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The Honorable James L. Seward  
Chairman  
Committee on Insurance  
New York Senate  
172 State Street  
Room 430, Capitol  
Albany, NY 12247

**Re: Comments of the American Car Rental Association on S. 427 and Suggestions for Consumer Protection Improvements**

Dear Chairman Seward:

The American Car Rental Association (ACRA) respectfully submits these comments on S. 427, "An Act to amend the insurance law and the vehicle and traffic law, in relation to enactment the 'personal motor vehicle sharing act'."

Unfortunately, the bill does not apply any of the existing car rental consumer protections developed by the Legislature over decades of consideration to "personal motor vehicle rental companies." In fact, this bill exempts personal vehicle rental companies from all of the consumer protection, insurance and liability obligations traditional car rental companies have under New York State law, while affording personal vehicle rental companies every benefit provided to traditional car rental companies under State law.

Due to this wildly disparate treatment of what is in essence the same rental transaction by two competitors for the same rental car customer, ACRA is unable to support S. 427 as introduced.

Just as the New York Legislature concluded that fundamental state consumer protection, insurance and tax provisions must apply to other new entrants into the ride-hailing (Uber and Lyft) and hotel (Airbnb) industries, so too should these protections and rules be applied to the personal vehicle rental companies such as Turo and Getaround.

The transactions are the same -- whether one is examining a traditional car rental company or a personal vehicle rental company: (1) a vehicle is rented; (2) for a short period of time; (3) by an individual; and, (4) the activity is intended to produce a profit. As a result, the fundamental State regulation of these transactions should be the same with respect to consumer protections and disclosures, insurance, and taxes and fees properly imposed on car rental transactions by the New York Legislature.

For example, if enacted as introduced, S. 427 would permit the following with respect to personal vehicle rental companies:

1. Age, gender, race and ethnicity discrimination in determining which customers should be permitted to rent a vehicle;
2. Sale of insurance products to consumers by a personal vehicle rental company despite the fact that the company is not licensed to sell these products in the State and the individuals selling these products have not been trained in State insurance law and disclosure requirements;
3. Sale of collision damage waiver products to consumers without the price caps currently in place for these products for State transactions and without the requirements on advertising and disclosures required for all other car rental transactions in the State;
4. Rentals of cars to consumers with open federal safety recalls, including vehicles with defective Takata airbags, without disclosure of these defects to the renter;
5. Exempt these transactions from state business and special taxes that apply to other car rental transactions and support millions in State spending, as well as avoiding payment of the airport concession fees paid by every other airport user for the right to pick up consumers or passengers at airports in the State;
6. Lack of clarity as to whether the insurance of the owner of the rented vehicle, the personal vehicle rental company, or the renter will be "primary" or "secondary" under State law; and,

7. Lack of clarity as to whether a personal vehicle rental company is subject to or exempt from the State's "vicarious liability" law; personal car rental companies assert that they are not car rental companies; therefore, they should be subject to the State's vicarious liability law and not protected by the federal Graves Amendment that prohibits vicarious liability for car rental companies (absent negligence by the company).

ACRA is the national representative for over 98% of our nation's car rental industry. ACRA's membership is comprised of over 300 car rental companies, including all of the brands you would recognize such as Alamo, Avis, Budget, Dollar, Enterprise, Hertz, National and Thrifty. ACRA members also include many system licensees and franchisees, mid-size, regional and independent car rental companies as well as smaller, "mom & pop" operators. ACRA members have over two million registered vehicles in service, with fleets ranging in size from one million cars to ten cars. Virtually every car rental company operating in New York is a member of ACRA, and we estimate that ACRA member companies employ over 6,000 workers in every corner of the state.

Without substantial modifications to address these concerns, ACRA would not be able to support S. 427 as introduced. If ACRA or our members can provide additional information, please do not hesitate to contact me. Thank you for your attention to ACRA's comments.

Sincerely yours,



Sharon Faulkner  
Executive Director

cc: Members of the New York Senate