in the practice may unknowingly have coverage gaps and incur liability, among other issues.

*Coverage Gaps.* Vehicle owners and drivers participating in car sharing may have coverage gaps because of common exclusions in personal automobile insurance policies. For vehicle owners, most

personal auto policies do not cover commercial use of their vehicles and specifically exclude coverage for vehicles that are rented or shared through P2P platforms. And drivers' personal auto policy coverage may not extend to their use of P2P shared vehicles, even though such policies typically cover them when they use traditional rental cars.

Although the major P2P companies provide some insurance coverage for vehicle owners and drivers using their platforms, it does not entirely resolve coverage gaps. For example, the coverage applies during the vehicle sharing period, so vehicle owners whose personal policies are nullified when they share their vehicle through P2P platforms may lose coverage for accidents that occur outside the sharing period. For drivers, P2P companies typically only provide liability coverage at the state minimum amounts unless the driver purchases one of their more extensive plans.

*Liability.* The federal Graves Amendment ([49 U.S.C. § 30106](#)) protects car rental companies from vicarious liability, providing that a company cannot be liable under state law for damages or injuries that occur during the rental period solely because it owns the vehicle.

It is unclear whether the Graves Amendment applies to P2P car sharing companies or the car owners who share vehicles on their platforms, but two New York courts have held that it applies to fleet carsharing companies, which give members access to a fleet of shared vehicles (e.g., Zipcar) (*Moreau v. Josaphat*, Sup.Ct. Kings Cty. 2013 and *Minto v. Zipcar New York, Inc.*, Sup.Ct. Queens Cty. 2010).

In addition, the involvement of multiple parties, all of whom may have auto insurance or other liability coverage, creates ambiguity over who may be responsible for claims. Without a law specifying which policy is primarily responsible for accident claims, claims could involve additional litigation, potentially delaying case resolutions.

### ***Consumer Protection and Public Safety***

Car rental companies must follow certain federal and state laws to protect consumers and preserve public safety.

Federal law prohibits car rental companies with fleets of at least 35 vehicles from renting a vehicle subject to a safety recall until the defect is fixed (see Raechel and Jacqueline Houck Safe Rental Car Act of 2015, which is part of the FAST Act ([P.L. 114-94](#), § 24109)). Some states have expanded this ban to all rental fleets.

Many states have comprehensive car rental laws covering issues such as:

1. company licensure and permitting,
2. rental agreement disclosures,
3. minimum age requirements,
4. rental company fees,
5. use of information from rental vehicle telematics systems (e.g., GPS),
6. driver's license verification requirements, and
7. recordkeeping practices (see OLR Report [2018-R-0326](#) for a summary of Connecticut's laws).

But whether these state laws apply to P2P car sharing depends on how the states define “car rental” and “car rental company.”

### ***Taxes and Fees***

Information from [NCSL](#) shows that more than 40 states levy a specific tax or surcharge on car rentals, often in addition to the general sales tax. But it is often unclear whether these taxes also apply to P2P car sharing. For example, Connecticut imposes a \$1.00 daily surcharge on passenger vehicle rentals from licensed car rental companies ([CGS § 12-665 et seq.](#)). But because it is unclear if P2P car sharing companies must be licensed as car rental companies, the surcharge may not apply to them.

Even when a tax or fee applies to P2P car sharing, it may be difficult to enforce. In Connecticut, whether sales tax applies depends on the transaction type rather than the type of service provider. Thus, it appears that the 9.35 % sales tax that applies to car rentals of 30 days or less would also apply to P2P car sharing transactions ([CGS § 12-408\(1\)\(G\)](#) & [12-411\(1\)\(G\)](#)). However, it is unclear whether a P2P car sharing company would (1) be considered a retailer required to collect and remit sales tax or (2) fall under Connecticut's “marketplace facilitator” law, which requires certain companies that facilitate sales between third parties on their platforms to collect and remit sales tax on behalf of sellers ([CGS § 12-408e](#)).

Traditional car rental companies say these legal ambiguities lead to unfair tax treatment and put them at a competitive disadvantage. But P2P car sharing companies say that the car rental industry has tax breaks that do not apply to car sharing (see Turo public hearing [testimony](#) on SB 216, 2020). In Connecticut, as in most other states, traditional car rental companies do not pay sales tax on cars they purchase to rent ([Conn. Agencies Regs. § 12-426-25\(e\)](#)), but individuals pay sales tax when they purchase vehicles. Connecticut law also allows rental companies to charge a “vehicle

cost recovery fee” on car rentals to recoup costs incurred from state fees and taxes ([CGS § 12-692\(b\)](#)).

## ***Airports***

Traditional car rental companies providing services out of airports generally must (1) enter into concession agreements with airport operators and (2) pay fees to the airport and, in some cases, local and state governments. And at least one court [has ruled](#) that P2P car sharing companies are considered car rental companies for the purposes of airport fees (*People of The State of California v. Turo Inc.* (2020)).

But P2P car sharing companies maintain that for airport service P2P car sharing is more similar to ridesharing (e.g., Uber and Lyft) than to traditional car rental because vehicle owners typically meet drivers at airport pickup locations. Thus, the companies say that they should not be subject to the same laws and fees as car rental companies using airport facilities for business.

## **State Legislation**

At least 13 states regulate P2P car sharing: California, Colorado, Georgia, Indiana, Louisiana, Maine, Maryland, Ohio, Oregon, Tennessee, Virginia, Washington, and West Virginia. Many other states have considered legislation to do so, including Connecticut. (Connecticut’s [Senate Bill 216](#) (2020) would have required the state motor vehicles department to study these services and recommend legislation.)

State legislation defines P2P car sharing, distinguishing it from traditional car rental, and generally creates a separate regulatory structure. The laws often address the four policy areas discussed above – insurance and liability, consumer protection and safety, taxes and fees, and airport use. Table 1, below, lists the states with P2P car sharing laws and the policy areas covered by each one. Brief summaries of the types of provisions follow the table.

**Table 1. State P2P Car Sharing Laws**

State	Law	Insurance & Liability	Consumer Protection & Public Safety	Taxes & Fees	Airport Use
<b>California</b>	Cal. Ins. Code <a href="#">§ 11580.24</a>	X			
<b>Colorado</b>	Colo. Rev. Stat <a href="#">§ 6-1-1201</a> et seq.	X	X		X
<b>Georgia</b>	Act <a href="#">448</a> (2020)	X	X		
<b>Indiana</b>	House Enrolled Act <a href="#">1362</a> (2019)	X	X		X
<b>Louisiana</b>	Act <a href="#">227</a> (2020)	X	X		
<b>Maine</b>	Me. Stat. tit. 24, <a href="#">§ 7401</a> et seq.	X			
<b>Maryland</b>	<a href="#">Chap. 852</a> , 2018 Laws	X	X	X	X
<b>Ohio</b>	House Bill <a href="#">166</a> (2019)	X	X	X	X
<b>Oregon</b>	Or. Rev. Stat. <a href="#">§ 742.585</a> et seq.	X			
<b>Tennessee</b>	Public <a href="#">Chapter 796</a> (2020)	X	X	X	X
<b>Virginia</b>	Senate Bill <a href="#">735</a> (2020)	X	X	X	X
<b>Washington</b>	Wash. Rev. Code <a href="#">§ 48.175.005</a> et seq.	X			
<b>West Virginia</b>	<a href="#">Chap. 222</a> , 2020 Session Acts	X	X	X	X

### *Insurance and Liability*

Each state P2P car sharing law has insurance provisions. The insurance provisions in the five bills passed in 2020 (Georgia, Louisiana, Tennessee, Virginia, and West Virginia) generally track those in the National Conference of Insurance Legislators (NCOIL) P2P car sharing [model act](#). The model act was developed in collaboration with P2P car sharing companies, car rental companies, and the insurance industry to give states a regulatory scheme for P2P car sharing. (NCOIL is a legislative organization comprised mainly of legislators serving on state insurance and financial institutions committees.)

Among other things, the NCOIL model act requires P2P car sharing companies to:

1. assume, during the sharing period, a vehicle owner's liability for (a) bodily injury or property damage to third parties or (b) uninsured and underinsured motorist or personal injury protection losses; and

2. ensure that the vehicle owner and driver are insured by a policy that (a) provides at least the minimum required state liability coverage and (b) either recognizes that the vehicle is shared through a P2P platform or does not exclude this use.

The insurance may be held by a vehicle owner or driver, the P2P car sharing company, or a combination of the three, and the policy must be primary for claims during the car sharing period. If insurance is held by the car sharing company, it must assume primary liability during disputes. The model act also requires the company to provide coverage if the owner's or driver's insurance is lapsed or insufficient.

Other provisions of the NCOIL model act related to insurance and liability include:

1. requiring P2P car sharing companies to disclose to vehicle owners and drivers certain information about the coverage they provide, including rates and terms of coverage;
2. requiring the companies to notify vehicle owners that car sharing may violate the terms of a contract with a lienholder;
3. explicitly allowing insurers of private passenger auto insurance to exclude coverage during the sharing period; and
4. clarifying that P2P car sharing companies and vehicle owners are exempt from vicarious liability pursuant to the Graves Amendment.

State laws predating the model act generally address the same topics, but some of the requirements differ and some states have additional requirements. For example:

1. several states require owners and drivers to hold liability coverage in an amount greater than the state minimum;
2. Maine and Oregon require P2P car sharing companies to (a) hold the liability insurance for the vehicle owner and driver, rather than allowing the insurance to be held by any of the parties and (b) provide comprehensive coverage for damage to the vehicle; and
3. Washington prohibits insurers from cancelling private passenger vehicle insurance solely because the vehicle was made available for car sharing.

### ***Consumer Protection and Public Safety***

The NCOIL model act requires P2P car sharing companies to (1) verify that a vehicle does not have safety recalls for which repairs have not been made before allowing it to be listed on the company's platform and (2) notify vehicle owners that they cannot share a vehicle for which they have received a recall notice until the defect is fixed. Most states have this requirement, thus extending the Safe Rental Car Act's provisions to car sharing.



Other state consumer protection and public safety provisions include:

1. requiring P2P platforms to (a) verify that drivers hold a valid driver's license and (b) disclose their rates and fees,
2. prohibiting anyone from allowing a driver to operate a shared vehicle if they know the driver is under the influence of drugs or alcohol,
3. requiring P2P car sharing companies to verify a vehicle's age and the date of its last safety inspection and limiting when an owner can share a car over ten years old, and
4. subjecting car sharing transactions to the states' consumer sales protections laws.

### ***Taxes and Fees***

Provisions concerning state tax treatment of P2P car sharing include such things as:

1. extending sales tax to car sharing;
2. either subjecting car sharing to, or exempting it from, rental car taxes and fees;
3. enacting a separate tax for car sharing; and
4. requiring the car sharing companies to collect and remit sales tax and other applicable charges that vehicle owners and drivers owe.

### ***Airport Use***

The states that address airport use by P2P car sharing companies typically do so by requiring them to have agreements with airport operators in the same way that other service providers do. Some states specify that (1) the agreements can impose fees and (2) airports can adopt rules governing car sharing.

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