

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1362

AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-25-6-3, AS AMENDED BY P.L.120-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 3. (a) If the bureau:

(1) does not receive a certificate of compliance during the applicable compliance response period for a person identified under IC 9-25-5-2; or

(2) receives a certificate that does not indicate that financial responsibility was in effect with respect to the motor vehicle operated by the person or operation of the motor vehicle by the person on the date of the accident referred to in IC 9-25-5-2;

the bureau shall take action under subsection (d).

(b) If the bureau:

(1) does not receive a certificate of compliance during the applicable compliance response period for a person presented with a request for evidence of financial responsibility under IC 9-25-9-1; or

(2) receives a certificate that does not indicate that financial responsibility was in effect with respect to the motor vehicle or operation of the motor vehicle that the person was operating when the person committed the violation described in the judgment or abstract received by the bureau under IC 9-25-9-1;

the bureau shall take action under subsection (d).



(c) If the bureau:

- (1) does not receive a certificate of compliance during the applicable compliance response period for a person presented with a request under IC 9-25-10 (before its repeal); or
- (2) receives a certificate that does not indicate that financial responsibility was in effect on the date requested;

the bureau shall take action under subsection (d).

(d) Under the conditions set forth in subsection (a), (b), or (c), the bureau shall immediately suspend the person's driving privileges or motor vehicle registration, or both, as determined by the bureau, for at least ninety (90) days and not more than one (1) year. The suspension of a person's driving privileges or motor vehicle registration, or both, may be imposed only one (1) time under this subsection or IC 9-25-8-2 for the same incident.

(e) Except as provided in subsection (f), if subsection (a), (b), or (c) applies to a person, the bureau shall suspend the driving privileges of the person irrespective of the following:

- (1) The sale or other disposition of the motor vehicle by the owner.
- (2) The cancellation or expiration of the registration of the motor vehicle.
- (3) An assertion by the person that the person did not own the motor vehicle and therefore had no control over whether financial responsibility was in effect with respect to the motor vehicle.

(f) The bureau shall not suspend the driving privileges of a person to which subsection (a), (b), or (c) applies if the person, through a certificate of compliance or another communication with the bureau, establishes to the satisfaction of the bureau that the motor vehicle that the person was operating when the accident referred to in subsection (a) took place or when the violation referred to in subsection (b) or (c) was committed was:

- (1) rented from a rental company; ~~or~~
- (2) shared through a peer to peer vehicle sharing program (as defined in IC 24-4-9.2-4); or**
- ~~(2)~~ **(3)** owned by the person's employer and operated by the person in the normal course of the person's employment.

SECTION 2. IC 9-25-8-2, AS AMENDED BY P.L.198-2016, SECTION 547, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 2. (a) A person that knowingly:

- (1) operates; or
- (2) permits the operation of;



a motor vehicle on a public highway in Indiana without financial responsibility in effect as set forth in IC 9-25-4-4 commits a Class A infraction. However, the offense is a Class C misdemeanor if the person knowingly or intentionally violates this section and has a prior unrelated conviction or judgment under this section.

(b) Subsection (a)(2) applies to:

- (1) the owner of a rental company under IC 9-25-6-3(f)(1); **and**
- (2) the owner of a peer to peer sharing program under IC 9-25-6-3(f)(2); and**
- (2) (3) an employer under ~~IC 9-25-6-3(f)(2)~~. IC 9-25-6-3(f)(3).**

(c) In addition to any other penalty imposed on a person for violating this section, the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than one (1) year. However, if, within the five (5) years preceding the conviction under this section, the person had a prior unrelated conviction under this section, the court shall recommend the suspension of the person's driving privileges and motor vehicle registration for one (1) year.

(d) Upon receiving the recommendation of the court under subsection (c), the bureau shall suspend the person's driving privileges and motor vehicle registration, as applicable, for the period recommended by the court. If no suspension is recommended by the court, or if the court recommends a fixed term that is less than the minimum term required by statute, the bureau shall impose the minimum period of suspension required under this article. The suspension of a person's driving privileges or motor vehicle registration, or both, may be imposed only one (1) time under this subsection or IC 9-25-6 for the same incident.

SECTION 3. IC 24-4-9.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]:

Chapter 9.2. Peer to Peer Vehicle Sharing

Sec. 1. As used in this chapter, "delivery period" means a period during which a shared vehicle is delivered to a location identified in the shared vehicle agreement before the vehicle sharing start time.

Sec. 2. As used in this chapter, "motor vehicle insurance policy" means an insurance policy that provides:

- (1) the types of insurance described in Class 2(f) of IC 27-1-5-1; and**
- (2) coverage in not less than the minimum amounts required by IC 9-25-4-5.**



Sec. 3. As used in this chapter, "peer to peer vehicle sharing" or "P2P vehicle sharing" means the authorized use of a shared vehicle by a person other than the shared vehicle's owner as part of a P2P vehicle sharing program.

Sec. 4. As used in this chapter, "peer to peer vehicle sharing program" or "P2P vehicle sharing program" means an online platform operated by an entity under which a shared vehicle owner is connected with a shared vehicle driver to facilitate P2P vehicle sharing. The term does not include the following:

- (1) A shared vehicle owner.
- (2) A rental company (as defined in IC 24-4-9-7).

Sec. 5. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.

Sec. 6. As used in this chapter, "shared vehicle" means a vehicle that a shared vehicle owner has made available for P2P vehicle sharing with a shared vehicle driver through a P2P vehicle sharing program. The term does not include a vehicle obtained from a rental company under a rental agreement under IC 24-4-9.

Sec. 7. As used in this chapter, "shared vehicle driver" means a person who:

- (1) has entered into a shared vehicle agreement with a P2P vehicle sharing program to drive a shared vehicle; and
- (2) is authorized to drive a shared vehicle.

The term does not include a renter (as defined in IC 24-4-9-6).

Sec. 8. As used in this chapter, "shared vehicle owner" means an individual who makes a shared vehicle available for P2P vehicle sharing with a shared vehicle driver through a P2P vehicle sharing program.

Sec. 9. As used in this chapter, "start time" means the time, as identified in the shared vehicle agreement, when the shared vehicle driver is authorized to use a shared vehicle.

Sec. 10. As used in this chapter, "termination time" means the earliest of the following events:

- (1) The end of the vehicle sharing period identified in the shared vehicle agreement if the shared vehicle is delivered to the location agreed upon in the shared vehicle agreement.
- (2) The end of the vehicle sharing period identified in the shared vehicle agreement if the shared vehicle is delivered to an agreed alternative location and the alternative location has been communicated through the P2P vehicle sharing program.



- (3) The shared vehicle owner or the shared vehicle owner's designee takes possession and control of the shared vehicle.

Sec. 11. As used in this chapter, "shared vehicle agreement" means a written contract:

- (1) that provides terms and conditions governing the conduct of the shared vehicle owner and shared vehicle driver;
- (2) that authorizes a shared vehicle driver to use a shared vehicle under a shared vehicle agreement made available by a shared vehicle owner through a P2P vehicle sharing program for a period of thirty (30) days or less;
- (3) under which a charge for use of the shared vehicle is made at a periodic rate; and
- (4) under which the title to the shared vehicle is not transferred to the shared vehicle driver.

The term does not include a rental agreement (as defined in IC 24-4-9-5).

Sec. 12. As used in this chapter, "vehicle sharing period" means a period beginning with:

- (1) the delivery period; or
- (2) if there is no delivery period, the start time;

and ending with the termination time.

Sec. 13. A P2P vehicle sharing program, for each shared vehicle agreement completed through the P2P shared vehicle program, shall do the following:

- (1) Provide the language of the shared vehicle agreement to the shared vehicle owner and shared vehicle driver.
- (2) Disclose:
 - (A) to the shared vehicle driver any:
 - (i) rates, fees, and costs that are charged under the shared vehicle agreement to the shared vehicle driver; and
 - (ii) conditions under which the shared vehicle driver is required to maintain primary coverage under a personal motor vehicle insurance policy, including the specific required coverage limits to enter into a shared vehicle agreement; and
 - (B) to the shared vehicle owner any rates, fees, and costs that are charged under the shared vehicle agreement to the shared vehicle driver.
- (3) Provide an emergency telephone number for the shared vehicle driver to use during the vehicle sharing period to contact the person tasked with providing roadside assistance



to the shared vehicle driver.

Sec. 14. (a) When a vehicle owner registers as a shared vehicle owner on a P2P vehicle sharing program, and before a shared vehicle owner makes a shared vehicle available for sharing on the P2P vehicle sharing program, a P2P vehicle sharing program shall:

- (1) verify that the shared vehicle does not have any safety recalls appearing on the National Highway Traffic Safety Administration recall data base created under 49 CFR 573.15 for which repairs have not been made; and
- (2) notify the shared vehicle owner of the requirements stated under subsection (b).

(b) If the shared vehicle owner has received a safety recall notice required under 49 U.S.C. 30118 through 30120:

- (1) for a vehicle not yet available as a shared vehicle on a P2P vehicle sharing program, a shared vehicle owner may not make the vehicle available as a shared vehicle on a P2P vehicle sharing program until the safety recall repair has been made; or
- (2) for a vehicle while the vehicle is available for P2P vehicle sharing through the P2P vehicle sharing program, the shared vehicle owner shall, not later than seventy-two (72) hours after the shared vehicle owner receives the safety recall notice, remove the shared vehicle from P2P vehicle sharing until repairs related to the safety recall are finished.

(c) If a shared vehicle owner receives a safety recall notice required under 49 U.S.C. 30118 through 30120 while the vehicle is in possession of a shared vehicle driver, the shared vehicle owner shall, not later than seventy-two (72) hours after the shared vehicle owner receives the safety recall notice, notify the P2P vehicle sharing program and shared vehicle driver about the safety recall.

Sec. 15. (a) A shared vehicle that is the subject of a shared vehicle agreement must be insured during a vehicle sharing period by a motor vehicle insurance policy that is maintained by any of the following:

- (1) The shared vehicle owner.
- (2) The shared vehicle driver.
- (3) The P2P vehicle sharing program.
- (4) Any combination of the persons described in subdivisions (1) through (3).

(b) A motor vehicle insurance policy described in subsection (a) must:

- (1) provide coverage in an amount equal to or greater than



the minimum amounts required by IC 9-25-4-5; and

(2) be issued by one (1) of the following:

(A) An insurance company granted a certificate of authority to engage in insurance business in Indiana under IC 27-1-3-20.

(B) A surplus lines insurer through a surplus lines producer licensed under IC 27-1-15.8.

(c) A P2P vehicle sharing program must ensure that during each vehicle sharing period the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle insurance policy that:

(1) either:

(A) specifies that the motor vehicle insurance policy provides coverage if the insured vehicle is made available and used in a P2P vehicle sharing program; or

(B) does not exclude coverage if the insured vehicle is used as a shared vehicle; and

(2) provides coverage in an amount equal to or greater than the minimum amounts required under IC 9-25-4-5.

(d) The insurance described in subsection (a) that is satisfying the insurance requirement shall be primary during each vehicle sharing period.

(e) The P2P vehicle sharing program shall assume primary liability for a claim when:

(1) it is in whole or in part providing the insurance required under subsection (a);

(2) a dispute exists as to who was in control of the shared motor vehicle at the time of the loss; and

(3) the P2P vehicle sharing program does not have available, did not retain, or fails to provide the information required by section 17 of this chapter.

(f) The shared vehicle's insurer shall indemnify the P2P vehicle sharing program to the extent of its obligation, if any, under the applicable insurance policy, if it is determined the shared vehicle's owner was in control of the shared vehicle at the time of the loss.

(g) If insurance maintained by a shared vehicle owner or shared vehicle driver in subsection (a) has lapsed or does not provide the required coverage, insurance maintained by a P2P vehicle sharing program shall provide the coverage required by subsection (c) beginning with the first dollar of a claim and have the duty to defend such claim.

(h) Coverage under a motor vehicle insurance policy maintained



by the P2P vehicle sharing program does not depend on whether a personal motor vehicle insurer first denies a claim and does not require a personal motor vehicle insurer to first deny a claim.

Sec. 16. (a) During a vehicle sharing period, the P2P vehicle sharing program has an insurable interest in the shared vehicle.

(b) A P2P vehicle sharing program may maintain, as the named insured, one (1) or more motor vehicle insurance policies that provide coverage in an amount equal to or greater than the minimum amounts required by IC 9-25-4-5, including coverage for the following:

- (1)** Liability assumed by the P2P vehicle sharing program under a shared vehicle agreement.
- (2)** Liability of a shared vehicle owner.
- (3)** Liability of a shared vehicle driver.
- (4)** Damage or loss to a shared vehicle.

(c) Nothing in this section creates a liability on a P2P vehicle sharing program to maintain the coverage mandated under section 15 of this chapter.

(d) A P2P vehicle sharing program shall assume liability, except as provided in subsection (e), of a shared vehicle owner for any:

- (1)** bodily injury or property damage to third parties;
- (2)** uninsured and underinsured motorist losses; and
- (3)** personal injuries;

during the vehicle sharing period in an amount that is at least equal to the amount required by IC 9-25-4-5 and is specified in the shared vehicle agreement.

(e) The assumption of liability in subsection (d) does not apply if:

- (1)** the shared vehicle owner made an intentional or fraudulent material misrepresentation to the P2P vehicle sharing program before the vehicle sharing period in which the loss occurred; or
- (2)** acting jointly with the shared vehicle owner, the shared vehicle driver fails to return the shared vehicle under the terms of the shared vehicle agreement.

(f) Notwithstanding the definition of "termination time" under section 10 of this chapter, the assumption of liability under subsection (d) would apply to:

- (1)** bodily injury or property damage to third parties;
- (2)** uninsured and underinsured motorist losses; and
- (3)** personal injuries;

in an amount required by IC 9-25-4-5.



(g) This chapter does not:

- (1) limit the liability of a P2P vehicle sharing program for any act or omission of the P2P vehicle sharing program itself that results in injury to any person as a result of the use of a shared vehicle through the P2P vehicle sharing program; or**
- (2) limit the ability of the P2P vehicle sharing program to seek indemnification by contract from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the P2P vehicle sharing program that results from a breach of the terms and conditions of the shared vehicle agreement.**

Sec. 17. (a) A P2P vehicle sharing program and a shared vehicle owner are exempt from vicarious liability:

- (1) as if the P2P vehicle sharing program were a vehicle rental or leasing business, in accordance with 49 U.S.C. 30106; and**
- (2) under any state or local law that imposes liability based solely on vehicle ownership.**

(b) In an insurance claim investigation concerning a vehicle accident, a P2P vehicle sharing program shall cooperate in exchanging information between directly involved parties to the accident and the insurer of a shared vehicle owner concerning the shared vehicle's use in the P2P vehicle sharing program. This subsection does not make the P2P vehicle sharing program subject to civil or criminal liability.

(c) Records described in this section must be retained for a period of two (2) years.

Sec. 18. When a vehicle owner registers as a shared vehicle owner on a P2P vehicle sharing program and before a shared vehicle owner makes a shared vehicle available for sharing on the P2P vehicle sharing program, a P2P vehicle sharing program shall notify the shared vehicle owner that if the shared vehicle has a lien against it, the use of the shared vehicle through a P2P vehicle sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

Sec. 19. (a) Except as otherwise provided in subsection (b), a county, a municipality, or another political subdivision (as defined in IC 36-1-2-13) of the state may not enact or enforce an ordinance, resolution, policy, or rule to regulate P2P vehicle sharing.

(b) A board of an airport authority or a board of aviation commissioners may enact or enforce an ordinance, resolution, policy, or rule to regulate P2P vehicle sharing.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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