

AMENDED IN ASSEMBLY MAY 11, 2010

AMENDED IN ASSEMBLY APRIL 28, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1871**

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**Introduced by Assembly Member Jones**

February 12, 2010

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An act to add Section 11580.24 to the Insurance Code, relating to motor vehicle insurance coverage.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1871, as amended, Jones. Motor vehicle insurance coverage: personal vehicle sharing.

Existing law prohibits an insured motor vehicle from being classified as a common carrier, livery, or for-hire vehicle solely for the reason that the named insured is performing volunteer services for a nonprofit charitable organization or governmental agency consisting of providing social service transportation, as defined.

This bill would prohibit a motor vehicle from being classified for insurance purposes as a commercial, for-hire, or permissive use vehicle, or livery solely on the basis of it being used for personal vehicle sharing, as defined, if the revenue generated by personal vehicle sharing does not exceed the annual expenses of operating the vehicle, including depreciation, interest, lease payments, auto loan payments, insurance, maintenance, parking, and fuel, provided that motor vehicle insurance coverage is provided by the personal vehicle sharing organization for the period when the vehicle is being used by a person other than the owner.

The bill would define a personal vehicle sharing program as an entity facilitating personal vehicle sharing and providing automobile liability insurance coverage for a privately owned motor vehicle, as prescribed, when it is being used by a person other than the owner. The bill would limit the circumstances under which the motor vehicle owner's liability insurance can be subject to liability, and require that automobile insurance policies not be canceled, voided, terminated, rescinded, or nonrenewed on the basis that the motor vehicle has been made available for personal vehicle sharing.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. The Legislature finds and declares all of the*  
2     *following:*

3     *(a) It is the intent of the Legislature in enacting this bill that*  
4     *during the time when owners of motor vehicles make their vehicles*  
5     *available to, and those vehicles are under the operation and control*  
6     *of, a personal vehicle sharing program's member, if an incident,*  
7     *accident, or occurrence happens that gives rise to a claim of*  
8     *liability, property damage, medical payments, or uninsured or*  
9     *underinsured motorist claim, the vehicle's owner shall be held*  
10    *harmless, and the private passenger automobile insurer that*  
11    *insures the vehicle and the owner, and any personal liability*  
12    *umbrella policy insurer in connection with required underlying*  
13    *insurance, shall be held harmless with no obligation to defend or*  
14    *indemnify the motor vehicle's owner.*

15    *(b) It is the further intent of the Legislature that a personal*  
16    *vehicle sharing program shall maintain sufficient insurance*  
17    *coverage to cover any loss, and in the event of any assertion that*  
18    *the vehicle owner, the owner's private passenger automobile*  
19    *insurer, or personal liability umbrella policy insurer in connection*  
20    *with required underlying insurance, has any liability or coverage*  
21    *obligations with respect to any incident, accident, or occurrence*  
22    *that occurs while the vehicle is being used in the personal vehicle*  
23    *sharing program, the personal vehicle sharing program shall stand*  
24    *in the place of the vehicle owner.*

1     ~~SECTION 1.~~

2     ~~SEC. 2.~~ Section 11580.24 is added to the Insurance Code, to  
3 read:

4     11580.24. (a) No motor vehicle insured by the owner pursuant  
5 to a policy of insurance issued under Section 11580.1 or 11580.2  
6 shall be classified as a commercial vehicle, for-hire vehicle,  
7 permissive use vehicle, or livery solely on the basis of it being  
8 used for personal vehicle sharing if the revenue generated by  
9 personal vehicle sharing does not exceed the annual expenses of  
10 operating the vehicle, including depreciation, interest, lease  
11 payments, auto loan payments, insurance, maintenance, parking,  
12 and fuel, provided that motor vehicle insurance coverage is  
13 provided by the personal vehicle sharing organization for the period  
14 when the vehicle is being used by a person other than the owner.

15     (b) For purposes of this section “personal vehicle sharing” means  
16 *the sharing of* privately owned motor vehicles that are allowed to  
17 be used by persons other than the vehicle owner, as part of a  
18 communal pool of motor vehicles.

19     (c) For purposes of this section a “personal vehicle sharing  
20 program” is an entity that facilitates personal vehicle sharing and  
21 does all of the following:

22     (1) Provides automobile liability insurance coverage for  
23 privately owned motor vehicles, when used by persons other than  
24 the vehicle owner, with policy limits that are equal to or greater  
25 than those maintained by each vehicle owner, that, in no event,  
26 totals less than three times the minimum liability insurance  
27 requirements for private passenger vehicles as prescribed under  
28 subdivision (b) of Section 11580.1, and that satisfies the  
29 requirements of the California Financial Responsibility Law in  
30 Section 1656.2 of the Vehicle Code.

31     (2) Provides the motor vehicle owner with a Department of  
32 Motor Vehicles Form REG 5085 or other suitable proof of  
33 insurance sufficient to comply with the proof of insurance  
34 requirements of the California Financial Responsibility Law in  
35 Section 1656.2 of the Vehicle Code.

36     (3) Collects and maintains verifiable electronic records that  
37 identify the date, time, and location when a vehicle is placed under  
38 the control of a person other than the vehicle owner in order to  
39 establish the moment in time when the automobile liability  
40 insurance provided by or through the personal vehicle sharing

1 program is in effect and when the insurer of the owner's vehicle  
2 is not subject to liability pursuant to subdivision (d).

3 (d) Notwithstanding any other provision of law or any provision  
4 in a motor vehicle owner's automobile insurance policy, the motor  
5 vehicle owner's insurer shall not be subject to liability under any  
6 circumstances for any loss or event that occurs during ~~the~~ any time  
7 period when the vehicle is under the operation and control of a  
8 person; other than the vehicle owner; pursuant to a personal vehicle  
9 sharing program, as determined pursuant to paragraph (3) of  
10 subdivision (c), and any losses shall be borne solely by the personal  
11 vehicle sharing program and its insurer.

12 (e) No policy of insurance issued under Section 11580.1 or  
13 11580.2 shall be canceled, voided, terminated, rescinded, or  
14 nonrenewed on the basis that the insured motor vehicle has been  
15 made available for personal vehicle sharing, provided that the  
16 privately owned vehicle's insurer shall be afforded the protections  
17 under subdivision (d).