

AMENDED IN SENATE JUNE 10, 2010

AMENDED IN ASSEMBLY JUNE 1, 2010

AMENDED IN ASSEMBLY MAY 11, 2010

AMENDED IN ASSEMBLY APRIL 28, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1871

Introduced by Assembly Member Jones

February 12, 2010

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 private passenger 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 annual revenue received by the motor vehicle's owner that is generated by personal vehicle sharing does not exceed the annual expenses of owning and operating the vehicle, including, but not limited to, depreciation, interest, lease payments, auto loan payments, insurance, maintenance, parking, and fuel, and the

personal vehicle sharing is conducted pursuant to a personal vehicle sharing program.

The bill would define a personal vehicle sharing program as a legal entity qualified to do business in the state that facilitates personal vehicle sharing, as specified. The bill would require a personal vehicle sharing program, among other things, during all times that the vehicle is engaged in personal vehicle sharing, to provide insurance coverage, as specified, and collect, maintain, and make available to the vehicle owner and the vehicle owner’s primary automobile liability insurer verifiable electronic records identifying the date, time, initial and final locations of the vehicle, and miles driven when it is being used as part of the personal vehicle sharing program. 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can be subject to liability, and require that automobile insurance policies not be canceled, voided, terminated, rescinded, or nonrenewed solely on the basis that the motor vehicle has been made available for personal vehicle sharing. The bill would authorize the insurer of the vehicle to exclude any and all coverage afforded under the vehicle owner’s automobile insurance policy while the vehicle is used by a person other than the owner as part of a personal vehicle sharing program.

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 any liability, the
- 8 vehicle’s owner and the private passenger automobile insurer that
- 9 insures the vehicle and its owner shall be held harmless with no
- 10 obligation to defend or indemnify the motor vehicle’s owner.
- 11 (b) It is the further intent of the Legislature that a personal
- 12 vehicle sharing program maintain sufficient insurance coverage
- 13 to cover any loss arising out of the use of a privately owned
- 14 passenger vehicle during the time when the vehicle is under the
- 15 operation and control of the personal vehicle sharing program and,

1 at those times the personal vehicle sharing program shall stand in
2 the place of the vehicle owner or the vehicle owner's private
3 passenger automobile insurer.

4 SEC. 2. Section 11580.24 is added to the Insurance Code, to
5 read:

6 11580.24. (a) No private passenger motor vehicle insured by
7 its owner pursuant to a policy of insurance subject to Section
8 11580.1 or 11580.2 shall be classified as a commercial vehicle,
9 for-hire vehicle, permissive use vehicle, or livery solely because
10 its owner allows it to be used for personal vehicle sharing as long
11 as all of the following circumstances apply:

12 (1) The personal vehicle sharing is conducted pursuant to a
13 personal vehicle sharing program.

14 (2) The annual revenue received by the motor vehicle's owner
15 which was generated by the personal vehicle sharing of the vehicle
16 does not exceed the annual expenses of owning and operating the
17 vehicle, including depreciation, interest, lease payments, auto loan
18 payments, insurance, maintenance, parking, fuel, cleaning,
19 automobile repair, and costs associated with personal vehicle
20 sharing, including, but not limited to, the installation, operation,
21 and maintenance of computer hardware and software, signage
22 identifying the vehicle as a personal sharing vehicle, and any fees
23 charged by a personal vehicle sharing program.

24 (b) For purposes of this section the following definitions apply:

25 (1) "Personal vehicle sharing" means the use of private
26 passenger motor vehicles by persons other than the vehicle's owner,
27 in connection with a personal vehicle sharing program.

28 (2) "Personal vehicle sharing program" means a legal entity
29 qualified to do business in the State of California engaged in the
30 business of facilitating the sharing of private passenger vehicles
31 for noncommercial use by individuals within the state.

32 (c) A personal vehicle sharing program shall, for each private
33 passenger vehicle that it facilitates the use of, do all of the
34 following:

35 (1) During all times that the vehicle is engaged in personal
36 vehicle sharing, provide insurance coverage for the vehicle that is
37 equal to or greater than the insurance coverages maintained by the
38 vehicle owner and reported to the personal vehicle sharing program,
39 but in no event, provide coverage less than three times the
40 minimum insurance requirements for private passenger vehicles

1 with respect to liability and uninsured motorist coverage, and
2 provide coverage equal to or greater than the medical payment
3 coverage and the physical damage coverage, including collision
4 and comprehensive coverage, maintained by the vehicle owner
5 and reported to the personal vehicle sharing program.

6 (2) Provide the registered owner of the vehicle with a
7 Department of Motor Vehicles Form REG 5085 or other suitable
8 proof of compliance with the insurance requirements of this section
9 and the requirements of the California Financial Responsibility
10 Law in Section 1656.2 of the Vehicle Code, a copy of which shall
11 be maintained in the vehicle by the vehicle's registered owner
12 during any time when the vehicle is operated by any person other
13 than the vehicle's owner pursuant to a vehicle sharing program.

14 (3) Collect, maintain, and make available to the vehicle owner,
15 the vehicle owner's primary automobile liability insurer on file
16 with the Department of Motor Vehicles, and to any other
17 government agency as required by law, at the cost of the personal
18 vehicle program, verifiable electronic records that identify the
19 date, time, initial and final locations of the vehicle, and miles driven
20 when the vehicle is under the control of a person other than the
21 vehicle's owner pursuant to a personal vehicle sharing program.

22 (4) Provide the vehicle's owner and any person that operates
23 the vehicle pursuant to a personal vehicle sharing program with a
24 disclosure that contains information explaining the terms and
25 conditions contained in this section.

26 (d) Notwithstanding any other provision of law or any provision
27 in a motor vehicle owner's automobile insurance policy, in the
28 event of a loss or injury that occurs during any time period when
29 the vehicle is under the operation and control of a person, other
30 than the vehicle owner, pursuant to a personal vehicle sharing
31 program ~~as determined pursuant to paragraph (3) of subdivision~~
32 ~~(e)~~, the personal vehicle sharing program shall be considered the
33 owner of the vehicle for the purpose of Section 17151 of the
34 Vehicle Code and any losses shall be borne solely by the personal
35 vehicle sharing program.

36 (e) Notwithstanding any other provision of law or any provision
37 in a motor vehicle owner's automobile insurance policy, while a
38 private passenger motor vehicle is used by a person other than its
39 owner pursuant to personal vehicle sharing facilitated through a
40 personal vehicle sharing program, the insurer of that vehicle on

1 file with the Department of Motor Vehicles may exclude any and
2 all coverage afforded pursuant its policy.
3 (f) No policy of insurance that is subject to Section 11580.1 or
4 11580.2 shall be canceled, voided, terminated, rescinded, or
5 nonrenewed solely on the basis that the private passenger motor
6 vehicle has been made available for personal vehicle sharing
7 pursuant to a personal vehicle sharing program.

O