

Date of Hearing: August 31, 2023

ASSEMBLY COMMITTEE ON INSURANCE  
Lisa Calderon, Chair  
AB 458 (Jones-Sawyer) – As Amended July 3, 2023

PURSUANT TO ASSEMBLY RULE 77.2

**SUBJECT:** Shared mobility devices: insurance

**SUMMARY:** Makes clarifying changes related to the insurance requirements for shared mobility devices. Specifically, **this bill:**

- 1) Provides that automobile insurance requirements do not apply to shared mobility devices.
- 2) Provides that the requirement for shared mobility service providers to maintain commercial general liability insurance of not less than \$5 million is aggregate for all occurrences during the policy period.
- 3) Specifies that the insurance required shall not be considered a group policy.

**EXISTING LAW:**

- 1) Requires a shared mobility service provider, before distribution of a shared mobility device, to enter into an agreement with, or obtain a permit from, the city or county with jurisdiction over the area of use. The agreement or permit shall, at a minimum, require that the shared mobility service provider maintain commercial general liability insurance coverage with a carrier doing business in California. (Civil Code Section 2505(b)(1))
- 2) Requires the above coverage to have limits not less than \$1 million for each occurrence for bodily injury or property damage, including contractual liability, personal injury, and product liability and completed operations, and not less than \$5 million aggregate for all occurrences during the policy period. Prohibits the insurance from excluding coverage for injuries or damages caused by the shared mobility service provider to the shared mobility device user. (Civil Code Section 2505(b)(1))
- 3) Requires, effective July 1, 2023, a shared mobility service provider, in addition to the coverage currently required, to offer or make available, or to confirm the user of a shared mobility device maintains, insurance coverage for bodily injury or death suffered by a pedestrian when the injury or death involves, in whole or in part, the negligent conduct of the shared mobility device user, of \$10,000 for each occurrence of bodily injury to, or death of, one pedestrian in any one accident, and for property damage to an assistive technology device, of \$1,000 for each occurrence. Permits providers to partner with insurers or to enter into individual agreements with users, as specified. (Civil Code Section 2505(b)(2))
- 4) Provides that nothing therein shall prohibit a provider from requiring a user to enter into an indemnity contract whereby the user will indemnify the provider for the user's proportionate share of liability. The indemnity contract shall not require the user to defend or indemnify the provider for the provider's negligence or willful misconduct. This provision cannot be

waived or modified by contractual agreement, act, or omission of the parties. (Civil Code Section 2505(b)(3))

- 5) Allows the required commercial general liability insurance coverage to be secured with an admitted insurer, or a nonadmitted insurer that is eligible to insure a home state insured, as provided. (Civil Code Section 2505(b)(1))
- 6) Requires providers to disclose to their customers that the customer's existing homeowner's, renter's, or automobile insurance policies might not provide coverage for liability resulting from the use of shared mobility devices and that the customer should contact their insurance company or insurance agent to determine if coverage is provided, prior to allowing a user to initiate their first use of a device. (Civil Code Section 2505(e))
- 7) Defines "shared mobility device" to mean an electrically motorized board, motorized scooter, electric bicycle, bicycle, as those terms are defined, or other similar personal transportation device that is made available to the public by a shared mobility service provider for shared use and transportation in exchange for financial compensation via a digital application or other electronic or digital platform, but exempts specified bicycles and electric bicycles from this definition. Defines "shared mobility service provider" as a person or entity that offers, makes available, or provides a shared mobility device in exchange for financial compensation or membership via a digital application or other electronic or digital platform. Defines "assistive technology device" to have the same meaning as in Section 7002 of Title 9 of the California Code of Regulations. (Civil Code Section 2505(a))

**FISCAL EFFECT:** None. This bill is keyed non-fiscal by the Office of Legislative Counsel.

**COMMENTS:**

- 1) **This measure is referred to the committee pursuant to Assembly Rule 77.2 for concurrence in Senate amendments. Senate amendments removed all prior provisions that addressed an unrelated subject previously passed by the Assembly, and add provisions as stated in the summary above.**
- 2) *Purpose.* According to the author:

AB 458 is a technical and clarifying bill that ensures explicitly aligns the third-party insurance requirements for rental e-scooters with that of the modeled-after existing insurance product, which first stemmed from Cincinnati's third-party insurance requirement. The requirements of this bill were always intended in existing law, as established by AB 371 (Jones-Sawyer, 2021-2022); however, it has come to my attention that explicit clarification is needed.
- 3) *Need for the bill.* This bill seeks to clarify language from AB 371 (Jones-Sawyer), Chapter 740, Statutes of 2022. Specifically, this bill clarifies that the requirement on shared mobility service providers to offer, make available, or confirm insurance coverage for bodily injury or death suffered by a pedestrian involving the negligent conduct of the user does not limit or supersede the requirement that the commercial general liability insurance maintained by the shared mobility service provider has limits not less than \$5 million aggregate for all occurrences during the policy period; specifies that insurance maintained by a shared

mobility device provider is not group insurance; and clarifies that automobile liability insurance requirements do not apply to shared mobility devices.

4) *Prior legislation.*

- a) AB 371 (Jones-Sawyer), Chapter 740, Statutes of 2022 expanded and clarified insurance requirements for shared mobility service providers pertaining to injury, death, or property damage resulting from the negligent conduct of a shared mobility device user.
- b) AB 1286 (Muratsuchi), Chapter 91, Statutes of 2020 required a shared mobility service provider maintain commercial general liability insurance in amounts not less than \$1 million per event, \$5 million in the aggregate. Defined shared mobility device to mean an electrically motorized board, motorized scooter, electric bicycle, bicycle, or other similar personal transportation device, except as provided. Additionally required cities and counties that authorizes a shared mobility device provider to operate within its jurisdiction to adopt operation, parking, and maintenance rules, as provided, regarding the use of the shared mobility devices in its jurisdiction before the provider may offer shared mobility devices for rent or use.
- c) AB 2989 (Flora), Chapter 552, Statutes of 2018 permitted a local authority to authorize the operation of a motorized scooter on a highway with a speed limit of up to 35 miles per hour and would additionally allow for operation of a motorized scooter on a highway with a higher speed limit if the motorized scooter is operated within a Class IV bikeway.
- d) AB 604 (Olsen), Chapter 777, Statutes of 2015 allowed electrically motorized skateboards to be operated on sidewalks, roads and bike paths unless prohibited by a local government, with specified restrictions.
- e) AB 1096 (Chiu), Chapter 568, Statutes of 2015 established new categories of electric bicycles and placed restrictions on their operation.
- f) SB 441 (Chesbro), Chapter 722, Statutes of 1999 defined a "motorized scooter," and required these devices to meet certain operational requirements.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file.

**Opposition**

None on file.

**Analysis Prepared by:** Claire Wendt / INS. / (916) 319-2086