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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

1995-96

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Insurance, Securities and Corporate Policy...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Assembly

Record of Committee Proceedings

Senate Bill 6

AN ACT relating to: stacking of motor vehicle insurance coverage and drive-other-car exclusions under motor vehicle policies. Introduced by Senators Huelsman, Rude, Rosenzweig, Leraan, Schultz, Helbach, Ellis, Andrea, Buettner, Farrow, Zien, Fitzgerald and Panzer; cosponsored by Representatives Brancel, Albers, Brandemuehl, Kreibich, Foti, Vrakas, Hahn, Goetsch, Musser, Duff, Ladwig, Dobyns, Walker, Lehman, Schneiders, Ward, Kaufert, Urban, Johnsrud, Ainsworth, Owens, Ott, Gard, Handrick, Silbaugh, Harsdorf, Hasenohrl, Zukowski, Freese, Williams, Skindrud, Ryba, and Otte.

February 24, 1995

Read first time and referred to committee on Insurance, Securities, and Corporate Policy.

March 7, 1995

EXECUTIVE SESSION HELD

Present: (13) Representatives Albers, Lorge, Lasee, Underheim, Kreibich, Lazich, Hoven, Green Baldus, Notestein, Robson, Cullen, and Ziegelbauer

Absent: (0) None.

Moved by Representative Lorge, seconded by Representative Baldus that unanimous consent be given for introduction and adoption of Assembly Substitute Amendment 1.

Ayes: (13) Representatives Albers, Lorge, Lasee, Underheim, Kreibich, Lazich, Hoven, Green, Baldus, Notestein, Robson, Cullen, and Ziegelbauer

Noes: (0) None.

Absent: (0) None.

Motion carried: Introduction and Adoption Recommended. Ayes (13), Noes (0), Absent (0).

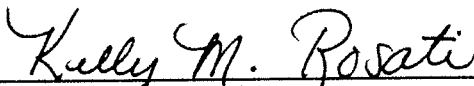
Moved by Representative Green, seconded by Representative Baldus that Senate Bill 6 be recommended for concurrence.

Ayes: (13) Representatives Albers, Lorge, Lasee, Underheim, Kreibich, Lazich, Hoven, Green, Baldus, Notestein, Robson, Cullen, and Ziegelbauer

Noes: (0) None.

Absent: (0) None.

Motion carried: Concurrence Recommended. Ayes (13), Noes (0), Absent (0)



Kelly M. Rosati, Committee Clerk

O.C. intro & adoption

Passage
Green
Baldus

Assembly Committee on Insurance, Securities, and Corporate Policy

DATE 3/7/95
 Moved by ~~Long~~ Long Seconded by Baldus
 AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 A _____ SR _____ Other _____
 A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

13-0
Passage
as
Amended

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection
- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

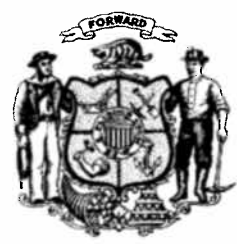
| | Committee Member | Aye | No | Absent | Not Voting |
|--------|--------------------------------|-----|----|--------|------------|
| 1. | Rep. Sheryl Albers, Chair | X | | | |
| 2. | Rep. William Lorge, Vice-Chair | X | | | |
| 3. | Rep. Gregg Underheim | X | | | |
| 4. | Rep. Robin Kreibich | X | | | |
| 5. | Rep. Mary Lazich | X | | | |
| 6. | Rep. Tim Hoven | X | | | |
| 7. | Rep. Frank Lasee | X | | | |
| 8. | Rep. Mark Green | X | | | |
| 9. | Rep. Al Baldus | X | | | |
| 10. | Rep. Barbara Notestein | X | | | |
| 11. | Rep. Judy Robson | X | | | |
| 12. | Rep. David Cullen | X | | | |
| 13. | Rep. Robert Ziegelbauer | X | | | |
| 14. | | | | | |
| 15. | | | | | |
| 16. | | | | | |
| 17. | | | | | |
| 18. | | | | | |
| Totals | | | | | |

MOTION CARRIED

MOTION FAILED



WISCONSIN STATE LEGISLATURE






Wisconsin Counties Association

MEMORANDUM

TO: Honorable Members of the Senate Committee on Judiciary

FROM: Sarah J. Diedrick, Legislative Associate 

DATE: February 1, 1995

SUBJECT: Support for Senate Bill 6

The Wisconsin Counties Association (WCA) supports Senate Bill 6 (SB 6) relating to stacking of motor vehicle insurance coverage and drive-other-car exclusions under motor vehicle policies.

Senate Bill 6 overturns a series of Wisconsin appellate court decisions which have held that a motor vehicle insurance policy may not prohibit stacking of uninsured or underinsured motorist coverage. Wisconsin's counties and the Wisconsin County Mutual Insurance Corporation (WCMIC) support this legislative attempt to prohibit stacking.

Wisconsin's counties purchase liability insurance policies which include coverage for uninsured motorists. The majority of such policies contain reducing clauses which state that any amount payable under the uninsured motorists policy shall be reduced by all sums paid or payable under any workers' compensation, disability benefits or similar law. In essence, such clauses ensure that claimants are not compensated for the same damages under separate policies. For local governments, then, reducing clauses allow insurance carriers to offset damages paid by other coverages which lessens the claims paid out under a coverage which, in turn, reduces the cost of the coverage for the local government. This has the effect of reducing taxpayer costs for insurance coverage for county employees.

Stacking of insurance coverages costs counties and their insurance providers thousands of dollars each year. Such cases are particularly prevalent in the area of law enforcement when sheriff's deputies are involved in auto accidents resulting from attempted apprehensions and the subject of the pursuit is, more often than not, uninsured. When the accident results in injury and the deputy is unable to perform the functions of his/her job, the deputy receives damages under workers' compensation. Allowing injured employees to receive damages under an uninsured motorist policy after they are made whole under a workers' compensation policy is simply duplicative and unnecessary.

WCA respectfully requests your support for Senate Bill 6. Thank you for considering our comments.

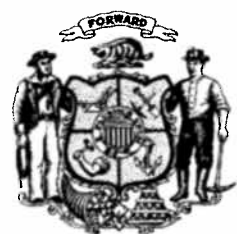
SJD/blb

100 River Place, Suite 101 ♦ Monona, Wisconsin 53716-4016
608/266-6480 ♦ 800/922-1993 ♦ Fax: 608/221-3832

Mark M. Rogacki, Executive Director ♦ Darla M. Hium, Assistant Director ♦ Lynda L. Bradstreet, Office Manager



WISCONSIN STATE LEGISLATURE





Sentry Insurance

February 1, 1995

Sentry Insurance A Mutual Company
1800 North Point Drive
Stevens Point, WI 54481

715 346-7168
FAX 715-346-7028

MEMO

TO: Senator Joanne Huelsman, Chair, Senate Judiciary Committee
Members, Senator Judiciary Committee

FROM: Lee Fanshaw, Government Relations Manager

RE: Senate Bill 6, Anti-Stacking

On behalf of Sentry Insurance, I urge you to support Senate Bill 6. This legislation would return Section 631.43(1) of the Wisconsin Statutes to its original intent.

Presently, Wisconsin drivers are able to select the amount of Uninsured Motorist (UM) and Underinsured Motorist (UIM) coverage they feel is most appropriate for their needs. These types of coverage enable an insured person to collect for damages from an accident in which the at-fault driver has no insurance or insufficient limits to cover the damages. Uninsured and Underinsured Motorist coverage is sold on a per vehicle basis to allow for maximum flexibility. For example, individuals may select different levels of UM/UIM coverage on different vehicles if their type of use varies substantially.

Unfortunately, a series of recent Wisconsin Supreme Court decisions mandate the "stacking" of these coverages. This means that if a person has an accident involving an uninsured or underinsured motorist, he/she can automatically increase his/her coverage limits by adding in the coverage of other insured vehicles in the household, even though the other vehicles were not involved in the accident.

Wisconsin consumers currently benefit from reasonable auto insurance rates in comparison to many other states. However, if we continue to allow unintended coverages based on strained judicial logic, it won't be long before that affordability begins to erode.

Thank you for your consideration of this issue.



AMERICAN FAMILY INSURANCE GROUP
REGIONAL LEGAL DEPARTMENT - MADISON OFFICE
302 N WALBRIDGE AVENUE MADISON WI
MAILING ADDRESS: 6000 AMERICAN PKY MADISON WI 53783-0001
(608) 249-2111
DIRECT FAX: 608-243-4912

Bernard T. McCartan-Regional Counsel
Donald E. Schultz-Managing Attorney
Scott J. Seymour
Ronald A. Ritchie
Colleen J. Reinke
Rick L. Packard
William G. Rasche

February 1, 1995

Madam Chairperson and Members of the Senate Judiciary Committee:

My name is Bernard T. McCartan, and I am the Wisconsin Regional Claim Counsel for the American Family Mutual Insurance Company in Madison, Wisconsin. American Family is a Wisconsin based insurance corporation offering a full line of insurance products for individuals and businesses, including automobile liability insurance. In my position at American Family I am responsible for managing the Claims Legal Department in the State of Wisconsin. My department is responsible for handling all claim-related litigation involving the company and/or its insureds. We are also the principal legal advisors to the company's Claim Department concerning claim handling.

I am appearing before this Committee today to speak in favor of Senate Bill 6.

In my more than 10 years as Regional Claim Counsel at American Family, the single legal issue which has taken and continues to take more of my time, and which has caused and continues to cause more contentious litigation at both the trial and appellate court levels than any other issue is that of "stacking."

Stacking first became a viable legal theory for recovery under multiple insurance policies following the 1975 revision of Wisconsin's insurance laws. In Landvatter v. Globe Security Insurance Company, 300 N.W.2d 875 (Wis. App. 1980), the court recognized sec. 631.43, Stats., as providing the legislative authority for stacking of uninsured motorist (UM) coverage. After a series of UM stacking and coverage cases was decided against the insurance industry, the court took the next step and allowed stacking of underinsured motorist (UIM) coverage in Wood v. American Family, 436 N.W.2d 594 (Wis. 1989), reconsideration denied 443 N.W.2d 314 (Wis. 1989). Landvatter and Wood are but the first of long lines of cases concerning UM and UIM stacking issues. There have been at least 50 Appellate Court cases in Wisconsin, both reported and unreported, making reference to sec. 631.43, Stats. (commonly referred to as the "stacking statute") since the 1980 decision in Landvatter. As we speak, stacking issues are still before the courts in Wisconsin. There are several UIM coverage and stacking issues presently before the Wisconsin Supreme Court. In addition, there are at least two cases involving stacking of liability insurance policies which are either in or on their way to the Wisconsin Court of Appeals.

All of this is the result of so-called "legislative intent" discovered by the Wisconsin Supreme Court in a statute which, according to the bill's drafter, was never meant to have that effect. In testimony offered before this Committee on February 24, 1993, Spencer L. Kimbel, former Executive Director of the Wisconsin Insurance Laws Revision Committee, stated that when revising the insurance laws in 1975, "the legislature had no intention about stacking. The issue did not arise." (Emphasis in original.)

I am speaking in favor of SB 6 today because I believe that it will provide an element of predictability and stability to Wisconsin insurance law which is currently lacking.

When a consumer buys an automobile insurance policy in the State of Wisconsin, the consumer is not asked whether he or she wishes to be able to stack the various types of coverages being purchased upon other similar coverages issued to other residents of the same household. A reading of the language commonly found in automobile insurance policies does not provide a hint that any of the coverages may be subject to stacking. Generally speaking, unless a consumer is aware of or is informed of the existence of sec. 631.43, Stats., and the way in which that statute has been interpreted by our courts, there is nothing in the insurance procurement process which would lead a consumer to believe that he or she is purchasing stackable coverage. Thus, it is submitted that the ordinary consumer has no expectation of such coverage at the time of purchase and is not making decisions on policy limits with an expectation that policies in the household may be stacked.

It is further submitted that under normal circumstances the average consumer does not learn of the possibility of stacking coverages until after a loss has occurred and he or she is told that coverages may be stacked, either by an insurance adjuster or by an attorney. In those cases, the stacking of insurance policies represents a windfall to the consumer who had no idea that he or she was purchasing such coverage at the outset. In point of fact, the coverage does not exist under the terms of any insurance policies issued in the State of Wisconsin. It exists purely by reason of the Wisconsin Supreme Court's application of sec. 631.43 in a manner never contemplated by the legislature which adopted the statute.

Over the last 15 years a large body of case law has been decided construing, applying and always further extending the reach of sec. 631.43, Stats. to additional coverages under auto liability policies. The drive has been spearheaded by plaintiff's lawyers who probably cannot be blamed for seeking ever expanding rights and avenues of recovery for their injured clients. The fact that one-third or more of the enhanced

recoveries ends up in the pockets of those lawyers provides a very significant incentive for creative argument in the unending drive to expand the reach of the statute. As indicated earlier, that drive continues unabated.

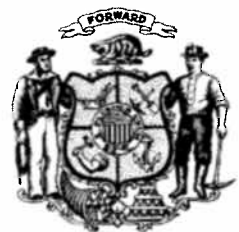
As presently constituted, SB 6 would establish clearly defined parameters for recovery under various types of coverage contained in automobile insurance policies. Essentially, an individual insuring a vehicle would have available to himself or herself all of the coverages issued on that vehicle. A person insuring more than one vehicle would have available the coverages on the vehicle involved in the accident. A person insuring more than one vehicle when injured as a pedestrian or as an occupant of a vehicle owned by someone outside of his or her household would have available to himself or herself the highest single limit of any applicable coverage on any policy he or she owned. Similar parameters would apply with respect to liability coverage. Passage of this bill would create a circumstance in which consumers would be able to pick up and read their automobile policies and determine what coverages they have and under what circumstances those coverages apply. They would not need to consult an insurance professional or an attorney or obtain and read lengthy appellate court opinions to make that determination. In the same fashion, it would also be easier for insurance claim adjusters to make coverage determinations and expeditiously settle claims because the uncertainty brought about by constant litigation on this subject would be ended.

For all of the above reasons I respectfully urge the Committee to approve SB 6 and sent it to the full Senate for action.

Bernard T. McCartan - Regional Claim Counsel
BTM/ja



WISCONSIN STATE LEGISLATURE



WISCONSIN INSURANCE ALLIANCE

44 EAST MIFFLIN STREET • SUITE 205
MADISON, WISCONSIN 53703-2800
(608) 255-1749
FAX (608) 255-2178

FEB 06 1995

DATE: February 3, 1995
MEMO TO: ~~Members of~~ the Wisconsin Legislature
FROM: ~~Eric Englund~~
RE: Anti-stacking legislation...SB 6
AB 25

Eric Englund
President

Greg Madson
Chairperson
Viking Insurance

Tom Holman
Vice-Chairperson
GRE Insurance Group

Dan Riedl
Secretary/Treasurer
Milwaukee Insurance

- Members:
- Alpha Property & Casualty Insurance
 - American Family Insurance
 - American Standard Insurance
 - Badger Mutual Insurance
 - Baraboo Mutual Fire Insurance
 - Capitol Indemnity Corporation
 - Church Mutual Insurance
 - City of Waukesha Mutual Insurance
 - Cuna Mutual Insurance Group
 - Dairyland Insurance
 - 1st Auto & Casualty
 - General Casualty Insurance
 - Germantown Mutual Insurance
 - GRE Insurance Group
 - Hartland Cicero Mutual Insurance
 - Heritage Insurance
 - IDS Property Casualty Insurance
 - Integrity Mutual Insurance
 - Jewelers Mutual Insurance
 - Lakeland Mutual Insurance
 - Manitowoc Cty. Mutual Insurance
 - Maple Valley Mutual Insurance
 - Midwest Security Insurance
 - Milwaukee Insurance
 - Northwestern National Casualty
 - Old Republic Surety Company
 - Partners Mutual Insurance Company
 - Retail Lumbermens Mutual Insurance
 - Rural Mutual Insurance Company
 - Secura Insurance
 - Sentry Insurance
 - Threshermen's Mutual Insurance
 - Viking Insurance Company
 - Waukesha Co. Mutual Insurance
 - Wausau Insurance Companies
 - West Bend Mutual Insurance
 - Western Wisconsin Mutual Insurance
 - Wilson Mutual Insurance
 - Wisconsin American Mutual
 - Wisconsin Mutual Insurance

For the past three sessions, bills have been introduced dealing with the inequities arising from "stacking" of auto insurance policies. In each session those bills have progressed further and further through the legislative process.

We are optimistic that the "anti-stacking" legislation will pass the Legislature this session.

Enclosed is a briefing paper which may assist you in further understanding this issue.

As there are ways in which this office can be of assistance to you, your staff and/or your constituents on stacking or any other matter dealing with property and casualty insurance, please feel free to call on me.

Enclosure: As identified above

THE ISSUE

Automobile Insurance Stacking *What does it mean for Wisconsin consumers?*



Support
SB 6
AB 25

THE HISTORY

Stacking, The Consumer, The Courts and The Legislature

A 1989 Wisconsin Supreme Court ruling extended a Wisconsin Statute significantly beyond its original intent to mandate 'stacking' of uninsured motorist (UM) and underinsured motorist (UIM) coverages. Senate Bill 6 and Assembly Bill 25 contain a technical amendment to Section 631.43 (1) of the Wisconsin Statutes and reaffirm the original intent of that Statute.

How do we know what the original intent of the Statute was? Because the drafter of the original legislation has testified that the intent of the Statute was not to mandate stacking.

Support
SB 6
AB 25

SOME DEFINITIONS

UM, UIM, Stacking...

Stacking—The Wisconsin Supreme Court's ruling, which SB 6/AB 25 correct, said that, in the event of an accident in which UM and UIM coverages came into play, the coverages on those separate cars could be combined—or stacked—so that instead of having \$100,000 of coverage on a car involved in an accident, a consumer could claim \$200,000 worth of coverage.

Uninsured and underinsured motorist coverages—This is coverage that policy holders purchase as part of their automobile insurance. It pays for damages incurred when an at-fault driver does not have any coverage (uninsured motorist) or does not have enough coverage (underinsured motorist) to pay for the damages.

Consumers in Wisconsin buy their auto coverages, including UM and UIM, on each vehicle they own. On average, consumers in Wisconsin carry \$100,000 worth of UM and UIM coverages. If they own two vehicles, they are likely to have UM and UIM coverage on both vehicles.


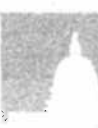
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THE ISSUE

Automobile Insurance Stacking

What does it mean for Wisconsin consumers?

Support
SB 6
AB 25

WHAT DOES STACKING REALLY MEAN?


The short answer is this: Consumers will pay more for auto insurance.

Here's why.

Insurance in Wisconsin is sold on a per-vehicle basis for a couple of very important, and consumer-oriented reasons. One, the cost of automobile insurance for each car can be kept to a minimum and two, an insured driver can choose how much insurance to carry on any one of his or her vehicles. For example, the old pick-up you drive to the city landfill a few times a year doesn't need—and you probably don't want to buy—the amount of UM or UIM coverage you must have for the car you drive on the highways every day.

Stacking of coverages as mandated by the court, removes the consumer's opportunity to choose the coverages he or she wants to buy. Stacking means that insurance companies must figure their liability will be determined by the total amount of UM/UIM coverage a driver has on all his or her vehicles rather than by how much UM/UIM coverage that driver has on a particular car.

The bottom line? Everybody pays more.



Support
SB 6
AB 25

SB 6/AB 25: THE PROPOSED CORRECTION

These bills reverse the strained judicial interpretation we've described here and return Wisconsin to the traditional buying arrangement. How?

#1

SB 6 and AB 25 contain a technical amendment that returns Section 631.43 (1) of the Wisconsin Statutes to its original intent. The Supreme Court misconstrued the original legislative intent of the Statute.

#2

SB 6 and AB 25 return to Wisconsin citizens the flexibility to choose the coverage they truly need for their individual situations. It does away with the "one-size fits all" philosophy that magnifies coverages based not on what a consumer has decided to purchase, but on the number of cars that consumer owns.

#3

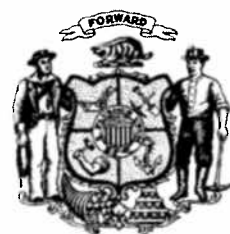
SB 6 and AB 25 give the auto insurance consumer the chance to save money if he or she elects to do so by giving the consumer the option to buy—or not to buy—expanded UM/UIM protection to fit his or her own needs.

For additional information, contact:
Eric Englund, President of the Wisconsin Insurance Alliance,
44 E. Mifflin Street, Suite 205, Madison, WI 53703, (608) 255-1749.





WISCONSIN STATE LEGISLATURE



FEB 14 1995

February 13, 1995

State Representative Sheryl Albers
Wisconsin State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Representative Albers: Re: 1995 Senate Bill 6 (Stacking)

My name is Evelyn Lamont, and I was involved in a serious automobile accident on March 28, 1993. As a result of the accident, I suffered a spinal injury which left me a paraplegic, resulting in monumental expenses which will continue the rest of my life.

I was a passenger in a vehicle driven by a party who carried a \$50,000.00 limit of liability, which, of course, did not cover the first week of my expenses. If it were not for the fact that I carried underinsured coverage on two vehicles I owned, my only recourse would have been to apply for state aid to help me with my medical expenses and supportive care which allows me to continue living in my own home.

According to proposed 1995 Senate Bill 6, this stacking of motor vehicle insurance coverage would be discontinued. Please consider this a plea that this change does not occur. I strongly feel that this is needed in cases such as mine.

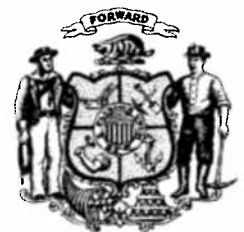
Sincerely,



Evelyn Lamont
W451 Oakwood Beach Road
Marinette, WI 54143



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone (608) 266-1304
Fax (608) 266-3830

DATE: March 2, 1995

TO: REPRESENTATIVE SHERYL ALBERS, CHAIRPERSON; AND MEMBERS
OF THE ASSEMBLY COMMITTEE ON INSURANCE, SECURITIES AND
CORPORATE POLICY

FROM: Gordon A. Anderson, Senior Staff Attorney

SUBJECT: Proposed Substitute Amendment __ (LRBs0041/1) to 1995 Senate Bill 6,
Relating to Notification of the Availability of Underinsured Motorist Cover-
age, Stacking of Motor Vehicle Insurance Coverage and Drive-Other-Car
Exclusions Under Motor Vehicle Policies

A. INTRODUCTION

The Assembly Committee on Insurance, Securities and Corporate Policy held a public hearing on 1995 Assembly Bill 25, relating to stacking of motor vehicle insurance coverage and drive-other-car exclusions under motor vehicle policies on February 9, 1995.

The Senate Committee on Judiciary held a public hearing on an identical bill, 1995 Senate Bill 6, on February 1, 1995. The Senate adopted Senate Amendment 1 and passed Senate Bill 6 on a vote of Ayes, 19; Noes, 12, on February 21, 1995. Senate Bill 6 was subsequently referred to the Assembly Committee on Insurance, Securities and Corporate Policy. An executive session will be held on Senate Bill 6 on *Tuesday, March 7, 1995, upon adjournment, in Room 2, Lower Level, 119 Martin Luther King, Jr., Boulevard.*

B. SENATE BILL 6

Senate Bill 6, as passed by the Senate, is *identical* to Assembly Bill 25 with one exception: Senate Amendment 1 clarifies the provision in Senate Bill 6 that permits the limits under the policy for uninsured or underinsured motorist coverage to be reduced by amounts paid by or on behalf of any person or organization that may be "legally responsible." Senate Amendment 1 restricts the provision to amounts paid by or on behalf of any person or organization that may be legally responsible *for the bodily injury or death for which the payment is made.*

C. PROPOSED ASSEMBLY SUBSTITUTE AMENDMENT __ (LRBs0041/1)

Proposed Assembly Substitute Amendment __ (LRBs0041/1) makes the following substantive changes in Senate Bill 6:

1. Limits of Uninsured Motorist Coverage

Current law permits insurers to offer *uninsured* motorist coverage only up to the bodily injury liability limits provided in the motor vehicle insurance policy. Under current law, the *minimum* amount of uninsured motorist coverage that can be sold is \$25,000 per person and \$50,000 per accident. If a person purchases bodily injury liability limits in the minimum amount, the uninsured motorist coverage can be issued only in those amounts.

SECTION 2 of the proposed Substitute Amendment deletes the restriction on the amount of uninsured motorist coverage purchased. Therefore, a person will be able to purchase as much uninsured motorist coverage as he or she wishes. [No similar change is necessary for underinsured motorist coverage provisions since there is currently no restriction on the amount of underinsured motorist coverage that a person may purchase.]

2. Underinsured Motorist Coverage

SECTION 3 of the proposed Substitute Amendment requires motor vehicle insurers to *offer* underinsured motorist coverage to persons purchasing motor vehicle insurance policies or renewing such policies.

An insurer that writes motor vehicle insurance coverage must provide a written notice of the availability of underinsured motorist coverage, including a brief description of the coverage, to *one person* who is insured under each new insurance policy that *goes into effect* after the effective date of the provision, if that policy does not include underinsured motorist coverage. This notice is required to be provided only one time and in conjunction with the delivery of the policy.

Also, an insurer must provide a written notice of the availability of underinsured motorist coverage, including a brief description of the coverage, to one insured under each insurance policy *that is in effect* on the effective date of the provision, if that policy does not include underinsured motorist coverage. The insurer must provide the notice only one time and in conjunction with the notice of the first renewal of each policy that occurs at least 120 days after the effective date of the provision.

The acceptance or rejection of underinsured motorist coverage by a person after he or she receives notice need not be in writing. Further, the absence of a premium payment for underinsured motorist coverage is "conclusive proof" that the person has rejected such coverage. The rejection of the coverage by the person who is notified applies to *all persons* who may be insured under the policy, including any renewal of the policy.

If a person rejects underinsured motorist coverage after being notified, the insurer is not required to provide the coverage to the person under a policy that is renewed by that insurer unless an insured under the policy subsequently requests the coverage in writing.

If an insured who is notified accepts underinsured motorist coverage, the insurer must provide coverage under the policy to the insured in limits of at least \$50,000 per person and \$100,000 per accident.

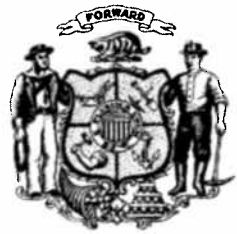
The mandatory offer of underinsured motorist coverage takes effect on the first day of the third month beginning after publication of the bill as an act. For example, if the bill is signed into law and published in March, the required offer of underinsured motorist coverage will apply to any new policies that go into effect after June 1, 1995. Further, offers of underinsured motorist coverage for renewals of insurance would have to be made with the notice of the first renewal of each policy that occurs after 120 days after June 1, 1995 (that is, after September 29, 1995).

If you have any questions or I can be of further assistance, please let me know.

GAA:ksm:kja;lah



WISCONSIN STATE LEGISLATURE





Wisconsin State Assembly

P.O. BOX 8952 • MADISON, WI 53708

MEMORANDUM

TO: INSURANCE, SECURITIES, AND CORPORATE POLICY COMMITTEE MEMBERS

FROM: REPRESENTATIVE SHERYL ALBERS, CHAIR

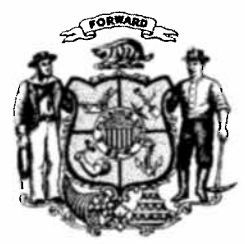
RE: AB25/SB6 SUBSTITUTE AMENDMENT

DATE: MARCH 2, 1995

Attached please find a copy of a proposed Assembly Substitute Amendment to 1995 Senate Bill 6. A memorandum from Legislative Council explaining the amendment will be forthcoming.



WISCONSIN STATE LEGISLATURE





BOB ZIEGELBAUER

STATE REPRESENTATIVE • 25TH ASSEMBLY DISTRICT

March 6, 1995

Representative Albers, Chair
Insurance, Securities, & Corporate Policy
136-S

Dear Rep. Albers:

Attached you will find two assembly substitute amendments, which I just received from drafting, for SB 6 (LRB a0448/1 and LRB a0449/1).

I will talk to you and Rep. Brancel tomorrow on the Assembly Floor before the Insurance Exec on these amendments. I will be happy to discuss any questions or concerns you may have.

Sincerely,

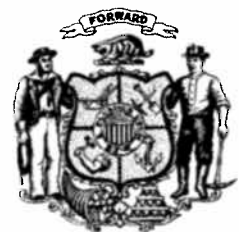
A handwritten signature in black ink, appearing to read "BZ", with a horizontal line extending to the right.

Bob Ziegelbauer
State Representative
25th Assembly District

BZ/lmw
Enclosures



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone (608) 266-1304
Fax (608) 266-3830

DATE: May 15, 1995

TO: SENATOR JOANNE HUELSMAN, CHAIRPERSON, SENATE COMMITTEE ON JUDICIARY

FROM: Gordon A. Anderson, Senior Staff Attorney

SUBJECT: Assembly Actions on 1995 Senate Bill 6, Relating to Stacking of Motor Vehicle Insurance Coverage and Drive-Other-Car Exclusions Under Motor Vehicle Policies

This memorandum describes 1995 Senate Bill 6, as passed by the Senate and the changes made to the Bill by Assembly Substitute Amendment 1 to Senate Bill 6. The Assembly adopted Assembly Substitute Amendment 1 by a voice vote, and concurred in the Bill, as amended, by a vote of Ayes, 96; Noes, 1, on April 6, 1995.

A. 1995 SENATE BILL 6

The Wisconsin statutes provide, in s. 631.43 (1), Stats.:

631.43 (1) GENERAL. When 2 or more policies promise to indemnify an insured against the same loss, no "other insurance" provisions of the policy may reduce the aggregate protection of the insured below the lesser of the actual insured loss suffered by the insured or the total indemnification promised by the policies if there were no "other insurance" provisions....

This provision, when coupled with s. 632.32 (3), Stats., relating to required provisions in motor vehicle insurance policies, has been interpreted to allow "stacking" of uninsured and underinsured motorist coverage from separate vehicles.

1995 Senate Bill 6 amends s. 631.43 (3), Stats., to provide that the prohibition contained in s. 631.43 (1), Stats., does not affect an insurer's right to limit or reduce coverages as provided under s. 632.32 (5) (f) to (j), Stats., as created by the Bill.

Section 632.32 (5) (f), Stats., as created by the Bill, permits motor vehicle insurance policies to prohibit "stacking" of uninsured or underinsured motorist coverage or any other coverage, such as medical payments coverage, provided under the policies.

Section 632.32 (5) (g), Stats., as created by the Bill, authorizes a policy to provide that, for a person who is injured or killed in an accident but who is not using a motor vehicle at the time of the accident, the maximum amount of uninsured or underinsured motorist coverage that will be available to that person is the **highest single limit of uninsured or underinsured coverage, whichever is applicable, for any vehicle** with respect to which the person is insured. For example, a pedestrian will not be able to accumulate the coverages applicable to a series of vehicles.

Under s. 632.32 (5) (h), Stats., as created by the Bill, a policy may limit coverage for medical payments for a person who was not using a motor vehicle at the time of the accident to the highest single limit of medical payments coverage for any motor vehicle with respect to which the person is insured.

Also, s. 632.32 (5) (i), Stats., as created by the Bill, permits motor vehicle insurance policies to reduce the limit that is payable for uninsured or underinsured motorist coverage for bodily injury or death by payments received from other sources, such as the amounts paid by a person who is legally responsible, the amounts paid or payable under the worker's compensation law and by amounts paid or payable under a disability benefits law. Senate Amendment 1, adopted by the Senate on a voice vote, restricts this provision to amounts paid by or on behalf of any person or organization that may be **legally responsible** for the bodily injury or death for which the payment is made.

The Bill will also reverse the court decisions which have invalidated "drive-other-car" exclusions by providing in s. 632.32 (5) (j), Stats., that a policy may exclude coverage for losses resulting from the use of a vehicle that: (1) is owned by the named insured or a family member residing with the named insured; (2) is not described in the policy under which the claim is made; and (3) is not covered under the terms of the policy as a newly acquired or replacement motor vehicle.

The Bill applies to motor vehicle policies that are issued or renewed after its effective date, except that if a **current** policy contains a provision authorized by the Bill, the provision is first enforceable with respect to claims arising out of motor vehicle accidents that occur on or after the effective date.

B. ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 makes no substantive **changes** in the provisions of Senate Bill 6; it **adds** the following provisions to Senate Bill 6:

1. Limits of Uninsured Motorist Coverage

Current law permits insurers to offer **uninsured** motorist coverage only up to the bodily injury liability limits provided in the motor vehicle insurance policy. Under current law, the

minimum amount of uninsured motorist coverage that can be sold is \$25,000 per person and \$50,000 per accident. If a person purchases bodily injury liability limits in the minimum amount, the uninsured motorist coverage can be issued only in those amounts.

SECTION 2 of Assembly Substitute Amendment 1 deletes the restriction on the amount of uninsured motorist coverage purchased. Therefore, a person will be able to purchase as much uninsured motorist coverage as he or she wishes. [No similar change is necessary for underinsured motorist coverage provisions since there is currently no restriction on the amount of underinsured motorist coverage that a person may purchase.]

2. Underinsured Motorist Coverage

SECTION 3 of Assembly Substitute Amendment 1 requires motor vehicle insurers to *offer* underinsured motorist coverage to persons purchasing motor vehicle insurance policies or renewing such policies.

An insurer that writes motor vehicle insurance coverage must provide a written notice of the availability of underinsured motorist coverage, including a brief description of the coverage, to *one person* who is insured under each new insurance policy that *goes into effect* after the effective date of the provision, if that policy does not include underinsured motorist coverage. This notice is required to be provided only one time and in conjunction with the delivery of the policy.

Also, an insurer must provide a written notice of the availability of underinsured motorist coverage, including a brief description of the coverage, to one insured under each insurance policy *that is in effect* on the effective date of the provision, if that policy does not include underinsured motorist coverage. The insurer must provide the notice only one time and in conjunction with the notice of the first renewal of each policy that occurs at least 120 days after the effective date of the provision.

The acceptance or rejection of underinsured motorist coverage by a person after he or she receives notice need not be in writing. Further, the absence of a premium payment for underinsured motorist coverage is "conclusive proof" that the person has rejected such coverage. The rejection of the coverage by the person who is notified applies to *all persons* who may be insured under the policy, including any renewal of the policy.

If a person rejects underinsured motorist coverage after being notified, the insurer is not required to provide the coverage to the person under a policy that is renewed by that insurer unless an insured under the policy subsequently requests the coverage in writing.

If an insured who is notified accepts underinsured motorist coverage, the insurer must provide coverage under the policy to the insured in limits of at least \$50,000 per person and \$100,000 per accident.

The mandatory offer of underinsured motorist coverage takes effect on the first day of the third month beginning after publication of the bill as an act. For example, if the bill is signed into law and published in May, the required offer of underinsured motorist coverage will

apply to any new policies that go into effect after August 1, 1995. Further, offers of underinsured motorist coverage for renewals of insurance would have to be made with the notice of the first renewal of each policy that occurs after 120 days after August 1, 1995 (that is, November 30, 1995 or later).

If you have any questions or I can be of further assistance, please let me know.

GAA:ksm:kja:kjf:wu:lah;kja;rjl;jt



SENATE BILL 6: WRITTEN TESTIMONY

1. DeanCare HMO
2. WI State AFL-CIO
3. Wisconsin Counties Association
4. Wisconsin Citizen Action
5. American Family Insurance
6. WATL
7. Sentry
8. Chatman Agency

A