1	HOUSE OF REPRESENTATIVES - FLOOR VERSION
2	STATE OF OKLAHOMA
3	1st Session of the 58th Legislature (2021)
4	ENGROSSED SENATE BILL NO. 355 By: Rosino of the Senate
5	and
6	Sims of the House
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9	An Act relating to motor vehicles; creating the Peer- to-Peer Car Sharing Program Act; defining terms;
10	requiring assumption of liability for certain losses or injuries; providing for actions resulting in
11	nonliability; providing for minimum compulsory insurance coverage; stating certain parties charged
12	with maintaining insurance coverage; requiring certain primary insurance coverage; providing for
13	controlling insurance coverage for out-of-state accidents; providing for when certain entities assume
14	primary liability; requiring certain coverage and duty to defend; providing exceptions; requiring
15	certain nondependence on other insurers; disallowing certain limits to liability and contracting; allowing
16	for certain indemnification; providing for certain notice; making certain exclusions; allowing for
17	certain insurance policy exclusions; stating the act does not invalidate, limit or restrict insurers from
18	underwriting or the ability to cancel or nonrenew policies; requiring collection and verification of
19	certain records; requiring retention of records; exempting owner from vicarious liability; providing
20	for right to seek contribution; requiring certain insurable interest; providing for certain
21	nonliability; allowing program to maintain certain policy coverages; requiring certain disclosures;
22	stating certain requirements of car sharing program agreement; requiring certain recordkeeping; stating
23	certain party responsibilities and requirements; stating certain requirements of programs and owners;
24	requiring verification of safety recalls; providing

1 for certain nonuse of car; requiring certain notice; amending 68 O.S. 2011, Section 2110, as amended by 2 Section 5, Chapter 316, O.S.L. 2012 (68 O.S. Supp. 2020, Section 2110), which relates to rental tax; 3 specifying rental tax shall not apply to certain shared vehicles; providing for collection of tax; defining terms; authorizing the Oklahoma Tax 4 Commission to prescribe certain rules and 5 regulations; providing for codification; and providing an effective date. 6 7 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA: 8 9 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050 of Title 47, unless there 10 11 is created a duplication in numbering, reads as follows: 12 Sections 1 through 15 of this act shall be known and may be cited as the "Peer-to-Peer Car Sharing Program Act". 13 A new section of law to be codified SECTION 2. NEW LAW 14 in the Oklahoma Statutes as Section 1051 of Title 47, unless there 15 16 is created a duplication in numbering, reads as follows: As used in the Peer-to-Peer Car Sharing Program Act: 17 "Peer-to-peer car sharing" or "sharing" means the authorized 18 1. use of a vehicle by an individual other than the vehicle's owner 19 20 through a peer-to-peer car sharing program; 2. "Peer-to-peer car sharing program" or "program" means a 21 business platform that connects vehicle owners with drivers to 22 enable the sharing of vehicles for financial consideration. A peer-23 24 to-peer car sharing program is not engaged in "renting motor

1 vehicles without a driver" in Oklahoma within the meaning of Section 2 2110 of Title 68 of the Oklahoma Statutes, except as specifically 3 provided in that section. A peer-to-peer car sharing program is not "engaged in the business of renting motor vehicles without drivers" 4 under the provisions of Section 8-101 of Title 47 of the Oklahoma 5 6 Statutes. A peer-to-peer car sharing program is not a service 7 provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial 8 9 consideration for the use of a shared vehicle. A peer-to-peer car 10 sharing program shall not be considered a transportation network 11 company as defined in Section 1011 of Title 47 of the Oklahoma 12 Statutes;

3. "Peer-to-peer car sharing program agreement" or "agreement" 13 means the terms and conditions applicable to a shared vehicle owner 14 15 and a shared vehicle driver that govern the use of a shared vehicle 16 through a peer-to-peer car sharing program. A peer-to-peer car 17 sharing program agreement is not a rental agreement within the meaning of Section 2110 of Title 68 of the Oklahoma Statutes, except 18 as specifically provided in that section. A peer-to-peer car 19 20 sharing program agreement is not an agreement to rent a motor vehicle without a driver under the provisions of Section 8-101 of 21 Title 47 of the Oklahoma Statutes; 22

4. "Shared vehicle" or "vehicle" means a vehicle that isavailable for sharing through a peer-to-peer car sharing program. A

1 shared vehicle is not a "motor vehicle that is rented" within the 2 meaning of Section 2110 of Title 68 of the Oklahoma Statutes, except 3 as specifically provided in that section. A shared vehicle is not a 4 "motor vehicle engaged in the business of renting a motor vehicle 5 without a driver" as described pursuant to Section 8-101 of Title 47 6 of the Oklahoma Statutes;

5. "Shared vehicle driver" or "driver" means an individual who
has been authorized to drive the shared vehicle by the shared
vehicle owner under a car sharing program agreement;

Shared vehicle owner" or "owner" means the registered owner,
 or a person or entity designated by the registered owner, of a
 vehicle made available for sharing to shared vehicle drivers through
 a peer-to-peer car sharing program;

14 7. "Car sharing delivery period" or "delivery period" means the 15 period of time during which a shared vehicle is being delivered to 16 the location of the car sharing start time, if applicable, as 17 documented by the governing car sharing program agreement;

18 8. "Car sharing period" or "sharing period" means the period of 19 time that commences with the car sharing delivery period or, if 20 there is no car sharing delivery period, that commences with the car 21 sharing start time and, in either case, ends at the car sharing 22 termination time;

9. "Car sharing start time" or "start time" means the time whenthe shared vehicle becomes subject to the control of the shared

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vehicle driver, at or after the time the reservation of a shared
 vehicle is scheduled to begin, as documented in the records of a
 peer-to-peer car sharing program; and

4 10. "Car sharing termination time" or "termination time" means 5 the earliest of the following events:

- a. the expiration of the agreed-upon period of time
 established for the use of a shared vehicle according
 to the terms of the car sharing program agreement, if
 the shared vehicle is delivered to the location agreed
 upon in the car sharing program agreement,
- b. when the shared vehicle is returned to a location as
 alternatively agreed upon by the shared vehicle owner
 and the shared vehicle driver as communicated through
 a peer-to-peer car sharing program agreement, which
 alternatively agreed upon location shall be
 incorporated into the car sharing program agreement,
 or
- c. when the shared vehicle owner, or the shared vehicle
 owner's authorized designee, takes possession and
 control of the shared vehicle.

21 SECTION 3. NEW LAW A new section of law to be codified 22 in the Oklahoma Statutes as Section 1052 of Title 47, unless there 23 is created a duplication in numbering, reads as follows:

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1 A. A peer-to-peer car sharing program shall assume liability, except as provided in subsection B of this section, of a shared 2 3 vehicle owner for bodily injury or property damage to third parties or uninsured and underinsured motorist or personal injury protection 4 5 losses during the car sharing period, in an amount stated in the peer-to-peer car sharing program agreement, which shall not be less 6 than those set forth in Section 7-600 et seq. of Title 47 of the 7 Oklahoma Statutes. 8

9 B. Notwithstanding the definition of "car sharing termination 10 time" as set forth in Section 2 of this act, the assumption of 11 liability under subsection A of this section shall not apply to any 12 shared vehicle owner when a shared vehicle owner:

Makes an intentional or fraudulent material
 misrepresentation or omission to the peer-to-peer car sharing
 program before the car sharing period in which the loss occurred; or
 Acts in concert with a shared vehicle driver who fails to

16 2. Acts in concert with a shared vehicle driver who fails to 17 return the shared vehicle pursuant to the terms of the car sharing 18 program agreement.

19 C. Notwithstanding the definition of "car sharing termination 20 time" as set forth in Section 2 of this act, the assumption of 21 liability under subsection A of this section shall apply to bodily 22 injury, property damage, uninsured and underinsured motorist or 23 personal injury protection losses by damaged third parties required 24 by Section 7-600 et seq. of Title 47 of the Oklahoma Statutes.

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SECTION 4. NEW LAW A new section of law to be codified
 in the Oklahoma Statutes as Section 1053 of Title 47, unless there
 is created a duplication in numbering, reads as follows:

A. A peer-to-peer car sharing program shall ensure that, during
each car sharing period, the shared vehicle owner and the shared
vehicle driver are insured under a motor vehicle liability insurance
policy that provides insurance coverage in amounts no less than the
minimum amounts set forth in Section 7-600 et seq. of Title 47 of
the Oklahoma Statutes, and:

Recognizes that the shared vehicle insured under the policy
 is made available and used through a peer-to-peer car sharing
 program; or

Does not exclude use of a shared vehicle by a shared vehicle
 driver.

B. The insurance required under subsection A of this sectionmay be satisfied by motor vehicle liability insurance maintained by:

- 17 1. A shared vehicle owner;
- 18 2. A shared vehicle driver;
- 19 3. A peer-to-peer car sharing program; or

Any combination of a shared vehicle owner, a shared vehicle
 driver and a peer-to-peer car sharing program.

C. The insurance required in subsection B of this section, that is satisfying the requirement of subsection A of this section, shall be primary during each car sharing period, and in the event that a 1 claim occurs in another state with minimum financial responsibility 2 limits higher than those provided pursuant to Section 7-600 et seq. 3 of Title 47 of the Oklahoma Statutes, during the car sharing period, 4 the coverage maintained under subsection E of this section shall 5 satisfy the difference in minimum coverage amounts, up to the 6 applicable policy limits.

D. The insurer, insurers, or peer-to-peer car sharing program
providing coverage under subsection A or B of this section shall
assume primary liability for a claim when:

A dispute exists as to who was in control of the shared
 motor vehicle at the time of the loss and the peer-to-peer car
 sharing program does not have available, did not retain, or fails to
 provide the information required by Section 5 of this act; or

A dispute exists as to whether the shared vehicle was
 returned to the alternatively agreed upon location as required under
 Section 2 of the Peer-to-Peer Car Sharing Program Act.

If insurance maintained by a shared vehicle owner or shared 17 Ε. vehicle driver in accordance with subsection B of this section has 18 lapsed or does not provide the required coverage, insurance 19 maintained by a peer-to-peer car sharing program shall provide the 20 coverage required by subsection A of this section beginning with the 21 first dollar of a claim and shall have the duty to defend such claim 22 except under circumstances as set forth in subsection B of Section 3 23 24 of this act.

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F. Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program shall not be dependent on another automobile insurer first denying a claim, nor shall another automobile insurance policy be required to first deny a claim.

G. Nothing in the Peer-to-Peer Car Sharing Program Act shall:
1. Limit the liability of the peer-to-peer car sharing program
for any act or omission of the program itself that results in injury
to any person as a result of the use of a shared vehicle through a
peer-to-peer car sharing program; or

10 2. Limit the ability of the peer-to-peer car sharing program 11 to, by contract, seek indemnification from the shared vehicle owner 12 or the shared vehicle driver for economic loss sustained by the 13 peer-to-peer car sharing program resulting from a breach of the 14 terms and conditions of the car sharing program agreement.

15 SECTION 5. NEW LAW A new section of law to be codified 16 in the Oklahoma Statutes as Section 1054 of Title 47, unless there 17 is created a duplication in numbering, reads as follows:

At the time a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the program shall notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-

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1 peer car sharing program, including use without physical damage 2 coverage, may violate the terms of the contract with the lienholder. 3 SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1055 of Title 47, unless there 4 5 is created a duplication in numbering, reads as follows: An authorized insurer that writes motor vehicle liability 6 Α. 7 insurance in this state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared 8 9 vehicle owner's motor vehicle liability insurance policy including, but not limited to: 10 11 1. Liability coverage for bodily injury and property damage; 2. 12 Personal injury protection coverage; 3. Uninsured and underinsured motorist coverage; 13 Medical payments coverage; 4. 14 15 5. Comprehensive physical damage coverage; and Collision physical damage coverage. 16 6. Nothing in the Peer-to-Peer Car Sharing Program Act shall 17 В. invalidate or limit an exclusion contained in a motor vehicle 18 liability insurance policy including any insurance policy in use or 19 20 approved for use, that excludes coverage for motor vehicles made available for rent, sharing, hire or for any business use. 21 C. Nothing in the Peer-to-Peer Car Sharing Program Act 22 invalidates, limits or restricts an insurer's ability under existing 23 24 law to underwrite any insurance policy. Nothing in the Peer-to-Peer

Car Sharing Program Act invalidates, limits or restricts an
 insurer's ability under existing law to cancel and non-renew
 policies.

4 SECTION 7. NEW LAW A new section of law to be codified 5 in the Oklahoma Statutes as Section 1056 of Title 47, unless there 6 is created a duplication in numbering, reads as follows:

7 A peer-to-peer car sharing program shall collect and verify records pertaining to the use of a vehicle, including, but not 8 9 limited to, times used, car sharing period pickup and drop off 10 locations, fees paid by the shared vehicle driver and revenues 11 received by the shared vehicle owner, and provide that information 12 upon request to the shared vehicle owner, the shared vehicle owner's insurer or the shared vehicle driver's insurer to facilitate a claim 13 coverage investigation, settlement, negotiation or litigation. 14 The 15 peer-to-peer car sharing program shall retain the records for a time 16 period not less than the applicable personal injury statute of 17 limitations.

18 SECTION 8. NEW LAW A new section of law to be codified 19 in the Oklahoma Statutes as Section 1057 of Title 47, unless there 20 is created a duplication in numbering, reads as follows:

A peer-to-peer car sharing program and a shared vehicle owner shall be exempt from vicarious liability consistent with 49 U.S.C., Section 30106, and under any state or local law that imposes liability solely based on vehicle ownership. SECTION 9. NEW LAW A new section of law to be codified
 in the Oklahoma Statutes as Section 1058 of Title 47, unless there
 is created a duplication in numbering, reads as follows:

A motor vehicle insurer that defends or indemnifies a claim
against a shared vehicle that is excluded under the terms of its
policy shall have the right to seek contribution against the motor
vehicle insurer of the peer-to-peer car sharing program if the claim
is:

9 1. Made against the shared vehicle owner or the shared vehicle
10 driver for loss or injury that occurs during the car sharing period;
11 and

12 2. Excluded under the terms of its policy.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1059 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other law, statute, rule or regulation to the contrary, a peer-to-peer car sharing program shall have an insurable interest in a shared vehicle during the car sharing period.

B. Nothing in this section shall create liability on a peer-topeer car sharing program to maintain the coverage mandated by Section 4 of this act.

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C. A peer-to-peer car sharing program may own and maintain as
 the named insured one or more policies of motor vehicle liability
 insurance that provide coverage for:

Liabilities assumed by the peer-to-peer car sharing program
 under a peer-to-peer car sharing program agreement;

6 2. Liability of the shared vehicle owner;

7 3. Damage or loss to the shared motor vehicle; or

8 4. Liability of the shared vehicle driver.

9 SECTION 11. NEW LAW A new section of law to be codified 10 in the Oklahoma Statutes as Section 1060 of Title 47, unless there 11 is created a duplication in numbering, reads as follows:

12 Each car sharing program agreement made in this state shall
13 disclose to the shared vehicle owner and the shared vehicle driver:

Any right of the peer-to-peer car sharing program to seek
 indemnification from the shared vehicle owner or the shared vehicle
 driver for economic loss sustained by the peer-to-peer car sharing
 program resulting from a breach of the terms and conditions of the
 car sharing program agreement;

19 2. That a motor vehicle liability insurance policy issued to 20 the shared vehicle owner for the shared vehicle, or to the shared 21 vehicle driver, does not provide a defense or indemnification for 22 any claim asserted by the peer-to-peer car sharing program;

3. That the peer-to-peer car sharing program's insurancecoverage on the shared vehicle owner and the shared vehicle driver

1 is in effect only during each car sharing period and that, for any 2 use of the shared vehicle by the shared vehicle driver after the car 3 sharing termination time, the shared vehicle driver and the shared 4 vehicle owner may not have insurance coverage;

5 4. The daily rate, fees and, if applicable, any insurance or
6 protection package costs that are charged to the shared vehicle
7 owner or the shared vehicle driver;

8 5. That the shared vehicle owner's motor vehicle liability9 insurance may not provide coverage for a shared vehicle;

10 6. An emergency telephone number to personnel capable of 11 fielding roadside assistance and other customer service inquiries; 12 and

13 7. If there are conditions under which a shared vehicle driver 14 must maintain a personal automobile insurance policy with certain 15 applicable coverage limits on a primary basis in order to book a 16 shared motor vehicle.

17 SECTION 12. NEW LAW A new section of law to be codified 18 in the Oklahoma Statutes as Section 1061 of Title 47, unless there 19 is created a duplication in numbering, reads as follows:

A. A peer-to-peer car sharing program may not enter into a
peer-to-peer car sharing program agreement with a driver unless the
driver who will operate the shared vehicle:

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1 1. Holds a driver license issued under Section 6-101 et seq. of Title 47 of the Oklahoma Statutes that authorizes the driver to 2 3 operate vehicles of the class of the shared vehicle; 2. Is a nonresident who: 4 5 a. has a driver license issued by the state or country of the driver's residence that authorizes the driver in 6 7 that state or country to drive vehicles of the class of the shared vehicle, and 8 9 b. is at least the same age as that required of a 10 resident to drive; or 11 3. Otherwise is specifically authorized by Section 6-101 et 12 seq. of Title 47 of the Oklahoma Statutes to drive vehicles of the 13 class of the shared vehicle. A peer-to-peer car sharing program shall keep a record of: 14 В. The name and address of the shared vehicle driver; 15 1. The number of the driver license of the shared vehicle 16 2. driver and each other person, if any, who will operate the shared 17 vehicle; and 18 3. The place of issuance of the driver license. 19 A new section of law to be codified SECTION 13. NEW LAW 20 in the Oklahoma Statutes as Section 1062 of Title 47, unless there 21 is created a duplication in numbering, reads as follows: 22 A peer-to-peer car sharing program shall have sole 23 24 responsibility for any equipment, such as a Global Positioning

1 System or other special equipment, that is put in or on the vehicle 2 to monitor or facilitate the car sharing transaction, and shall 3 agree to indemnify and hold harmless the vehicle owner for any damage to or theft of such equipment during the sharing period not 4 5 caused by the vehicle owner. The peer-to-peer car sharing program has the right to seek indemnity from the shared vehicle driver for 6 7 any loss or damage to such equipment that occurs during the sharing 8 period.

9 SECTION 14. NEW LAW A new section of law to be codified 10 in the Oklahoma Statutes as Section 1063 of Title 47, unless there 11 is created a duplication in numbering, reads as follows:

A. At the time a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program, and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-topeer car sharing program shall:

Verify that the shared vehicle does not have any safety
 recalls on the vehicle for which the repairs have not been made; and

Notify the shared vehicle owner of the requirements under
 subsection B of this section.

B. 1. If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, a shared vehicle owner may not make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made. If a shared vehicle owner receives an actual notice of a
 safety recall on a shared vehicle while the shared vehicle is made
 available on the peer-to-peer car sharing program, the shared
 vehicle owner shall remove the shared vehicle as available on the
 peer-to-peer car sharing program, as soon as practicably possible
 after receiving the notice of the safety recall and until the safety
 recall repair has been made.

3. If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used in the possession of a shared vehicle driver, as soon as practicably possible after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

15 SECTION 15. AMENDATORY 68 O.S. 2011, Section 2110, as 16 amended by Section 5, Chapter 316, O.S.L. 2012 (68 O.S. Supp. 2020, 17 Section 2110), is amended to read as follows:

Section 2110. A. There is hereby levied a rental tax of six percent (6%) on the gross receipts of all motor vehicle rental agreements as provided in this section. This tax shall be levied on any rental agreement of ninety (90) days or less duration on any motor vehicle that is rented to a person by a business engaged in renting motor vehicles without a driver in Oklahoma, irrespective of

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1 the state in which the vehicle is registered. This rental tax shall
2 not apply to the following:

3 1. Any lease agreements;

Any truck or truck-tractor registered pursuant to the
provisions of Section 1120 or Section 1133 of Title 47 of the
Oklahoma Statutes having a laden weight or a combined laden weight
of eight thousand (8,000) pounds or more; or

8 3. Any trailer or semitrailer registered pursuant to the
9 provisions of Section 1133 of Title 47 of the Oklahoma Statutes.
10 For purposes of this section, "vehicle" and "person" shall have the
11 same meanings as defined in Section 2101 of this title; or

12 <u>4. Any shared vehicle upon the purchase of which applicable</u>
13 taxes were paid.

B. The rental tax specified in subsection A of this section shall be apportioned in the manner as provided in Section 2102 of this title.

C. A deduction from gross receipts for bad debts shall be
allowed for the rental tax specified in subsection A of this
section. For purposes of this section, "bad debts" shall have the
same meaning as defined in Section 1366 of this title.

D. The tax hereby levied shall be collected <u>from the person</u> <u>renting the vehicle or shared vehicle driver</u> at the time of the payment of the rental agreement and shall be due and payable to the Oklahoma Tax Commission by the business engaged in renting these 1 vehicles or peer-to-peer car sharing program, but only with respect 2 to shared vehicles upon the purchase of which applicable taxes were 3 not paid, on the twentieth day of each month following the month in 4 which payments for rental agreements subject to tax are made. The 5 Tax Commission shall implement such rules and regulations and devise such forms as it deems necessary for the orderly collection of this 6 7 tax and the excise tax and penalty provided for in paragraph 9 10 of Section 2105 of this title. 8

9 E. The provisions of this section shall not apply to state 10 government entities.

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F. As used in this section:

12 1. "Rental agreement" means an agreement of ninety (90) days or less duration on any motor vehicle that is rented to a person by a 13 business engaged in renting motor vehicles without drivers in this 14 15 state and includes those peer-to-peer car sharing agreements only 16 involving shared vehicles for which the shared vehicle owner has not paid the applicable taxes upon purchase of the shared vehicle; 17 2. "Applicable taxes" means, with respect to shared vehicles 18 purchased in Oklahoma, motor vehicle excise taxes levied under 19 Section 2103 of this title and sales taxes levied under Sections 20 1354 and 1355 of this title. With respect to vehicles not purchased 21 in Oklahoma, applicable taxes refers to the sales, use, excise or 22 23 other tax generally due upon the purchase of a motor vehicle in the jurisdiction in which the shared vehicle was purchased; 24

1	3. "Peer-to-peer car sharing program" shall have the same
2	definition set forth in Section 2 of the Peer-to-Peer Car Sharing
3	Program Act;
4	4. "Car sharing program agreement" shall have the same
5	definition set forth in Section 2 of the Peer-to-Peer Car Sharing
6	Program Act;
7	5. "Shared vehicle" shall have the same definition set forth in
8	Section 2 of the Peer-to-Peer Car Sharing Program Act;
9	6. "Shared vehicle owner" shall have the same definition set
10	forth in Section 2 of the Peer-to-Peer Car Sharing Program Act; and
11	7. "Shared vehicle driver" shall have the same definition set
12	forth in Section 2 of the Peer-to-Peer Car Sharing Program Act.
13	G. The Oklahoma Tax Commission is authorized to prescribe rules
14	and regulations as necessary to implement the provisions of this
15	section.
16	SECTION 16. This act shall become effective November 1, 2021.
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18	COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
19	04/07/2021 - DO PASS.
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