

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2293**

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**Introduced by Assembly Member Bonilla**

February 21, 2014

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~~An act to amend Section 11580.24 of the Insurance Code, relating to motor vehicle insurance coverage. An act to add Chapter 8.5 (commencing with Section 5430) to Division 2 of the Public Utilities Code, relating to transportation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2293, as amended, Bonilla. ~~Private passenger motor vehicle insurance coverage; personal vehicle sharing. Transportation network companies; insurance coverage; disclosure.~~

*Under existing law, the Passenger Charter-party Carriers' Act, the Public Utilities Commission has adopted rules and regulations relating to public safety risks in the operation of transportation services utilizing transportation network companies. Those regulations define a transportation network company as an organization operating in California that provides prearranged transportation services for compensation using an online-enabled platform to connect passengers with drivers using their personal vehicles. Existing regulations of the commission require, among other things, a transportation network company to acquire a commercial liability policy for incidents involving transportation network company vehicles and drivers in transit to or during a transportation network company trip.*

*This bill would more broadly define "transportation network company" by excluding the requirement that a transportation network company trip be prearranged and would require a transportation*

*network company to disclose in writing to participating drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability provided by the transportation network company and to advise a participating driver in writing that the driver’s personal automobile insurance policy may not provide coverage while the driver makes himself or herself available for transportation network company services.*

~~Existing law prohibits a private passenger motor vehicle, as defined, from being classified for insurance purposes as a commercial, for-hire, 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 vehicle’s owner that is generated by personal vehicle sharing does not exceed the annual expenses of owning and operating the vehicle and the personal vehicle sharing is conducted pursuant to a personal vehicle sharing program.~~

~~This bill would make technical, nonsubstantive changes to those provisions:~~

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. Chapter 8.5 (commencing with Section 5430) is  
2     added to Division 2 of the Public Utilities Code, to read:

3  
4             CHAPTER 8.5. TRANSPORTATION NETWORK COMPANIES

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6     5430. As used in this chapter, a “transportation network  
7     company” is an organization, including, but not limited to, a  
8     corporation, partnership, or sole proprietor, operating in  
9     California that provides transportation services for compensation  
10    using an online-enabled application or platform to connect  
11    passengers with drivers using their personal vehicles.

12    5431. A transportation network company shall disclose in  
13    writing to participating drivers, as part of its agreement with those  
14    drivers, the insurance coverage and limits of liability that the  
15    transportation network company provides while a driver makes  
16    himself or herself available for transportation network company  
17    services, and shall advise a participating driver in writing that the  
18    driver’s personal automobile insurance policy may not provide

1 *coverage while the driver makes himself or herself available for*  
2 *transportation network company services.*

3 SECTION 1. ~~Section 11580.24 of the Insurance Code is~~  
4 ~~amended to read:~~

5 ~~11580.24. (a) A private passenger motor vehicle insured by~~  
6 ~~its owner pursuant to a policy of insurance subject to Section~~  
7 ~~11580.1 or 11580.2 shall not be classified as a commercial vehicle;~~  
8 ~~for-hire vehicle, permissive use vehicle, or livery solely because~~  
9 ~~its owner allows it to be used for personal vehicle sharing if all of~~  
10 ~~the following circumstances apply:~~

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

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

23 ~~(3) The owner of the private passenger motor vehicle does not~~  
24 ~~knowingly place the vehicle into commercial use, as defined by~~  
25 ~~Section 675.5, by a personal vehicle sharing user while engaged~~  
26 ~~in personal vehicle sharing.~~

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

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

31 ~~(2) "Personal vehicle sharing program" means a legal entity~~  
32 ~~qualified to do business in the State of California engaged in the~~  
33 ~~business of facilitating the sharing of private passenger vehicles~~  
34 ~~for nonecommercial use by individuals within the state.~~

35 ~~(3) "Private passenger motor vehicle" means a vehicle that is~~  
36 ~~insured, or is subject to being insured, under a personal automobile~~  
37 ~~liability insurance policy insuring a single individual or individuals~~  
38 ~~residing in the same household, as the named insured, or meets~~  
39 ~~the requirements of Section 16058 of the Vehicle Code, but does~~  
40 ~~not include a vehicle with fewer than four wheels.~~

- 1     ~~(e) A personal vehicle sharing program shall, for each vehicle~~  
2     ~~that it facilitates the use of, do all of the following:~~
- 3     ~~(1) During all times that the vehicle is engaged in personal~~  
4     ~~vehicle sharing, provide insurance coverages for the vehicle and~~  
5     ~~operator of the vehicle that are equal to or greater than the~~  
6     ~~insurance coverages maintained by the vehicle owner and reported~~  
7     ~~to the personal vehicle sharing program. However, the personal~~  
8     ~~vehicle sharing program shall not provide liability coverage less~~  
9     ~~than three times the minimum insurance requirements for private~~  
10    ~~passenger vehicles. Compliance with the terms and conditions of~~  
11    ~~this paragraph shall be deemed to avoid the application of the~~  
12    ~~limitation on damage recoveries set forth in Section 3333.4 of the~~  
13    ~~Civil Code.~~
- 14    ~~(2) Provide the registered owner of the vehicle with a~~  
15    ~~Department of Motor Vehicles Form REG 5085 or other suitable~~  
16    ~~proof of compliance with the insurance requirements of this section~~  
17    ~~and the requirements of the California Financial Responsibility~~  
18    ~~Law in Section 1656.2 of the Vehicle Code, a copy of which shall~~  
19    ~~be maintained in the vehicle by the vehicle's registered owner~~  
20    ~~during any time when the vehicle is operated by any person other~~  
21    ~~than the vehicle's owner pursuant to a personal vehicle sharing~~  
22    ~~program.~~
- 23    ~~(3) Collect, maintain, and make available to the vehicle's owner,~~  
24    ~~the vehicle owner's primary automobile liability insurer on file~~  
25    ~~with the Department of Motor Vehicles, and to any other~~  
26    ~~government agency as required by law, at the cost of the personal~~  
27    ~~vehicle sharing program, verifiable electronic records that identify~~  
28    ~~the date, time, initial and final locations of the vehicle, and miles~~  
29    ~~driven when the vehicle is under the control of a person other than~~  
30    ~~the vehicle's owner pursuant to a personal vehicle sharing program.~~
- 31    ~~(4) Provide the vehicle's owner and any person that operates~~  
32    ~~the vehicle pursuant to a personal vehicle sharing program with a~~  
33    ~~disclosure that contains information explaining the terms and~~  
34    ~~conditions contained in this section.~~
- 35    ~~(5) Not knowingly permit the vehicle to be operated for~~  
36    ~~commercial use by a personal vehicle sharing user while engaged~~  
37    ~~in personal vehicle sharing.~~
- 38    ~~(6) Use only private passenger vehicles.~~
- 39    ~~(7) Facilitate the installation, operation, and maintenance of~~  
40    ~~computer hardware and software and signage, necessary for a~~

1 vehicle to be used in a personal vehicle sharing program, including  
2 payment of the cost of damage or theft of that equipment and any  
3 damage caused to the vehicle by the installation, operation, and  
4 maintenance of that equipment.

5 ~~(d) Notwithstanding any other law or any provision in a private  
6 passenger motor vehicle owner's automobile insurance policy, in  
7 the event of a loss or injury that occurs during a time period when  
8 the vehicle is under the operation and control of a person, other  
9 than the vehicle owner, pursuant to a personal vehicle sharing  
10 program, or otherwise under the control of a personal vehicle  
11 sharing program, the personal vehicle sharing program shall assume  
12 all liability of the owner and shall be considered the owner of the  
13 vehicle for all purposes. Nothing in this section limits the liability  
14 of the personal vehicle sharing program for its acts or omissions  
15 that result in injury to any persons as a result of the use or operation  
16 of a personal vehicle sharing program.~~

17 ~~(e) A personal vehicle sharing program shall continue to be  
18 liable pursuant to subdivision (d) until both of the following occur:~~

19 ~~(1) The private passenger motor vehicle is returned to a location  
20 designated by the personal vehicle sharing program.~~

21 ~~(2) The earliest of one of the following occurs:~~

22 ~~(A) The expiration of the time period established for the  
23 particular use of the vehicle.~~

24 ~~(B) The intent to terminate the personal vehicle sharing use is  
25 verifiably communicated to the personal vehicle sharing program.~~

26 ~~(C) The vehicle's owner takes possession and control of the  
27 vehicle.~~

28 ~~(f) The personal vehicle sharing program shall assume liability  
29 for a claim in which a dispute exists as to who was in control of  
30 the vehicle when the loss occurred giving rise to the claim, and  
31 the vehicle's private passenger motor vehicle insurer shall  
32 indemnify the personal vehicle sharing program to the extent of  
33 its obligation under the applicable insurance policy, if it is  
34 determined that the vehicle's owner was in control of the vehicle  
35 at the time of the loss.~~

36 ~~(g) If the owner of the vehicle is named as a defendant in a civil  
37 action, for a loss or injury that occurs during a time period when  
38 the vehicle is under the operation and control of a person, other  
39 than the vehicle's owner, pursuant to a personal vehicle sharing  
40 program, or otherwise under the control of a personal vehicle~~

1 sharing program, the personal vehicle sharing program shall have  
2 the duty to defend and indemnify the vehicle's owner, subject to  
3 the provisions of subdivisions (d) and (f).

4 (h) ~~Notwithstanding any other law or any provision in a vehicle  
5 owner's automobile liability insurance policy, while a private  
6 passenger motor vehicle is used by a person other than its owner  
7 pursuant to personal vehicle sharing facilitated through a personal  
8 vehicle sharing program, all of the following shall apply:~~

9 ~~(1) The insurer of that vehicle on file with the Department of  
10 Motor Vehicles may exclude any and all coverage afforded  
11 pursuant to its policy.~~

12 ~~(2) The primary and excess insurer or insurers of the owners,  
13 operators, and maintainers of the private passenger motor vehicle  
14 used in a personal vehicle sharing program shall have the right to  
15 notify an insured that it has no duty to defend or indemnify any  
16 person or organization for liability for any loss that occurs during  
17 use of the vehicle in a personal vehicle sharing program.~~

18 ~~(i) No policy of insurance that is subject to Section 11580.1 or  
19 11580.2 shall be canceled, voided, terminated, rescinded, or  
20 nonrenewed solely on the basis that the private passenger motor  
21 vehicle has been made available for personal vehicle sharing  
22 pursuant to a personal vehicle sharing program that is in  
23 compliance with the provisions of this section.~~