



**Peer-to-Peer Car Sharing and its  
Impact on Insurance: Examining  
the Road Ahead for Public  
Policymakers**

**Liability Issues & the Future of  
P2P Car Sharing**

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# Scope of Presentation

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- **P2P Car Sharing Liability Issues**
  - *causes of action, duty of care & defenses*
- **Lessons Learned from TNC Insurance & Sharing Economy Disruption**
- **The Future of P2P Car Sharing**



# P2P Car Sharing Liability Issues

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- Who are the **parties** to potential litigation?
- What are the **legal theories**, causes of action and defenses?
- What **comparisons**, if any, can be drawn from other sharing economy business models?
- What is the “**duty of care**” and how might it evolve?



# P2P Car Sharing Liability Issues

## Litigation Parties & Causes of Action



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Injured Party (Plaintiff)



P2P Platform



Host/Renter



Guest/Driver



# P2P Car Sharing Liability Issues

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## Negligent Entrustment of a Motor Vehicle

- No reported case law on P2P claims yet, but there is established case law involving rental car companies.
- **Rental companies** - duty of care is to check facial validity of a renter's license (or to identify visibly intoxicated renters).
- **Could P2P companies may be subject to same standard of care?**
  - The P2P platform will check that the owner must have valid personal insurance, meet platform eligibility requirements, including that the vehicle complies with all applicable laws and regulations regarding vehicle safety, condition, and operation.
  - The P2P company may also look at insurance scores or perform a background check for either the owner or the driver.
  - The P2P platform may face claims for negligent entrustment.



# P2P Car Sharing Liability Issues

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## The Impact of P2P Legislation on Liability

### These State Laws Raise Some Questions:

- If a P2P company is treated like a car rental company, would the P2P company then be able to avail itself of the **Graves Amendment** as an affirmative defense?
- If a P2P company fails to meet the requirements of state law or regulations, does this create *negligence per se*?



# P2P Car Sharing Liability Issues

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## The Graves Amendment

- Protects companies ***rental companies*** (and affiliates) from liability under state law for damages or injuries during the rental period simply because the company owns the vehicle (guards against vicarious liability status in various states).
- Applies to ***fleet carsharing companies*** (e.g., Zipcar), but might not extend to P2P carsharing companies or owner-lenders.
- Injured parties could still bring negligence claims.



# Insurance Lessons Learned From TNCs

## Transportation Network Companies (TNCs)

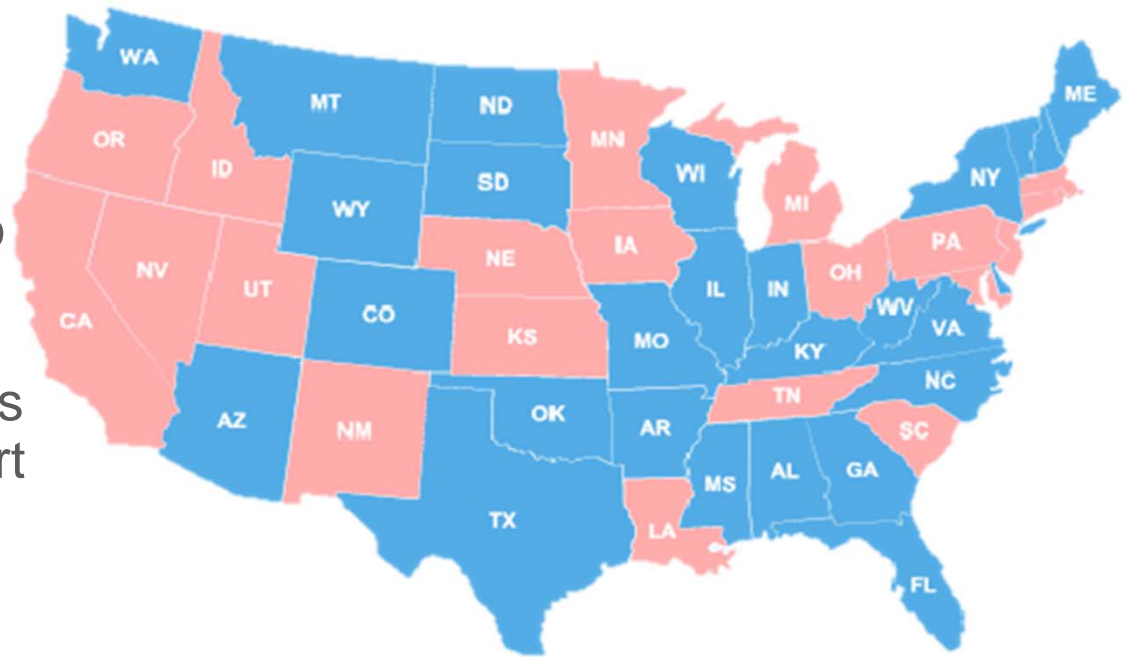




# Insurance Lessons Learned From TNCs

## Insurance Regulators' Response:

Starting in 2014, insurance commissioners in over half of US states issued alerts to warn consumers that TNCs lacked sufficient insurance coverage and warning drivers using private cars to transport individuals for a fee about coverage gaps.



# Insurance Lessons Learned From TNCs

## The Resolution – New Insurance Models & Legislation

- **TNC Insurance Endorsement:** Insurance companies addressed the insurance coverage gap by provided a specific endorsement allowing for the TNC use and for personal motor vehicle policies to not exclude coverage for commercial use.
- **Legislative Action – Supplemental TNC Coverage:** 48 states changed their laws to allow for additional umbrella coverage

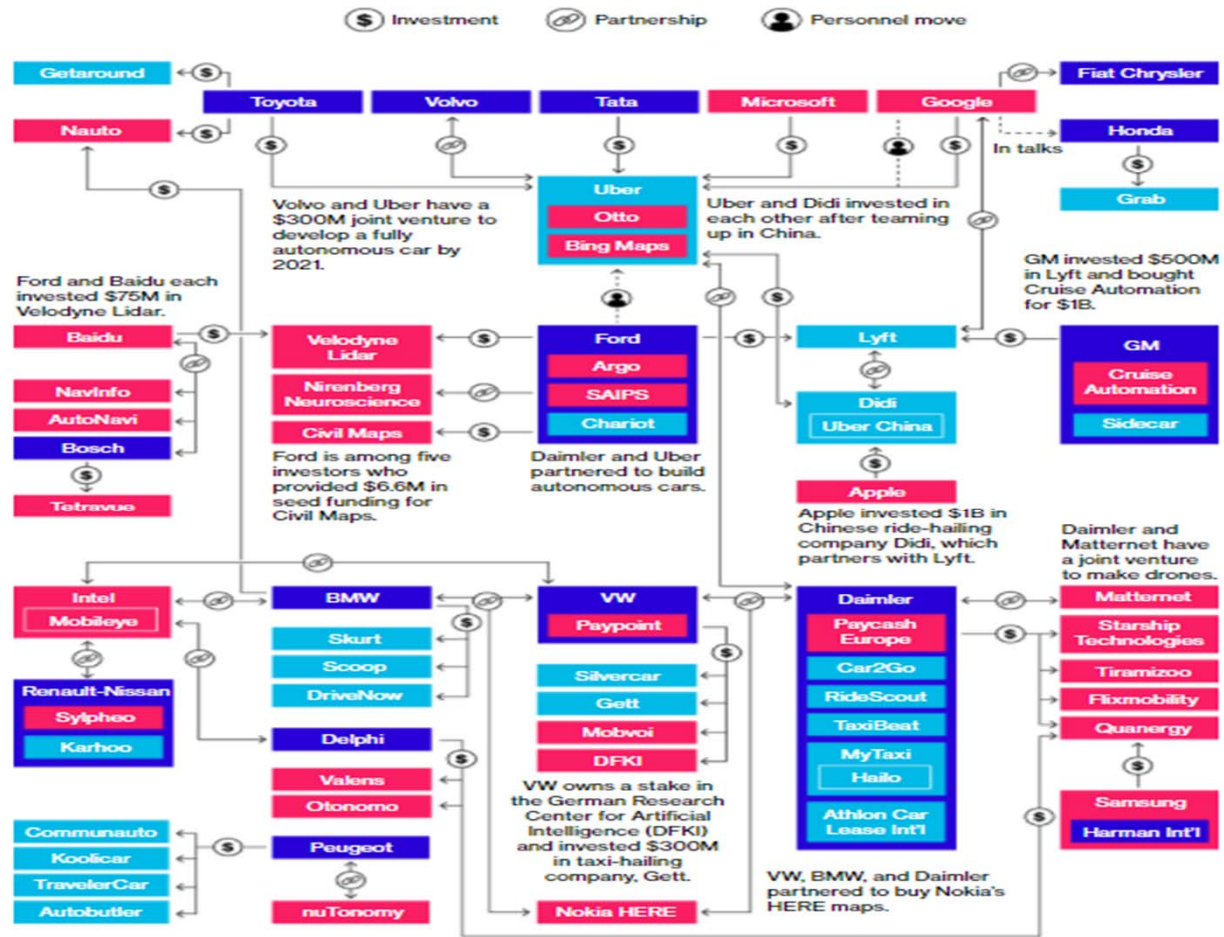
<b>Insurance</b>	<b>Two levels of Insurance:</b> <u>Period 1</u> – when the app is on, but the TNC driver does not have a prearranged rider, typically \$50,000 per person/\$100,000 per incident/\$25,000 property damage. <u>Period 2</u> – when the TNC driver is transporting a prearranged rider, typically \$1,000,000 or more total insurance.
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## Trends Guiding the Future of Shared Mobility Transportation Technology

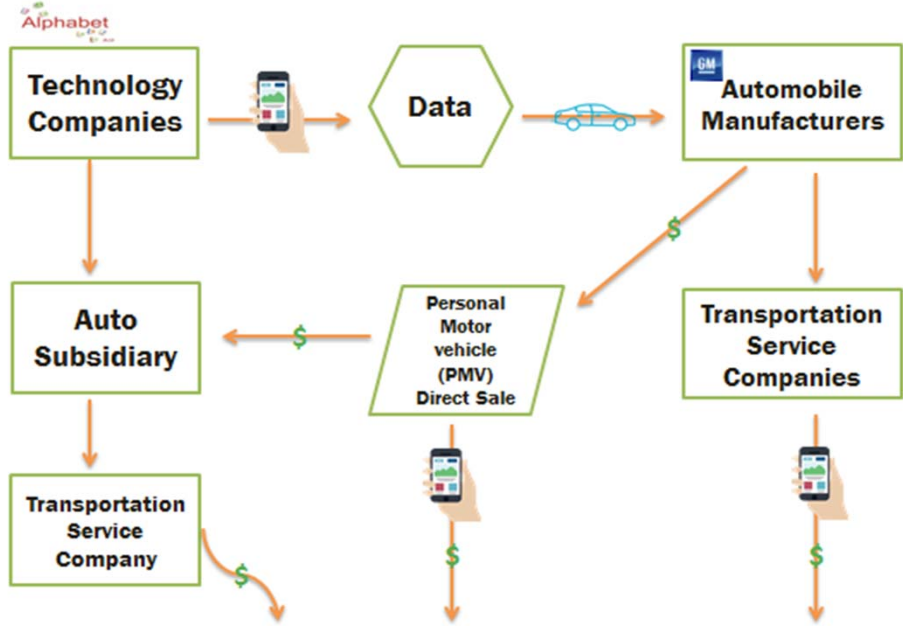
- **Congestion** is increasing
- **Urban population** growth
- People are **living longer**
- Traffic fatalities continue to occur
- Lack of **multi-modal integration & coordination**
- **New generation “Z-ers”** are even more smartphone & tech trusting than millennials?
- Mobility **business models** converging



BLUE = Apps/Mobility  
 RED = Tech | DARK BLUE = Auto

Source: Data compiled by Bloomberg  
 Additional work: John Lippert, Keith Naughton, Cedric Sam and Kevin Tynan

# The Future of Transportation Technology Mobility?



## Transportation Service Delivery Shared Autonomous Mobility, or Mobility on Demand



# The Future of P2P Car Sharing & Insurance

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## Short-Term (5-10 years)

- Competition?
  - TNCs & New Long Distance Ride-Hailing Apps (market share)
  - Options on other multi-modal mobility apps (Mobility as a Service – MAAS), Uber/Lyft (TNCs) – P2P car share option
  - Aggregators (apps and web-based)
- Automated Vehicles
  - Unlikely that SAE levels 4-5 will be implemented or widespread
- Telematics
  - Increased use could assist P2P car sharing safety & use
  - Telematics could reduce P2P car sharing insurance premiums



# The Future of P2P Car Sharing & Insurance

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## Long-Term (15-20 years)

- Competition?
  - Technology and Automotive Mobility Companies
- Automated Vehicles
  - SAE levels 4-5 will be implemented or widespread in suburban and closed communities - and possibly in cities
  - Rural environment – widespread P2P car sharing could result
  - Urban environments – most AVs will be shared (good for P2P)
- Business Alliances
  - Mergers, acquisitions, investment of big tech/auto and government response will determine the future!
- Insurance
  - Commercial and personal motor vehicle liability may cease to exist and may migrate to products liability coverage
  - No fault personal injury protection protection may remain in place

