

AMENDED IN ASSEMBLY MARCH 16, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2474

Introduced by Assembly Member Mullin

February 19, 2016

An act to amend Section ~~12901~~ 11580.24 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2474, as amended, Mullin. ~~Insurance Commissioner: conflict of interest.~~ *Automobile insurance: personal vehicle sharing.*

Existing law defines a "personal vehicle sharing program" as a legal entity qualified to do business in the State of California engaged in the business of facilitating the sharing of private passenger motor vehicles for noncommercial use by individuals within the state. Existing law requires the personal vehicle sharing program to facilitate the installation, operation, and maintenance of computer hardware and software and signage necessary for a private passenger motor vehicle to be used in a personal vehicle sharing program, including payment of the cost of damage or theft of that equipment and any damage caused to the vehicle by the installation, operation, and maintenance of that equipment.

This bill would delete the above-described requirements.

Existing law requires the personal vehicle sharing program to be liable for a loss or injury that occurs during any time period when the private passenger motor vehicle is under the operation and control of a person, other than the vehicle owner, pursuant to a personal vehicle sharing program, or otherwise under the control of a personal vehicle sharing program. A personal vehicle sharing program continues to be

liable until specified events occur, including, but not limited to, that the private passenger motor vehicle is returned to a location designated by the personal vehicle sharing program.

This bill would instead require that one of the triggering events be that the private passenger motor vehicle is returned to the location designated and agreed to by both the vehicle owner and the user of the vehicle, consistent with the terms and policies of the personal vehicle sharing program.

~~Existing law establishes the office of the Insurance Commissioner and provides that the commissioner shall be elected by the people in the same time, place, and manner as the Governor not to exceed 2 4-year terms. Existing law requires the commissioner to be a person competent and fully qualified to perform the duties of the office, as specified. Existing law also prohibits the commissioner, any deputy, or employee, during his or her tenure of office, from being be an officer, agent, or employee of an insurer or directly or indirectly interested in any insurer or licensee, except as specified.~~

~~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. Section 11580.24 of the Insurance Code is
- 2 amended to read:
- 3 11580.24. (a) ~~No~~A private passenger motor vehicle insured
- 4 by its owner pursuant to a policy of insurance subject to Section
- 5 11580.1 or 11580.2 shall *not* be classified as a commercial vehicle,
- 6 for-hire vehicle, permissive use vehicle, or livery solely because
- 7 its owner allows it to be used for personal vehicle sharing as long
- 8 as all of the following circumstances apply:
- 9 (1) The personal vehicle sharing is conducted pursuant to a
- 10 personal vehicle sharing program.
- 11 (2) The annual revenue received by the *private passenger motor*
- 12 vehicle’s owner ~~which~~ *that* was generated by the personal vehicle
- 13 sharing of the vehicle does not exceed the annual expenses of
- 14 owning and operating the vehicle, including depreciation, interest,
- 15 lease payments, auto loan payments, insurance, maintenance,
- 16 parking, fuel, cleaning, automobile repair, and costs associated

1 with personal vehicle sharing, including, but not limited to, the
2 installation, operation, and maintenance of computer hardware
3 and software, signage identifying the vehicle as a personal sharing
4 vehicle, and any fees charged by a personal vehicle sharing
5 program.

6 (3) The owner of the private passenger motor vehicle does not
7 knowingly place the vehicle into commercial use, as defined by
8 Section 675.5, by a personal vehicle sharing user while engaged
9 in personal vehicle sharing.

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

11 (1) “Personal vehicle sharing” means the use of private
12 passenger motor vehicles by persons other than the vehicle’s owner,
13 in connection with a personal vehicle sharing program.

14 (2) “Personal vehicle sharing program” means a legal entity
15 qualified to do business in the State of California engaged in the
16 business of facilitating the sharing of private passenger *motor*
17 vehicles for noncommercial use by individuals within the state.

18 (3) “Private passenger motor vehicle” means a vehicle that is
19 insured, or is subject to being insured, under a personal automobile
20 liability insurance policy insuring a single individual or individuals
21 residing in the same household, as the named insured, or meets
22 the requirements of Section 16058 of the Vehicle Code, but does
23 not include a vehicle with fewer than four wheels.

24 (c) A personal vehicle sharing program shall, for each *private*
25 *passenger motor* vehicle that it facilitates the use of, do all of the
26 following:

27 (1) During all times that the *private passenger motor* vehicle is
28 engaged in personal vehicle sharing, provide insurance coverages
29 for the vehicle and operator of the vehicle that are equal to or
30 greater than the insurance coverages maintained by the vehicle
31 owner and reported to the personal vehicle sharing program.
32 However, the personal vehicle sharing program shall not provide
33 liability coverage less than three times the minimum insurance
34 requirements for private passenger *motor* vehicles. Compliance
35 with the terms and conditions of this paragraph shall be deemed
36 to avoid the application of the limitation on damage recoveries set
37 forth in Section 3333.4 of the Civil Code.

38 (2) Provide the registered owner of the *private passenger motor*
39 vehicle with a Department of Motor Vehicles Form REG 5085 or
40 other suitable proof of compliance with the insurance requirements

1 of this section and the requirements of the California Financial
2 Responsibility Law in Section 1656.2 of the Vehicle Code, a copy
3 of which shall be maintained in the vehicle by the vehicle's
4 registered owner during any time when the vehicle is operated by
5 any person other than the vehicle's owner pursuant to a personal
6 vehicle sharing program.

7 (3) Collect, maintain, and make available to the *private*
8 *passenger motor* vehicle's owner, the vehicle owner's primary
9 automobile liability insurer on file with the Department of Motor
10 Vehicles, and to any other government agency as required by law,
11 at the cost of the personal vehicle sharing program, verifiable
12 electronic records that identify the date, time, initial and final
13 locations of the vehicle, and miles driven when the vehicle is under
14 the control of a person other than the vehicle's owner pursuant to
15 a personal vehicle sharing program.

16 (4) Provide the *private passenger motor* vehicle's owner and
17 any person that operates the vehicle pursuant to a personal vehicle
18 sharing program with a disclosure that contains information
19 explaining the terms and conditions contained in this section.

20 (5) Not knowingly permit the *private passenger motor* vehicle
21 to be operated for commercial use by a personal vehicle sharing
22 user while engaged in personal vehicle sharing.

23 (6) Use only private passenger *motor* vehicles.

24 ~~(7) Facilitate the installation, operation, and maintenance of~~
25 ~~computer hardware and software and signage, necessary for a~~
26 ~~vehicle to be used in a personal vehicle sharing program, including~~
27 ~~payment of the cost of damage or theft of that equipment and any~~
28 ~~damage caused to the vehicle by the installation, operation, and~~
29 ~~maintenance of that equipment.~~

30 (d) Notwithstanding any other ~~provision~~ of law or any provision
31 in a private passenger motor vehicle owner's automobile *liability*
32 insurance policy, in the event of a loss or injury that occurs during
33 any time period when the vehicle is under the operation and control
34 of a person, other than the vehicle owner, pursuant to a personal
35 vehicle sharing program, or otherwise under the control of a
36 personal vehicle sharing program, the personal vehicle sharing
37 program shall assume all liability of the owner and shall be
38 considered the owner of the vehicle for all purposes. Nothing in
39 this section limits the liability of the personal vehicle sharing
40 program for its acts or omissions that result in injury to any persons

1 as a result of the use or operation of a personal vehicle sharing
2 program.

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

5 (1) The private passenger motor vehicle is returned to a location
6 ~~designated by the personal vehicle sharing program.~~ *the location*
7 *designated and agreed to by both the vehicle owner and the user*
8 *of the vehicle, consistent with the terms and policies of the personal*
9 *vehicle sharing program.*

10 (2) The earliest of one of the following occurs:

11 (A) The expiration of the time period established for the
12 particular use of the *private passenger motor* vehicle.

13 (B) The intent to terminate the personal vehicle sharing use is
14 verifiably communicated to the personal vehicle sharing program.

15 (C) The *private passenger motor* vehicle's owner takes
16 possession and control of the vehicle.

17 (f) The personal vehicle sharing program shall assume liability
18 for a claim in which a dispute exists as to who was in control of
19 the *private passenger motor* vehicle when the loss occurred giving
20 rise to the claim, and the vehicle's private passenger motor vehicle
21 insurer shall indemnify the personal vehicle sharing program to
22 the extent of its obligation under the applicable insurance ~~policy,~~
23 *policy* if it is determined that the vehicle's owner was in control
24 of the vehicle at the time of the loss.

25 (g) In the event that the owner of the *private passenger motor*
26 vehicle is named as a defendant in a civil ~~action,~~ *action* for a loss
27 or injury that occurs during any time period when the vehicle is
28 under the operation and control of a person, other than the vehicle's
29 owner, pursuant to a personal vehicle sharing program, or otherwise
30 under the control of a personal vehicle sharing program, the
31 personal vehicle sharing program shall have the duty to defend
32 and indemnify the vehicle's owner, subject to the provisions of
33 subdivisions (d) and (f).

34 (h) Notwithstanding any other ~~provision of law or any provision~~
35 in a *private passenger motor* vehicle owner's automobile liability
36 insurance policy, while a ~~private passenger motor~~ vehicle is used
37 by a person other than its owner pursuant to personal vehicle
38 sharing facilitated through a personal vehicle sharing program, all
39 of the following shall apply:

1 (1) The insurer of that *private passenger motor* vehicle on file
2 with the Department of Motor Vehicles may exclude any and all
3 coverage afforded pursuant to its policy.

4 (2) The primary and excess insurer or insurers of the owners,
5 operators, and maintainers of the private passenger motor vehicle
6 used in a personal vehicle sharing program shall have the right to
7 notify an insured that it has no duty to defend or indemnify any
8 person or organization for liability for any loss that occurs during
9 use of the vehicle in a personal vehicle sharing program.

10 (i) ~~No~~A policy of insurance that is subject to Section 11580.1
11 or 11580.2 shall *not* be canceled, voided, terminated, rescinded,
12 or nonrenewed solely on the basis that the private passenger motor
13 vehicle has been made available for personal vehicle sharing
14 pursuant to a personal vehicle sharing program that is in
15 compliance with the provisions of this section.

16 SECTION 1. Section 12901 of the Insurance Code is amended
17 to read:

18 ~~12901. (a) The commissioner shall be a person competent and~~
19 ~~fully qualified to perform the duties of the office. Neither the~~
20 ~~commissioner nor a deputy or employee shall, during his or her~~
21 ~~tenure of office, be an officer, agent, or employee of an insurer or~~
22 ~~directly or indirectly interested in an insurer or licensee under this~~
23 ~~code, except (1) as a policyholder, or, (2) by virtue of relationship~~
24 ~~by blood or marriage to a person interested in an insurer or licensee.~~

25 ~~(b) If the commissioner, a deputy, or an employee holds a license~~
26 ~~or permit issued under this code, he or she shall surrender it for~~
27 ~~cancellation within 10 days after appointment and qualification.~~
28 ~~Upon termination of his or her office or employment that license~~
29 ~~or permit shall be reissued for the balance of the then current~~
30 ~~license or permit year without fee or penalty.~~