SB19-090 Peer-to-peer Motor Vehicle Sharing Program

SB19-090 creates regulations for peer-to-peer car sharing programs, which is a relatively new industry in the sharing economy. Peer-to-peer car sharing programs are application or internet-based organizations which use software to connect residents who wish to lend their cars to other residents who wish to rent cars. The peer-to-peer sharing programs make profits by collecting finder's fees in each transaction.

The bill attempts to protect public safety by creating rules such as removing cars which have safety recalls from a car sharing program. The bill also protects those who wish to share their car by requiring insurance to maintain coverage for the car when the car is not being used for the car sharing program and is in use for personal purposes by those covered by the owner's insurance. Furthermore, the bill addresses liability of car sharing programs in order to ensure that all drivers are covered by insurance when participating in peer-to-peer car sharing.

Without regulation for peer-to-peer car sharing programs, negative externalities related to public safety stem from a lack of addressing cost liability in the event of an accident and the quality of cars available for rent. SB19-090 encourages public safety and reduces risks for those who wish to share cars by addressing liability and setting safety standards. Thus, passing SB19-090 would establish greater efficiency for peer-to-peer car sharing and benefit all Colorado residents by encouraging public safety in the peer-to-peer car sharing programs.

According to Cummins and Tennyson, all states have "at least quasi-compulsory" liability auto-insurance requirements to protect residents from costs for damages, such as personal injuries or property damage, caused by the insured in an automobile accident. Prearranged cost liability helps residents access treatment for personal injuries and fix damages to property

which may cause safety hazards on the road. Therefore, liability auto-insurance increases public health and safety. Currently, Colorado residents face negative externalities because insurance companies are permitted to refuse auto-insurance coverage for vehicles and drivers involved in peer-to-peer sharing programs.

When car owners purchase auto-insurance, they enter a contract for liability coverage based on the driver's risk of an accident in a specified car. If a car owner chooses to share a car on a peer-to-peer sharing program, the risk of an accident does not change for those who are listed as covered by insurance. Therefore, the only effect of refusing to continue coverage for insurance already purchased by the car owner is leaving drivers uninsured, which is a hazard to public health and safety since there is no prearranged cost liability in the event of an accident. SB19-090 fixes this negative externality by mandating that insurance companies continue coverage when drivers use their own vehicles.

Since the drivers and cars used in peer-to-peer car sharing change rapidly and under short notice, insurance companies cannot always appropriately assess risk. Therefore, insurance companies may not cover renters when they participate in peer-to-peer sharing. In such cases, liability must still be assigned in order to ensure efficiency for paying for damages that occur in automobile accidents. Thus, if the renter is not insured by the renter or car owner's auto-insurance when participating in peer-to-peer car sharing, the third party in the transaction– the peer-to-peer sharing program– must claim liability. By requiring that at least one party in peer-to-peer sharing to be held liable for insurance, SB19-090 encourages public health and safety by fixing current negative externalities of lack of prearranged cost liability.

Another negative externality of a lack of industry regulation on peer-to-peer sharing is a threat to public safety. Currently, there are no standards for cars that may be shared by private owners. Hence, cars that have had safety recalls or may be in poor condition could be used by consumers and pose a threat on the road to the consumers and other drivers. SB19-090 establishes safety standards in order to encourage safety for Colorado residents.

Opposition to this bill originates from large rental car companies. Leaders from rental car companies have testified for this bill and stated that they want to ensure that taxation for peer-to-peer car sharing programs is considered as part of the bill in order to establish equal standards between peer-to-peer car sharing and rental programs (House Transportation and Local Government Committee, 2019). However, equal standards are only necessary if rental car companies and peer-to-peer car sharing exist in the same market. The peer-to-peer sharing programs rely on the supply of private assets to users with short-term demand and play a role as a third party, whereas rental companies provide corporate assets directly to renters for durations averaging 11.5 days (Dill, 2017). Consequently, rental car companies and peer-to-peer car sharing programs exist in different markets and should not be held to the same taxation standards.

In the State of Colorado, rental companies are required to charge for property tax, title licensing, vehicle licensing, business licensing, sales tax, airport and hotel fees, and highway use funds, according to Hertz Rental Terms. The peer-to-peer sharing companies are only required to pay for business licensing. Since peer-to-peer car sharing companies use privately owned cars in order to conduct business, the private owners are responsible for title licensing, vehicle licensing, and property tax through annual registration (Department of Motor Vehicles, 2018).

The only fees yet to be discussed in this paper are sales tax, airport and hotel fees, and highway use funds.

Rental companies would like the government to impose sales tax on peer-to-peer sharing program transactions. For rental car companies, transactions include these taxes because the rental car companies are exempt from paying sales tax when initially purchasing cars to share (Watson, 2019). Instead, taxes are gathered through each transaction and through final sale of the car to private owners. In peer-to-peer car sharing, sales tax has already been paid by the private car provider during the initial purchase of the car, and, thus, sales tax would be gathered twice if it is included in each transaction. Thus, requiring peer-to-peer sharing programs to charge sales tax would be an unreasonable standard.

Hertz Rental Terms lists that airport and hotel fees are charged to rental companies as required by each airport or hotel. Furthermore, these concessions are only charged when rental companies operate within a certain radius of the airport or hotel requiring concessions (Extare Federal Services Group, 2011). If peer-to-peer car sharing programs serve the same purpose as rental car companies when lending cars to travelers near specified airports or hotels, the same standards should apply to both rental car companies and peer-to-peer sharing programs if the airport or hotel requires concessions. SB19-090 regulates that both organizations are held to the same standards by requiring both organizations to pay airport or hotel concessions fees when requested.

A study performed in Oregon found that peer-to-peer car sharing was used mainly for trips that had one or more secondary purposes, such as errands, transporting friends and family, or in-town recreation (Dill, 2017). This finding reflects the short trip nature of peer-to-

peer car sharing and how an increase in car sharing would increase the use of local roads, but not highways. Since the highway use fund is designated for state highway purposes in SB18-001, peer-to-peer sharing companies should not charge for highway use funds if the use of highways is insignificant.

There are instances where the highway use of the rented and shared cars is the same. If the duration of rental or car share is equal for an extended period of time, then the number of vehicle miles on highways and the effect of greenhouse gases as a result of these transactions are likely the same. In such cases, the State of Colorado should require equal highway tax of $2 a day for peer-to-peer sharing that rental companies already charge to consumers. According to Enterprise, the average length of a car rental was 11.5 days in 2015. Thus, charging an additional $2 per day for highway use tax for peer-to-peer sharing programs for use of a car that exceeds 11.5 days would be appropriate. The charges collected could be paid to the government when the peer-to-peer sharing program pays any other taxes due.

Innovative business models in the sharing economy may seem like a threat to existing companies, and, in some ways, they are. However, as a State, it is important to encourage innovation. In order to move forward and allow new industries to exist, the government must ensure that negative externalities are adjusted and that liabilities are defined to enhance efficiency of the State. Passing SB19-090 reduces negative externalities, and with an amendment that requires a $2 daily tax for rentals with a duration exceeding 11.5 days, the industry would be appropriately regulated and in fair competition with existing goods and services in the Colorado markets.

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