

Title 19

Part 9 – Automobile and Ride Sharing

Part 9, Chapter 1: Transportation Network Company Law

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Rule 1.01: Promulgation and Purpose

These Rules and Regulations for Transportation Network Companies are promulgated by the Commissioner of Insurance of the State of Mississippi in accordance with the Transportation Network Company Act, *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, to be codified in *Title 77, Chapter 8 of the Mississippi Code of 1972, as Amended*, and the Mississippi Administrative Procedures Act, *Miss. Code § 25-43-1, et seq.*, and shall become effective after adopted and promulgated in accordance with the provisions of the Mississippi Administrative Procedures Act. This Regulation is being filed as a regulation pursuant to the provisions of *H. B. No. 1381, 2016 Regular Legislative Session*.

The purpose of these Rules and Regulations is to provide consistent regulation of Transportation Network Companies, and their operation, throughout the State of Mississippi, and to promote the

safe and responsible operation of such companies with respect to their dealings with the public, as well as to ensure that drivers and companies are adequately insured to provide consumers with a means to recoup losses or damages incurred.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.02: Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted to him by *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*, as well as the provisions of *19 Miss. Admin. Code, Part 1, Chapter 15 (Rules Regarding the Administrative Practice and Procedure before the Mississippi Insurance Department, As Amended)*.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.03: Scope

This Regulation shall apply to all Transportation Network Companies and Transportation Network Drivers, as defined in *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, operating in the State of Mississippi.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.04: Definitions

As used in these regulations:

(a) "Personal vehicle" means a vehicle that is used by a transportation network company driver and is:

(i) Owned, leased or otherwise authorized for use by the transportation network company driver; and

(ii) Not a common carrier by motor vehicle, contract carrier by motor vehicle, or restricted motor carrier under *Chapter 7, Title 77, Mississippi Code of 1972*.

(b) "Commissioner" means the Commissioner of Insurance.

(c) "Department" means the Mississippi Department of Insurance.

(d) "Digital network" means any online-enabled technology application service, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(e) "Transportation network company" means a corporation, partnership, sole proprietorship, or other entity that is licensed under this act and operating in Mississippi that uses

a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company shall not be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract.

(f) "Transportation network company driver" or "driver" means an individual who:

(i) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(ii) Uses a Personal Vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

(g) "Transportation network company rider" or "rider" means an individual or persons who use a transportation network company's digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

(h) "Prearranged ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include transportation provided using a common carrier by motor vehicle, contract carrier by motor vehicle, or restricted motor carrier under *Chapter 7, Title 77, Mississippi Code of 1972*. A prearranged ride does not include shared expense carpool arrangements or vanpooling as defined in *Section 77-7-7*, or any other type of arrangement or service in which the driver receives a fee that does not exceed the driver's costs associated with providing the ride.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.05: Distinguished from Common Carriers, Taxicab and Limousine

Transportation network companies or transportation network company drivers are not common carriers by motor vehicle, contract carriers by motor vehicle, or restricted motor carriers under *Chapter 7, Title 77, Mississippi Code of 1972*, nor do they provide taxicab or limousine services. A transportation network company driver shall not be required to register the vehicle the driver uses to provide prearranged rides as a commercial vehicle.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.06: License Required

(1) A person shall not operate a transportation network company in Mississippi without first having obtained a license from the department.

(2) The Department shall issue a license to each applicant that meets the requirements for a transportation network company as provided for in the Transportation Network Company Act and these regulations, and pays an annual license fee of Five Thousand Dollars (\$5,000.00) to the department.

(3) License applicants are to use the application prescribed and furnished by the Mississippi Insurance Department. License applicants may obtain licensing information and instructions at the Department's website at the following link: <http://www.mid.ms.gov>.

(4) Licenses issued shall authorize the applicant to operate within the State of Mississippi, and shall be effective on the date of issue for a period beginning on October 1 through September 30 of the following year (the "License Period"). The license fee shall not be prorated in the event an applicant holds the license for only a portion of the License Period. License applications and renewals will be processed electronically via SIRCON or by paper. The license issued shall expire on September 30 unless properly renewed by obtaining a license for the subsequent License Period. License renewal notices will be mailed approximately 60 days prior to the license expiration.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.07: Agent for Service of Process

Each transportation network company shall maintain an agent for service of process in the State of Mississippi.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.08: Fare Disclosure Requirements

On behalf of a transportation network company driver, a transportation network company may charge a fare for the services provided to riders; however, if a fare is collected from a rider, the transportation network company shall disclose to the rider the fare or fare calculation method on its website or within the online-enabled technology application service. The transportation network company shall also provide riders with the applicable rates being charged and the option to receive an estimated fare before the rider enters the transportation network company driver's vehicle.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.09: Driver Identification Process

The transportation network company's online-enabled technology application or website shall display a picture of the transportation network company driver, and the license plate number of the motor vehicle utilized for providing the prearranged ride before the rider enters the transportation network company driver's vehicle.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.10: Electronic Receipt

Within a reasonable period of time following the completion of a trip, a transportation network company shall transmit an electronic receipt to the rider on behalf of the transportation network company driver that lists:

- (a) The origin and destination of the trip;
- (b) The total time and distance of the trip; and
- (c) An itemization of the total fare paid, if any.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.11: Automobile Insurance Requirements

(1) On or before the effective date of this act and thereafter, a transportation network company driver or transportation network company on the driver's behalf shall maintain primary automobile insurance that recognizes that the driver is a transportation network company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver:

- (a) While the driver is logged on to the transportation network company's digital network;
- or
- (b) While the driver is engaged in a prearranged ride.

(2) A participating transportation network company driver who is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in a prearranged ride shall be covered by primary automobile liability insurance in the amount of at least Fifty Thousand Dollars (\$50,000.00) for death and bodily injury per person, One Hundred Thousand Dollar (\$100,000.00) for death and bodily injury per incident and Twenty-five Thousand Dollars (\$25,000.00) for property damage and uninsured motorist to the extent required by Section 83-11-101.

(3) The coverage requirements of subsection (2) of this section may be satisfied by any of the following:

- (a) Automobile insurance maintained by the transportation network company driver; or
- (b) Automobile insurance maintained by the transportation network company; or
- (c) Any combination of paragraphs (a) and (b) of this subsection.

(4) (a) While a transportation network company driver is engaged in a prearranged ride he must be covered by a primary automobile liability insurance that provides at least One Million Dollars

(\$1,000,000.00) for death, bodily injury and property damage and uninsured motorist to the extent required by Section 83-11-101.

(b) The coverage requirements of this subsection may be satisfied by any of the following:

- (i) Automobile insurance maintained by the transportation network company driver; or
- (ii) Automobile insurance maintained by the transportation network company; or
- (iii) Any combination of paragraphs (a) and (b) of this subsection.

(5) If insurance maintained by driver in subsections (3) or (4) of this section has lapsed or does not provide the required coverage, insurance maintained by a transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim and the insurer shall have the duty to defend such claim.

(6) Coverage under an automobile insurance policy maintained by the transportation network company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(7) Insurance required by this section may be placed with an insurer licensed to do business in Mississippi or with a surplus lines insurer eligible under *Miss. Code § 83-21-17 et seq.*

(8) Insurance satisfying the requirements of this section shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under the Mississippi Motor Vehicle Safety Responsibility Law, *Miss. Code § 63-15-1 et seq.*

(9) A transportation network company driver shall carry proof of coverage satisfying this section with him or her at all times during his or her use of a vehicle in connection with a transportation network company's digital network. In the event of an accident, a transportation network company driver shall provide this insurance coverage information to the directly interested parties, automobile insurers and investigating police officers, upon request. Upon a request, a transportation network company driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers, whether he or she was logged on to the transportation network company's digital network or on a prearranged ride at the time of an accident.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.12: Required Notifications to Drivers

The transportation network company shall disclose in writing to transportation network company drivers the following before they are allowed to accept a request for a prearranged ride on the transportation network company's digital network:

(a) The insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network company provides while the transportation network company driver uses a personal vehicle in connection with a transportation network company's digital network; and

(b) That the transportation network company driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the transportation network company's digital network and is available to receive transportation requests or is engaged in a prearranged ride, depending on its terms.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.13: Insurers' Authority to Exclude TNC Activity from Coverage

(1) Insurers that write automobile insurance in Mississippi may exclude any and all coverage afforded under the policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy including, but not limited to:

- (a) Liability coverage for bodily injury and property damage;
- (b) Uninsured and underinsured motorist coverage;
- (c) Medical payments coverage;
- (d) Comprehensive physical damage coverage; and
- (e) Collision physical damage coverage.

(2) The exclusions provided for in subsection (1) of this section shall apply notwithstanding any requirement under the Mississippi Motor Vehicle Safety Responsibility Law Section, *Miss. Code § 63-15-1 et seq.* Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to the transportation network company's digital network, while the driver is engaged in a prearranged ride or while the driver otherwise uses a vehicle to transport passengers for compensation. Nothing shall preclude an insurer from providing coverage for the transportation network company driver's vehicle, if it chooses to do so by contract or endorsement.

(3) Automobile insurers that exclude the coverage described in *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, shall have no duty to defend or indemnify any claim expressly excluded. Nothing in this act shall invalidate or limit an exclusion contained in a policy including any policy in use or approved for use in Mississippi prior to the effective date of this act that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public. An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy, shall have a right of contribution against other

insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, at the time of loss.

(4) In a claims coverage investigation, transportation network companies and any insurer providing coverage under *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the transportation network company driver if applicable, including the precise times that a transportation network company driver logged on and off of the transportation network company's digital network in the twelve-hour period immediately preceding and in the twelve-hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any automobile insurance maintained under *Mississippi House Bill No. 1381, 2016 Regular Legislative Session* and Rule 1.11 of these regulations.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*.

Rule 1.14: Driver Status as Independent Contractors

Drivers shall be independent contractors and not employees of the transportation network company if all of the following conditions are met:

(a) The transportation network company does not prescribe specific hours during which a transportation network company driver must be logged into the transportation network company's digital platform;

(b) The transportation network company imposes no restrictions on the transportation network company driver's ability to utilize digital platforms from other transportation network companies;

(c) The transportation network company does not assign a transportation network company driver a particular territory in which to operate;

(d) The transportation network company does not restrict a transportation network company driver from engaging in any other occupation or business; and

(e) The transportation network company and transportation network company driver agree in writing that the driver is an independent contractor of the transportation network company.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*.

Rule 1.15: Zero Tolerance Policy

(1) The transportation network company shall implement a zero tolerance policy regarding a transportation network company driver's activities while accessing the transportation network company's digital platform. The zero tolerance policy shall address the use of drugs or alcohol

while a transportation network company driver is providing prearranged rides or is logged into the transportation network company's digital network but is not providing prearranged rides, and the transportation network company shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

(2) Upon receipt of such rider complaint alleging a violation of the zero tolerance policy, the transportation network company shall suspend such transportation network company driver's access to the transportation network company's digital platform as soon as possible, and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.

(3) The transportation network company shall maintain records relevant to the enforcement of this requirement for a period of at least two (2) years from the date that a rider complaint is received by the transportation network company.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.16: Driver Certification Requirements

(1) Before allowing an individual to accept trip requests through a transportation network company's digital platform as a transportation network company driver:

(a) The individual shall submit an application to the transportation network company, which includes information regarding his or her address, age, driver's license, motor vehicle registration, automobile liability insurance, and other information required by the transportation network company;

(b) The transportation network company shall conduct, or have a third party conduct, a local and national criminal background check for each applicant that shall include:

(i) Multistate/multijurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search); and

(ii) United States Department of Justice National Sex Offender Public Website;

(2) The transportation network company shall review, or have a third party review, a driving history research report for such individual.

(3) The transportation network company shall not permit an individual to act as a transportation network company driver on its digital platform who:

(a) Has had more than three (3) moving violations in the prior three-year period, or one (1) of the following major violations in the prior three-year period:

- (i) Attempting to evade the police;
- (ii) Reckless driving; or
- (iii) Driving on a suspended or revoked license;
- (b) Has been convicted, within the past seven years, of
 - (i) Any felony; or
 - (ii) Misdemeanor driving under the influence, reckless driving, hit and run, or any other driving-related offense or any misdemeanor violent offense or sexual offense;
- (c) Is a match in the U.S. Department of Justice National Sex Offender Public Website;
- (d) Does not possess a valid driver's license;
- (e) Does not possess proof of registration for the motor vehicle used to provide prearranged rides;
- (f) Does not possess proof of automobile liability insurance for the motor vehicle used to provide prearranged rides; or
- (g) Is not at least nineteen (19) years of age.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.17: Solicitation and Street Hails Prohibited

A transportation network company driver shall not solicit or accept street hails.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.18: Cash Payments Prohibited

The transportation network company shall adopt a policy prohibiting solicitation or acceptance of cash payments for the fares charged to riders for prearranged rides and notify transportation network company drivers of the policy. Transportation network company drivers shall not solicit or accept cash payments from riders.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.19: Nondiscrimination and Service Animal Policy

(1) The transportation network company shall adopt a policy of nondiscrimination with respect to riders and potential riders and notify transportation network company drivers of the policy.

(2) Transportation network company drivers shall comply with all applicable laws regarding nondiscrimination against riders or potential riders.

(3) Transportation network company drivers shall comply with all applicable laws relating to accommodation of service animals.

(4) A transportation network company shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.20: Customer Records Requirement

A transportation network company shall maintain the following customer records:

(a) Individual trip records for at least one (1) year from the date each trip was provided; and

(b) Individual records of transportation network company driver customers at least until the one-year anniversary of the date on which a transportation network company driver's customer relationship with the transportation network company has ended.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.21: Inspection and Audit Provisions

(1) For the sole purpose of verifying that a transportation network company is in compliance with the requirements of this act and not more than annually, the commissioner shall have the right to visually inspect a sample of records that the transportation network company is required to maintain. The sample shall include required records pertaining to up to fifty (50) transportation network drivers, provided that the transportation network company shall undertake best efforts not to share records about the same transportation network company driver during consecutive reporting periods. If, after this initial review, the commissioner has a reasonable basis to conclude that the transportation network company is not in compliance with the requirements of this act, the commissioner may, upon reasonable notice, conduct a supplemental audit of records for an additional selection of transportation network company drivers. The audit shall take place at a mutually agreed location in Mississippi. The expenses of the examination shall be borne and paid by the transportation network company that is under examination.

(2) Documents, materials or other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in the course of an examination made under this act shall be confidential by law and privileged, and shall not be subject to the Mississippi Public Records Act. The commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(3) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential and privileged documents, materials or other information, with other state, federal and international regulatory agencies, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, communication or other information. The commissioner may enter into agreements governing the sharing and use of information consistent with this subsection.

(4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

(5) In response to a specific complaint against any transportation network company driver or transportation network company, the commissioner is authorized to inspect records held by the transportation network company that are necessary to investigate and resolve the complaint.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.22: Prohibition Against Competing Regulation; Airport Exceptions

(1) Transportation network companies and transportation network company drivers are governed exclusively by the Transportation Network Company Act, *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, and these rules promulgated by the commissioner consistent with said act. A county, municipality or other local entity may not:

(a) Impose a tax on, or require a license for, a transportation network company, a transportation network company driver or a vehicle used by a transportation network company driver where the tax or licenses relate to providing prearranged rides;

(b) Require a transportation network company or a transportation network company driver to obtain a business license or any other type of similar authorization to operate within the jurisdiction; or

(c) Subject a transportation network company or a transportation network company driver to any type of rate, entry, operational or other requirements.

(2) Notwithstanding subsection (1) of this section, a county, municipality or other local entity that owns or operates an airport, may adopt reasonable regulations relating to the duties and responsibilities on airport property of a transportation network company or transportation network company driver, including its ability to impose reasonable fees and vehicle tracking requirements on a transportation network company or its affiliated transportation network company drivers, but excluding its ability to impose other fees, taxes, registration, licensing or special insurance requirements on transportation network company drivers, and excluding its ability to impose requirements with respect to special markings or identification other than that provided for in *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, and Rule 1.09 of these regulations, and excluding its ability to impose requirements for equipment.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.23: Violations, Hearings, and Appeals

(1) Failure of an applicant or licensee to comply with a material provision of the Transportation Network Company Act or this regulation is considered a violation of applicable laws. The Commissioner of Insurance may deny a license application or suspend or revoke a license, after giving notice of hearing to the applicant or licensee by serving a written statement of charges on the licensee or its registered agent at least twenty (20) days prior to a hearing, for any violation of the Transportation Network Company Act, *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, or this Regulation. Service shall be deemed accomplished three (3) days after the date of mailing, via certified mail, of the notice of hearing by the Mississippi Insurance Department, addressed to the licensee or its registered agent. In the case of personal delivery, service shall be deemed accomplished on the date of personal delivery to the licensee or its registered agent. The Mississippi Insurance Department is not required to provide a court reporter to make a record of the testimony given at the hearing, and the record of testimony may be taken through audio recording or other appropriate means, which may be transcribed by employees of the Mississippi Insurance Department, and will constitute the record of testimony in the event of an appeal. Any respondent may provide its own method of recording testimony, including retaining a court reporter, at the respondent's own expense.

(2) The rules of order and procedure for any hearing held pursuant to subpart 1 of this Rule shall be in accordance with *19 Miss. Admin. Code, Part 1, Chapter 15 (Rules Regarding the Administrative Practice and Procedure before the Mississippi Insurance Department)*, unless in conflict with the specific provisions of this regulation.

(3) Any Transportation Network Company who is a party to any hearing before the Commissioner and who is aggrieved by any decision of the Commissioner with respect to any hearing before him, shall have the right of appeal to the Circuit Court of Hinds County, Mississippi, pursuant to the provisions of the Mississippi Uniform Circuit and County Court Rules. All such appeals shall be appeals on the record, including a transcript of pleadings and evidence, both oral and documentary, heard and filed before the commissioner.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.24: Severability

If any section or portion of a section of this Regulation or the application thereof is held by a court to be invalid, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of the Regulation are declared to be severable.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.25: Effective Date

The Effective Date of this Regulation shall be October 1, 2016.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Part 9, Chapter 2: Peer-to-Peer Car Sharing Program Rules and Regulations

Rule 1.01: Promulgation and Purpose

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Rule 1.18: Inspection of Records and Response to Complaints

Rule 1.19: Violations, Hearings, and Appeals

Rule 1.20: Severability

Rule 1.21: Effective Date

Rule 1.01: Promulgation and Purpose

(1) These Rules and Regulations for Peer-to-Peer Car Sharing Programs are promulgated by the Commissioner of Insurance of the State of Mississippi in accordance with the Peer-to-Peer Car Sharing Program Act, *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session*, to be codified in *Title _____, Chapter _____ of the Mississippi Code of 1972, as Amended*, and the Mississippi Administrative Procedures Act, *Miss. Code § 25-43-1, et seq.*, and shall become effective after adopted and promulgated in accordance with the provisions of the Mississippi Administrative Procedures Act. This Regulation is being filed as a regulation pursuant to the provisions of *S. B. No. 2530, 2024 Regular Legislative Session*.

(2) The purpose of these Rules and Regulations is to create a framework for the administration and enforcement of the provisions of the Mississippi Peer-to-Peer Car Sharing Program Act consistent with the statutory provisions established by the Mississippi Legislature.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.02: Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted to him by *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*, as well as the provisions of *19 Miss. Admin. Code, Part 1, Chapter 15 (Rules of Practice and Procedure before the Mississippi Insurance Department and State Fire Marshal's Office, As Amended)*.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.03: Scope

This Regulation shall apply to all Peer-to-Peer Car Sharing Programs, as defined in *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session*, operating in the State of Mississippi.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.04: Definitions

As used in these regulations, the following terms shall have the meanings defined herein unless the context clearly indicates otherwise:

- (a) "Car sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement.
- (b) "Car sharing period" means the period of time that commences with the car sharing delivery period or, if there is no car sharing delivery period, the period of time that commences with the car sharing start time and in either case ends at the car sharing termination time.
- (c) "Car sharing program agreement" means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that governs the use of a shared vehicle through a peer-to-peer car sharing program.
- (d) "Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared 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.
- (e) "Car sharing termination time" means the earliest of the following events:
 - (i) 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;

(ii) When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program, which alternatively agreed upon location shall be incorporated into the car sharing program agreement; or

(iii) When the shared vehicle owner or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle.

(f) "Department" means the Mississippi Department of Insurance. "Commissioner" means the Commissioner of Insurance.

(g) "Peer-to-peer car sharing" means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program. This term shall not be construed to mean rental car or rental activity.

(h) "Peer-to-peer car sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. This term shall not mean rental car company. An individual or business entity lawfully engaging in a peer-to-peer car sharing program shall not be considered as any of the following:

(i) As a "rental company" as that term is defined in Section 27-19-40(4);

(ii) As being engaged in renting a motor vehicle to another within the meaning of Section 63-1-67;

(iii) As a "transportation network company" as that term is defined in Section 77-8-1;
or

(iv) As being engaged in the business of renting 85 motor vehicles under rental agreements within the meaning of Section 75-24-8.

(i) "Person" as used herein shall include individuals, groups of persons, partnerships, corporations, and legal entities of any type.

(j) "Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer car sharing program.

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

(l) "Shared vehicle 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. A shared vehicle owner shall not mean a person "renting a motor vehicle to another" as that activity is described in Section 63-1-67. A shared vehicle owner is not "engaged in the business of renting motor vehicles under rental agreements" within the meaning of Section 75-24-8.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.05: Permit Required

- (1) A person shall not operate a peer-to-peer car sharing program in Mississippi without first having obtained a permit from the Mississippi Department of Insurance.
- (2) The Department shall issue a permit to each applicant that meets the requirements for a peer-to-peer car sharing program as provided for in the Peer-to-Peer Car Sharing Program Act and these regulations.
- (3) Permit applicants are to use the application prescribed and furnished by the Mississippi Department of Insurance. Permit applicants may obtain information and instructions at the Department's website at the following link: <https://www.mid.ms.gov>.
- (4) Permits issued shall authorize the applicant to operate within the State of Mississippi, and shall be effective on the date of issue for a period beginning on January 1 through December 31 of the year of issuance ("Permit Period"). Permit applications and renewals will be processed electronically via SIRCON or by paper. Applicants applying electronically shall be responsible for payment of any fees due for the Electronic Government Oversight Committee (EOC fee) and for use of SIRCON. There is no fee charged for applicants using the "paper" option. The permit issued shall expire on December 31 unless properly renewed by obtaining a permit for the subsequent Permit Period. No renewal notices will be mailed prior to the permit expiration.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.06: Agent for Service of Process

Each peer-to-peer car sharing program shall maintain an agent for service of process in the State of Mississippi. Corporate entities must be registered with the Mississippi Secretary of State as required by the Mississippi Business Corporation Act in Title 79 of the Mississippi Code of 1972, as amended.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.07: Insurance coverage during car sharing period.

- (1) Except as provided in subsection (2) of this section, a peer-to-peer car sharing program shall assume liability of a shared vehicle owner for bodily injury or property damage to third

parties, or uninsured and underinsured motorist losses, during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement, provided that the amount shall not be less than that set forth in Section 63-15-43.

(2) Notwithstanding the definition of "car sharing termination time" as set forth in this act, the assumption of liability under subsection (1) of this section shall not apply to any shared vehicle owner when:

- (a) 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
- (b) Acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

(3) Notwithstanding the definition of "car sharing termination time" as set forth in this act, the assumption of liability under subsection (1) of this section shall include any bodily injury or property damage losses by damaged third parties, or uninsured and underinsured motorist losses, as required by Section 63-15-1 et seq.

(4) 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 63-15-43; and

- (a) Recognizes that the shared vehicle insured under 132 the policy is made available and used through a peer-to-peer car 133 sharing program; or
- (b) Does not exclude use of a shared vehicle by a shared vehicle driver.

(5) The insurance described under subsection (4) of this section may be satisfied by motor vehicle liability insurance maintained by:

- (a) A shared vehicle owner;
- (b) A shared vehicle driver;
- (c) A peer-to-peer car sharing program; or
- (d) Both a shared vehicle owner, a shared vehicle driver and a peer-to-peer car sharing program.

(6) The insurance described in subsection (5) of this section that is satisfying the insurance requirement of subsection (4) of this section shall be primary during each car sharing period, and in the event that a claim occurs in another state with minimum financial responsibility limits higher than the minimum amounts set forth in Section 63-15-43, during the car sharing period,

the coverage maintained under subsection (5) shall satisfy the difference in minimum coverage amounts, up to the applicable policy limits.

(7) The insurer, insurers or peer-to-peer car sharing program providing coverage under subsection (4) or (5) of this section shall assume primary liability for a claim when:

- (a) 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 8 of this act; or
- (b) A dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location.

(8) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (5) of this section has lapsed or does not provide the required coverage, insurance maintained by a peer-to-peer car sharing program shall provide the coverage required by subsection (4) of this section beginning with the first dollar of a claim and have the duty to defend such claim except under circumstances as set forth in subsection (2) of this section.

(9) 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.

(10) Nothing in this act:

- (a) Limits the liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing 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
- (b) Limits the ability of the peer-to-peer car sharing program to, by contract, 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.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.08: Notification of implications of lien.

At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and before 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-to-peer car sharing 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-peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.09: Exclusions in motor vehicle liability insurance policies.

(1) An authorized insurer that writes motor vehicle liability insurance in the state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy, including, but not limited to:

- (a) Liability coverage for bodily injury and property damage;
- (b) Uninsured and underinsured motorist coverage;
- (c) Medical payments coverage;
- (d) Comprehensive physical damage coverage; and
- (e) Collision physical damage coverage.

(2) Nothing in this act:

- (a) Invalidates or limits an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing or hire or for any business use;
- (b) Invalidates, limits or restricts an insurer's ability under existing law to underwrite any insurance policy; or
- (c) Invalidates, limits or restricts an insurer's ability under existing law to cancel and nonrenew policies.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.10: Recordkeeping; use of vehicle in car sharing. A peer-to-peer car sharing program shall collect and verify records pertaining to the use of a vehicle, including, but not limited to, times used, car sharing period pick-up and drop-off locations, fees paid by the shared vehicle driver and revenues received by the shared vehicle owner and provide that information upon request to the shared vehicle owner, the shared vehicle owner's insurer or the shared vehicle driver's insurer to facilitate a claim coverage investigation, settlement, negotiation or litigation. The peer-to-peer car sharing program shall retain the records for a time period not less than the three-year limitation under Section 15-1-49.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.11: Vicarious liability. A peer-to-peer car sharing program and a shared vehicle owner shall be exempt from vicarious liability consistent with 49 USC Section 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.12: Contribution against indemnification. 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 recovery against the motor vehicle insurer of the peer-to-peer car sharing program if the claim is:

- (a) Made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the car sharing period; and
- (b) Excluded under the terms of its policy.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.13: Insurable interest.

(1) 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.

(2) Nothing in this section creates liability on a peer-to-peer car sharing program to maintain the coverage mandated by Section 3 of this act.

(3) 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 provides coverage for:

- (a) Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car sharing program agreement;
- (b) Any liability of the shared vehicle owner; or
- (c) Damage or loss to the shared motor vehicle or any liability of the shared vehicle driver.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.14: Consumer protection disclosures.

(1) Each car sharing program agreement made in the state shall disclose to the shared vehicle owner and the shared vehicle driver:

- (a) 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;

- (b) That a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program;
- (c) That the peer-to-peer car sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;
- (d) The daily rate, fees, and if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;
- (e) That the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle;
- (f) An emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries; and
- (g) If there are conditions under which a shared vehicle driver must maintain a personal automobile insurance policy with certain applicable coverage limits on a primary basis in order to book a shared motor vehicle.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.15: Driver's license verification and data retention.

- (1) 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:
 - (a) Holds a driver's license issued under Section 63-1-5 that authorizes the driver to operate vehicles of the class of the shared vehicle; or
 - (b) Is a nonresident who:
 - (i) Has a driver's license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and
 - (ii) Is at least the same age as that required of a resident to drive; or
 - (c) Otherwise is specifically authorized under Title 63, Chapter 1, Mississippi Code of 1972, to drive vehicles of the class of the shared vehicle.
- (2) A peer-to-peer car sharing program shall keep a record of:

- (a) The name and address of the shared vehicle driver;
- (b) The number of the driver's license of the shared vehicle driver and each other person, if any, who will operate the shared vehicle; and
- (c) The place of issuance of the driver's license.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.16: Responsibility for equipment. A peer-to-peer car sharing program shall have sole responsibility for any equipment, such as a GPS system or other special equipment that is put in or on the vehicle to monitor or facilitate the car sharing transaction, and shall agree to indemnify and hold harmless the vehicle owner for any damage to or theft of such equipment during the sharing period not caused by the vehicle owner. The peer-to-peer car sharing program has the right to seek indemnity from the shared vehicle driver for any loss or damage to such equipment that occurs during the sharing period.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.17: Automobile safety recalls.

(1) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and before 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-to-peer car sharing program shall:

- (a) Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made; and
- (b) Notify the shared vehicle owner of the requirements under subsection (2) of this section.

(2)

- (a) If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, a shared vehicle owner shall 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.
- (b) 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.
- (c) 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.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.18: Inspection of Records and Response to Complaints

(1) For the sole purpose of verifying that a peer-to-peer car sharing program is in compliance with the requirements of the Peer-to-Peer Car Sharing Program Act, the Mississippi Department of Insurance shall have the right to visually inspect records that the peer-to-peer car sharing program is required to maintain. Upon reasonable notice, records requested by the Mississippi Department of Insurance shall be made available for review at the Offices of the Mississippi Department of Insurance or some other mutually agreed upon location in the State of Mississippi. The expenses of any examination shall be borne and paid by the peer-to-peer car sharing program that is under examination.

(2) In response to a specific complaint against any peer-to-peer car sharing program, shared vehicle owner, and/or shared vehicle driver, the Mississippi Department of Insurance is authorized to inspect records held by the peer-to-peer car sharing program that are necessary to investigate and resolve the complaint.

(3) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.19: Violations, Hearings, and Appeals

(1) Failure of an applicant or licensee to comply with a material provision of the Peer-to-Peer Car Sharing Program Act or this regulation is considered a violation of applicable laws. The Commissioner of Insurance may deny a permit application or suspend or revoke a permit, after giving notice of hearing to the applicant or permittee by serving a written statement of charges on the permittee or its registered agent at least twenty (20) days prior to a hearing, for any violation of the Peer-to-Peer Car Sharing Program Act, Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session, or this Regulation. Service shall be deemed accomplished three (3) days after the date of mailing, via certified mail, of the notice of hearing by the Mississippi Insurance Department, addressed to the permittee or its registered agent. In the case of personal delivery, service shall be deemed accomplished on the date of personal delivery to the permittee or its registered agent. The notice may also be served upon the permittee by electronic (email) delivery with a delivery receipt, if an electronic mail address has been provided. The Mississippi Insurance Department is not required to provide a court reporter to make a record of the testimony given at the hearing, and the record of testimony may be taken through audio recording or other appropriate means, which may be transcribed by employees of the Mississippi Insurance Department, and will constitute the record of testimony in the event of an appeal. Any respondent may provide its own method of recording testimony, including retaining a court reporter, at the respondent's own expense.

(2) The rules of order and procedure for any hearing held pursuant to subpart 1 of this Rule shall be in accordance with 19 Miss. Admin. Code, Part 1, Chapter 15 (Rules of Practice and Procedure before the Mississippi Insurance Department and State Fire Marshal's Office), unless in conflict with the specific provisions of this regulation.

(3) Any peer-to-peer car sharing program that is a party to any hearing before the Commissioner and who is aggrieved by any decision of the Commissioner with respect to any hearing before him, shall have the right of appeal to the Circuit Court of Hinds County, Mississippi, pursuant to the provisions of the Mississippi Uniform Circuit and County Court Rules. All such appeals shall be appeals on the record, including a transcript of pleadings and evidence, both oral and documentary, heard and filed before the commissioner.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.20: Severability

If any section or portion of a section of this Regulation or the application thereof is held by a court to be invalid, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of the Regulation are declared to be severable.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*

Rule 1.21: Effective Date

The Effective Date of this Regulation shall be January 18, 2025.

Source: *Mississippi Senate Bill No. 2530, 2024 Regular Legislative Session.*