



**REPORT TO LAW &
LEGISLATION COMMITTEE
City of Sacramento**

915 I Street, Sacramento, CA 95814-2671

Consent
July 20, 2010

**Honorable Members of the
Law and Legislation Committee**

Subject: Endorse Assembly Bill 1871 – Carsharing

Location/Council District: Citywide

Recommendation: Support AB 1871 to ensure that Californians who allow their cars to be used in a carsharing pool do not inadvertently invalidate their own automobile insurance coverage.

Contact: Azadeh Doherty, Principal Planner, 808-3137

Presenters: None

Department: Transportation

Division: Office of Director

Organization No: 15001041

Description/Analysis

Issue: Existing law does not consider the use of an insured motor vehicle which provides volunteer services for nonprofit charitable organizations or governmental agencies to be commercial use. The passage of AB 1871 will establish the policy that carsharing does not constitute commercial use of a vehicle. This means that private individuals may allow their vehicles to be used in carsharing pools and be paid for the cost of wear and tear without compromising their own automobile insurance coverage.

Policy Considerations: The City of Sacramento is in the process of developing a Carshare program. The goal of the City's Car Share Program is to partner with car share operators to establish services to the residents and visitors of the City of Sacramento.

In addition, the City of Sacramento's adopted General Plan has the following two policies that support the carsharing concepts:

M 1.4.1 Increase Vehicle Occupancy: The City shall work with a broad range of agencies (e.g., SACOG, SMAQMD, Sacramento RT, Caltrans) to encourage and support programs that increase vehicle occupancy including the provision of traveler information, shuttles, preferential parking for carpools/vanpools, transit pass subsidies, and other methods.

M 1.5.3 Public-Private Transportation Partnerships: The City shall provide incentives for and cooperate with public-private transportation partnerships (such as car sharing companies) to establish pilot programs within the Central City, urban centers, employment centers, and other appropriate areas in order to reduce single-occupant vehicle use.

Environmental Considerations: Endorsement of AB 1871 has no adverse environmental impacts.

Rationale for Recommendation: Carsharing companies would like to expand their pools of vehicles by paying individual car owners to allow their vehicles to be used during times when they are not using them. Unfortunately, the receipt of even a small amount of money for the use of a person's automobile could constitute commercial use of that vehicle and, thereby, invalidate a private individual's insurance coverage. The possibility that an individual's insurance may inadvertently be cancelled prevents carsharing firms from expanding their pools of vehicles to include privately owned cars.

Financial Considerations: None.

Emerging Small Business Development (ESBD): There are no ESBD considerations since no goods or services are being purchased.

Respectfully Submitted by: Francesca L. Halbakken
Francesca L. Halbakken
Operations Manager

Approved by: Jerry Way
Jerry Way
Director of Transportation

Recommendation Approved:

Gus Vina
Gus Vina
Interim City Manager

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Attachment 1

Background

Carsharing is a form of car rental in which people rent automobiles for a short period of time, often by the hour. Because the occasional use of a shared vehicle costs significantly less than car ownership, carsharing makes vehicles more accessible to low-income households. Carsharing may also help reduce traffic congestion and pollution and, ultimately, the need to manufacture as many new automobiles as are currently being manufactured.

Carsharing vehicles tend to be small, fuel-efficient and carry several people, which reduces the use of gasoline as well as the need for parking spaces. Carsharing programs have been successful in densely populated areas such as city centers and university campuses.

Attachment 2

Sample Letter

July 20, 2010

The Honorable Dave Jones
9th District, California State Assembly
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0009

Subject: Support for Assembly Bill 1871 - Carsharing

Dear Assemblymember Jones:

On behalf of the City of Sacramento, I am pleased to express our strong support for AB 1871, Carsharing. The City of Sacramento provides incentives for and cooperates with public-private transportation partnerships such as car sharing companies and is in the process of establishing pilot programs within the Central City, urban centers, employment centers and other appropriate areas in order to reduce single-occupant vehicle use. We believe this legislation will promote carsharing, increase vehicle occupancy, conserve energy resources, reduce greenhouse gas emissions and improve air quality.

Thank you for your leadership on proposing AB 1871 and creating a transportation system that is accessible to all Californians.

Sincerely,

Lauren Hammond, Chair
Law and Legislation Committee

C: The Honorable Darrell Steinberg, California State Senate
Mayor Kevin Johnson, City of Sacramento
Sacramento City Councilmembers

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, ~~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 and the personal vehicle sharing is conducted pursuant to a personal vehicle sharing program.~~

The bill would define a personal vehicle sharing program as ~~an a legal entity facilitating qualified to do business in the state that facilitates 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, 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,
- 8 the vehicle's owner and the private passenger automobile insurer
- 9 that insures the vehicle and its owner shall be held harmless with
- 10 no 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

1 to cover any loss arising out of the use of a privately owned
2 passenger vehicle during the time when the vehicle is under the
3 operation and control of the personal vehicle sharing program
4 and, at those times the personal vehicle sharing program shall
5 stand in the place of the vehicle owner or the vehicle owner's
6 private passenger automobile insurer.

7 SEC. 2. Section 11580.24 is added to the Insurance Code, to
8 read:

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

15 (1) The personal vehicle sharing is conducted pursuant to a
16 personal vehicle sharing program.

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

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
30 owner, 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 noncommercial use by individuals within the state.

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

38 (1) During all times that the vehicle is engaged in personal
39 vehicle sharing, provide insurance coverage for the vehicle that
40 is equal to or greater than the insurance coverages maintained by

1 *the vehicle owner and reported to the personal vehicle sharing*
2 *program, but in no event, provide coverage less than three times*
3 *the minimum insurance requirements for private passenger vehicles*
4 *with respect to liability and uninsured motorist coverage, and*
5 *provide coverage equal to or greater than the medical payment*
6 *coverage and the physical damage coverage, including collision*
7 *and comprehensive coverage, maintained by the vehicle owner*
8 *and reported to the personal vehicle sharing program.*

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

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

26 *(4) Provide the vehicle's owner and any person that operates*
27 *the vehicle pursuant to a personal vehicle sharing program with*
28 *a disclosure that contains information explaining the terms and*
29 *conditions contained in this section.*

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

1 (e) Notwithstanding any other provision of law or any provision
2 in a motor vehicle owner's automobile insurance policy, while a
3 private passenger motor vehicle is used by a person other than its
4 owner pursuant to personal vehicle sharing facilitated through a
5 personal vehicle sharing program, the insurer of that vehicle on
6 file with the Department of Motor Vehicles may exclude any and
7 all coverage afforded pursuant its policy.

8 (f) No policy of insurance that is subject to Section 11580.1 or
9 11580.2 shall be canceled, voided, terminated, rescinded, or
10 nonrenewed solely on the basis that the private passenger motor
11 vehicle has been made available for personal vehicle sharing
12 pursuant to a personal vehicle sharing program.

13 ~~SECTION 1. The Legislature finds and declares all of the~~
14 ~~following:~~

15 ~~(a) It is the intent of the Legislature in enacting this bill that~~
16 ~~during the time when owners of motor vehicles make their vehicles~~
17 ~~available to, and those vehicles are under the operation and control~~
18 ~~of, a personal vehicle sharing program's member, if an incident,~~
19 ~~accident, or occurrence happens that gives rise to a claim of~~
20 ~~liability, property damage, medical payments, or uninsured or~~
21 ~~underinsured motorist claim, the vehicle's owner shall be held~~
22 ~~harmless, and the private passenger automobile insurer that insures~~
23 ~~the vehicle and the owner, and any personal liability umbrella~~
24 ~~policy insurer in connection with required underlying insurance,~~
25 ~~shall be held harmless with no obligation to defend or indemnify~~
26 ~~the motor vehicle's owner.~~

27 ~~(b) It is the further intent of the Legislature that a personal~~
28 ~~vehicle sharing program shall maintain sufficient insurance~~
29 ~~coverage to cover any loss, and in the event of any assertion that~~
30 ~~the vehicle owner, the owner's private passenger automobile~~
31 ~~insurer, or personal liability umbrella policy insurer in connection~~
32 ~~with required underlying insurance, has any liability or coverage~~
33 ~~obligations with respect to any incident, accident, or occurrence~~
34 ~~that occurs while the vehicle is being used in the personal vehicle~~
35 ~~sharing program, the personal vehicle sharing program shall stand~~
36 ~~in the place of the vehicle owner.~~

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

39 ~~11580.24. (a) No motor vehicle insured by the owner pursuant~~
40 ~~to a policy of insurance issued under Section 11580.1 or 11580.2~~

1 shall be classified as a commercial vehicle, for-hire vehicle,
2 permissive use vehicle, or livery solely on the basis of it being
3 used for personal vehicle sharing if the revenue generated by
4 personal vehicle sharing does not exceed the annual expenses of
5 operating the vehicle, including depreciation, interest, lease
6 payments, auto loan payments, insurance, maintenance, parking,
7 and fuel, provided that motor vehicle insurance coverage is
8 provided by the personal vehicle sharing organization for the period
9 when the vehicle is being used by a person other than the owner.

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

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

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

26 (2) Provides the motor vehicle owner with a Department of
27 Motor Vehicles Form REG 5085 or other suitable proof of
28 insurance sufficient to comply with the proof of insurance
29 requirements of the California Financial Responsibility Law in
30 Section 1656.2 of the Vehicle Code.

31 (3) Collects and maintains verifiable electronic records that
32 identify the date, time, and location when a vehicle is placed under
33 the control of a person other than the vehicle owner in order to
34 establish the moment in time when the automobile liability
35 insurance provided by or through the personal vehicle sharing
36 program is in effect and when the insurer of the owner’s vehicle
37 is not subject to liability pursuant to subdivision (d).

38 (d) Notwithstanding any other provision of law or any provision
39 in a motor vehicle owner’s automobile insurance policy, the motor
40 vehicle owner’s insurer shall not be subject to liability under any

1 ~~circumstances for any loss or event that occurs during any time~~
2 ~~period when the vehicle is under the operation and control of a~~
3 ~~person other than the vehicle owner pursuant to a personal vehicle~~
4 ~~sharing program, as determined pursuant to paragraph (3) of~~
5 ~~subdivision (c), and any losses shall be borne solely by the personal~~
6 ~~vehicle sharing program and its insurer.~~

7 ~~(e) No policy of insurance issued under Section 11580.1 or~~
8 ~~11580.2 shall be canceled, voided, terminated, rescinded, or~~
9 ~~nonrenewed on the basis that the insured motor vehicle has been~~
10 ~~made available for personal vehicle sharing, provided that the~~
11 ~~privately owned vehicle's insurer shall be afforded the protections~~
12 ~~under subdivision (d).~~