As the Sharing Economy Evolves, So Do the Risks

The sharing economy, also known as the gig economy, peer-to-peer economy or on-demand economy, refers to businesses offering goods and services through digital platforms that match consumers and providers. These businesses have become household names and experienced explosive growth since the early 2000s. For example, the food delivery service Uber Eats saw **30% customer growth** and an influx of new drivers during the COVID-19 pandemic.

However, the meteoric rise of the sharing economy has a bevy of insurance-related implications. A **recent landmark ruling** making it more difficult for sharing economy brands to classify their workers as independent contractors has impacted insureds. With this ruling, sharing economy brands may have more liability when an interaction between workers and customers goes awry or their drivers don't follow the rules of the road.

Fortunately, for automobile centric accounts, emerging **telematics** technology can help these brands manage liability in this enigma of an industry. Sharing economy brands that utilize drivers' services can implement this technology through mobile applications to estimate risk and help set insurance premiums accordingly.

CONTACT

To learn more about how Amwins can help you place coverage for your clients, reach out to your local Amwins broker.

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The rise of the sharing economy

Since its emergence, the total value of the sharing economy has risen to **$150 billion**. Its value is predicted to continue to grow, increasing to almost $800 billion by 2031.

The most well-known brands of the sharing economy include the transportation network companies (TNCs) Uber and Lyft, as well as home-sharing companies Airbnb and VRBO. However, new companies are emerging every day to provide a variety of services, such as:

- "Dockless" scooter and bike sharing with Lime and Bird
- Rental car sharing offered by Zipcar
- On-demand delivery of food and groceries from Uber Eats, Doordash and Instacart
- On-demand services that match specialized freelancers with homeowners and businesses, such as TaskRabbit

Most individuals working in the sharing economy are part-time and work to supplement other sources of income. According to Doordash, **90% of their workers worked fewer than 10 hours per week** for the platform. Nonetheless, the precarious regulations on sharing economy brands pose significant questions as to the status of their workers – and the liability these brands hold when risk arises.

Employee classification

The status of workers in the sharing economy has long been called into question. The debate lies in whether these workers are classified as independent contractors or employees under the Fair Labor Standards Act (FLSA) of 1938.

The **FLSA mandates** that employers must pay non-exempt employees at least federal minimum wage for all hours worked and at least 1.5 times the employee's regular pay for every hour exceeding 40 in any given work week. However, these protections do not apply to independent contractors – which helps to explain why many sharing economy brands have maintained a fierce interest in classifying workers as independent contractors. For example, Uber has argued it is simply a technology platform operating in the shared economy and its function is merely to connect available drivers with those wanting rides.

For years, sharing economy brands seemed to be winning the battle. Even as recently as 2023, a **settlement** between Uber and Lyft and the state of New York's attorney general and labor department allowed the industry to continue classifying drivers as independent contractors. However, the tide may be turning in favor of sharing economy workers.

In early 2024, the U.S. Department of Labor (DOL) released a **final rule** making it more difficult for sharing economy brands to classify workers as independent contractors. This rule was subject to significant backlash, including from organizations (such as the U.S. Chamber of Commerce) which threatened litigation.

Why it matters

The classification of employee vs. independent contractor has significant implications in terms of insurance coverage. If service providers are deemed independent contractors, the platform operator (i.e., the sharing economy brand) is further removed from liability. This could present challenges for individuals involved in a transaction when, for example, the platform operator does not perform background checks on the service provider or consumer.

Should a claim against the service provider arise, the consumer making the claim may be faced with an insolvent defendant that has either no insurance or low insurance limits. They may then be able to pursue the financially endowed platform operator for services performed within the scope of "employment." However, the flipside can also occur. The service provider may have a claim against the consumer, but will be financially unable to pursue that claim without the assistance of the platform operator.

Taming liability with technology

Automobile centric accounts may help mitigate risk with telematics technology. Thankfully, this technology is increasingly being used to gain better underwriting control and understanding of risk.

For example, ridesharing companies can take advantage of a customized insurance solution that is integrated into the insured's driver application. Sensors in the drivers' phones measure distance driven, destination points and even the quality of driving to determine the driver's individual safety score. The safety score for each driver may then be averaged together to create the overall score and in some cases may provide a "performance-priced" premium.

This type of insurance product can empower insureds to take more control of their insurance cost. With monthly retrospective rating, free loss control services and individual driver scoring provided in a real-time dashboard to help the insured identify and coach unsafe drivers, insureds may see their premium more closely aligned to their actual performance and usage.

Takeaway

The sharing economy is complex and challenging to navigate, but Amwins has the know-how and market access to match your clients with the carrier and coverage they need.

As the largest wholesale broker in the country, we have a team of professionals who specialize in application-based business. Our expertise in the adoption of innovative technology can also help to impact your clients' bottom-line. Amwins has partnered with "AM Best A" rated carriers to provide this coverage is yet another way we help you win. Call your Amwins broker today.

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