



## 1995 SENATE BILL 106

March 9, 1995 - Introduced by Senators BURKE and PLEWA, cosponsored by Representatives CULLEN, BOCK, BOYLE, COGGS, GRONEMUS, KRUG, LA FAVE, NOTESTEIN, RILEY, ROBSON, TURNER, WILLIAMS, L. YOUNG and R. YOUNG. Referred to Committee on Insurance.

1     **AN ACT to amend** 625.12 (1) (e), 625.12 (2), 625.15 (1) and 628.34 (3) (a); and **to**  
2             **create** 632.39 of the statutes; **relating to:** setting rates for certain motor  
3             vehicle insurance policies and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

This bill specifies how an insurer must determine rates for certain motor vehicle insurance policies. The bill applies specifically to those policies that cover private passenger automobiles, motorcycles or mopeds, that do not cover more than 4 vehicles and that are issued to individuals who reside in a federal metropolitan statistical area in this state that contains a 1st class city (Milwaukee). The insurer must first divide the federal metropolitan statistical area into separate contiguous areas, each containing at least one municipality, defined in the bill as a city, village or town. The insurer must charge the same rate for the same or similar type of coverage under all policies to which the bill applies and that are issued to insureds residing in the same contiguous area. The insurer may establish no more than 2 rate bands for each type of coverage under all of the policies to which the bill applies. The bill specifies restrictions on how much the rates may differ from each other within and between rate bands. After determining the rates according to the requirements specified in the bill, an insurer may modify the rates for individual risks using factors specified by the commissioner by rule. The factors are to include the driving safety record and experience of the drivers of the insured vehicle, the value of the insured vehicle and the number of miles that it is driven each year and any other factors that the commissioner determines are relevant. The zip code of the insured or any other driver of the insured vehicle may not be a basis for modifying a rate for individual risk.

Current law specifies factors to be considered in determining whether insurance rates in general comply with standards related to excessiveness, inadequacy and unfair discrimination. Current law does not, however, enumerate specific factors that may be used in determining auto insurance rates or place limits

on the range of rates that may be set. Current law does prohibit an insurer from using odometer reading data collected in the course of an emissions inspection as a factor in setting auto insurance rates, and does limit the range of rates that may be charged to small employers for health insurance.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 625.12 (1) (e) of the statutes is amended to read:

2           625.12 (1) (e) Subject to s. ss. 632.365 and 632.39, all other relevant factors,  
3 including the judgment of technical personnel.

4           **SECTION 2.** 625.12 (2) of the statutes is amended to read:

5           625.12 (2) CLASSIFICATION. ~~Risks~~ Except as provided in s. 632.39, risks may be  
6 classified in any reasonable way for the establishment of rates and minimum  
7 premiums, except that no classifications may be based on race, color, creed or  
8 national origin, and classifications in automobile insurance may not be based on  
9 physical condition or developmental disability as defined in s. 51.01 (5). Subject to  
10 s. ss. 632.365 and 632.39, rates thus produced may be modified for individual risks  
11 in accordance with rating plans or schedules that establish reasonable standards for  
12 measuring probable variations in hazards, expenses, or both. Rates may also be  
13 modified for individual risks under s. 625.13 (2).

14           **SECTION 3.** 625.15 (1) of the statutes is amended to read:

15           625.15 (1) RATE MAKING. An insurer may itself establish rates and  
16 supplementary rate information for one or more market segments ~~based on the~~  
17 ~~factors in accordance with~~ s. 625.12 and, ~~if the rates are for motor vehicle liability~~  
18 ~~insurance, subject to s. 632.365~~, or the insurer may use rates and supplementary rate  
19 information prepared by a rate service organization, with average expense factors

1 determined by the rate service organization or with such modification for its own  
2 expense and loss experience as the credibility of that experience allows.

3 **SECTION 4.** 628.34 (3) (a) of the statutes is amended to read:

4 628.34 (3) (a) No insurer may unfairly discriminate among policyholders by  
5 charging different premiums or by offering different terms of coverage except on the  
6 basis of classifications related to the nature and the degree of the risk covered or the  
7 expenses involved, subject to ~~s.~~ ss. 625.12 (2), 632.39 and 632.365. Rates are not  
8 unfairly discriminatory if they are averaged broadly among persons insured under  
9 a group, blanket or franchise policy, and terms are not unfairly discriminatory  
10 merely because they are more favorable than in a similar individual policy.

11 **SECTION 5.** 632.39 of the statutes is created to read:

12 **632.39 Setting rates for certain motor vehicle insurance policies. (1)**

13 SCOPE. This section applies to every motor vehicle insurance policy that is issued or  
14 delivered to an individual who resides in the federal metropolitan statistical area in  
15 this state that contains a 1st class city.

16 (2) DEFINITIONS. In this section:

17 (a) "Federal metropolitan statistical area" means an area defined by the federal  
18 office of management and budget under 44 USC 3504 (d) (3) as a metropolitan  
19 statistical area or a primary metropolitan statistical area.

20 (b) "Midpoint rate" means the arithmetic average of the lowest premium rate  
21 and the highest premium rate within a rate band.

22 (c) "Motor vehicle insurance policy" means an insurance policy issued or  
23 delivered in this state to an individual that provides motor vehicle physical damage  
24 or collision coverage or coverage for the insured's liability for loss or damage to a  
25 person or property resulting from a motor vehicle accident, or any combination of

1 those types of coverage, and under which each motor vehicle designated as insured  
2 is any of the following types:

3 1. A private passenger automobile that is not used as a public or livery  
4 conveyance for passengers or rented to others.

5 2. Any other 4-wheel motor vehicle that is designed for travel on public roads  
6 and that has a load capacity of no more than 1,500 pounds.

7 3. A motorcycle or moped.

8 (d) "Municipality" means a city, village or town.

9 **(3) HOW RATES MAY BE DETERMINED.** For all types of coverage under a policy that  
10 is subject to this section, an insurer shall determine initial rates as follows:

11 (a) The insurer shall first divide the federal metropolitan statistical area  
12 specified in sub. (1) into separate contiguous areas. Each such contiguous area shall  
13 include one or more municipalities and may not include less than all of any  
14 municipality that is included in the contiguous area.

15 (b) All motor vehicle insurance policies subject to this section, of all insureds  
16 residing within a contiguous area designated by the insurer under par. (a), shall  
17 constitute a class.

18 (c) Except for modifications for individual risks as permitted by rule under sub.  
19 (4) (a), the insurer shall charge the same rate for the same or similar type of coverage  
20 under all policies within the same class.

21 (d) For each type of coverage, the insurer may establish no more than 2 rate  
22 bands for all motor vehicle insurance policies subject to this section.

23 (e) No rate within a rate band may vary from the midpoint rate within the rate  
24 band by more than 7.5% of that midpoint rate.

1 (f) If the insurer establishes 2 rate bands for a type of coverage, the highest rate  
2 within one rate band may not vary from the highest rate within the other rate band  
3 by more than 15% of the higher of those 2 rates.

4 **(4) RULES FOR MODIFICATIONS FOR INDIVIDUAL RISKS.** (a) The commissioner shall  
5 promulgate rules specifying factors that an insurer, after determining rates as  
6 provided in sub. (3), may consider in modifying such rates for individual risks. The  
7 factors shall include all of the following:

8 1. Subject to s. 632.36 (1), the driving safety record, including accidents and  
9 tickets, of the drivers of the insured motor vehicle.

10 2. The amount of driving experience of the drivers of the insured motor vehicle.

11 3. The number of miles that the insured motor vehicle is driven each year.

12 4. The value of the insured motor vehicle.

13 5. Subject to par. (b), any other factors that the commissioner determines are  
14 relevant.

15 (b) Rates determined under sub. (3) may not be modified on the basis of the zip  
16 code of the insured or the zip code of any other driver of the insured motor vehicle.

17 (c) Notwithstanding sub. (3) (e) and (f), a rate determined under sub. (3) that  
18 is modified for individual risks in accordance with rules promulgated under par. (a)  
19 may fall outside a rate band established under sub. (3).

20 **(5) RATE SERVICE ORGANIZATIONS.** If an insurer uses rates for motor vehicle  
21 insurance policies that are prepared by a rate service organization designated under  
22 s. 625.15, rates filed by the rate service organization on behalf of the insurer must  
23 comply with this section.

