

Written Testimony  
Before The Ohio State Senate  
Transportation, Commerce and Workforce Committee

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By  
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Good morning Mister Chair and members of the committee. Thank you for the opportunity to testify today. My name is Nicholas Green, with the law firm of Orrick, Herrington & Sutcliffe LLP on behalf of Getaround to testify in opposition to Senate Bill 161 as currently before the committee.

Getaround is a peer-to-peer carsharing marketplace platform that empowers members to safely share their personal vehicles by the hour and day. Getaround operates in multiple cities, and while not currently in Ohio, we certainly would like to be in the future. Our technology helps users find, book and unlock nearby vehicles on-demand using their smartphones. In short, our platform connects people whose cars are sitting idle and unused with people who need to use a car. It's the modern equivalent of borrowing a friend or family members' car.

Getaround's platform makes car ownership more affordable. Owning a car is expensive. Car payments, maintenance, insurance and parking all add up. For people who need to own a car, carsharing offsets ownership costs by allowing them to share the car when it would otherwise be sitting idle in a parking spot. An extra \$300 to \$600 a month would mean a lot to lower and middle-income Ohioans.

And it's not just car owners that benefit: carsharing provides convenient and affordable on-demand access to vehicles for the growing number of Americans who do not own cars, or for whom car ownership is cost prohibitive. Low and middle income folks benefit tremendously from convenient access to affordable transportation—and that's what carsharing, and especially carsharing through our platform, provides.

As one of the nation's leading peer-to-peer carsharing platforms, Getaround supports consumer-friendly protections and laws that provide liability and insurance certainty. Where the law is unclear, we want and crave certainty so that we can orient our business accordingly and make sure that everyone—from our owners, to our users, to third-parties who encounter cars on the road—are protected. We think carsharing should be subject to all of the usual sales and use tax obligations attendant to taxable transactions in Ohio.

Although I am here in opposition to Senate Bill 161 because of lingering concerns that I'll address momentarily, I do want to pause and thank all stakeholders for engaging in a

good-faith, thoughtful process of crafting a bill that works for everyone with an interest in this burgeoning industry. While not all stakeholders agree on everything, there is much that we do agree on. Indeed, everyone has worked diligently to find agreement where we could through considerable effort—and have made tremendous progress in that regard. I particularly want to thank the Ohio Insurance Institute for collaborating with us on the insurance provisions and accommodating our concerns. And our thanks as well to Senator Hottinger, Senator Dolan, and Representative Seitz for their leadership on this issue.

Getaround nonetheless opposes this bill for three primary reasons:

- 1) *Carsharing Cannot Be Limited to “Noncommercial Vehicles.”* As drafted, the bill limits carsharing to vehicles that are exclusively used for noncommercial purposes. Carsharing is, by definition, a commercial use: owners list their cars to earn extra money. Indeed, that is the reason why additional insurance is necessary to fill the gap in coverage created by common “commercial use” exclusions in personal auto policies. There is no sound reason for this restriction, which makes little sense against the backdrop of what carsharing is, particularly when we should want to make the definition as expansive as possible to ensure maximum coverage of the important regulatory and consumer-protection measures in this bill.
- 2) *Clarify the Scope of Platform Insurance Obligations.* As drafted, the bill requires that platforms maintain \$1 million in insurance for the platform’s own liability, as distinguished from the liability of the driver or owner. We do not oppose maintaining insurance for the negligent acts or omissions of the platform itself as a business, which is what we understand this provision to intend. The bill in its current form however is needlessly ambiguous as to what this insurance is supposed to do, and we urge the legislature to clarify the text to better reflect the intent.
- 3) *Avoid Complicating the Tax Issues.* The bill designates all technology platforms as “vendors” insofar as they are facilitating taxable services. By doing so, the bill makes every technology provider involved in a taxable service a “vendor”, resulting in a significant expansion of the existing vendor classification. Moreover, the bill assumes that carsharing involves a taxable *transportation service* (as opposed to a taxable sale or lease of a tangible thing), thus complicating matters far too much and sowing confusion into the scope of taxable transportation services under current law.

While I appreciate that the Department of Taxation believes this provision is just belt-and-suspenders, it will create far more problems (and potentially, litigation borne of confusion) than the problem it is trying to resolve. The far better approach is to address the taxation of carsharing in the moving marketplace facilitator legislation. That legislation provides a comprehensive framework that addresses the intricacies of tax collection, remittance, and liabilities in three-party transactions like ours--and especially three-party transactions that involve the transfer of possession of tangible property.

I am confident that we can address these issues and look forward to working with all interested parties to do so. But because they remain in the bill before you, we ask the Committee to defer action on this issue until we can reach consensus on the remaining areas of disagreement.