

**2009 DRAFTING REQUEST**

**Bill**

Received: **02/03/2009**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Gauger**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Insurance - auto  
Transportation - other**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

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**Pre Topic:**

DOA:.....Gauger -

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**Topic:**

Uninsured and underinsured motorist coverage; auto insurance liability coverage limits

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**Instructions:**

See attached--0525/p1, Robson released for budget

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**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>         | <u>Reviewed</u>      | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>       | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|----------------------|------------------------|----------------|------------------------|-----------------|-----------------|
| /?           | chanaman<br>02/03/2009 | bkraft<br>02/03/2009 |                        | _____          |                        |                 |                 |
| /P1          |                        |                      | rschluet<br>02/03/2009 | _____          | sbasford<br>02/03/2009 |                 |                 |
| /1           | pkahler<br>02/04/2009  | bkraft<br>02/04/2009 | rschluet<br>02/04/2009 | _____          | mbarman<br>02/04/2009  |                 |                 |
| /2           | pkahler                | bkraft               | phenry                 | _____          | mbarman                |                 |                 |

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
|              | 02/06/2009     | 02/06/2009      | 02/06/2009   | _____          | 02/06/2009       |                 |                 |

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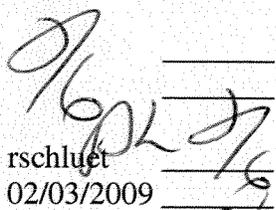
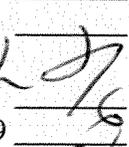
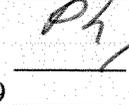
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| /P1          |                        |                      | rschluet<br>02/03/2009  |  | sbasford<br>02/03/2009 | _____           | _____           |
| /1           | pkahler<br>02/04/2009  | bkraft<br>02/04/2009 | rschluet<br>02/04/2009  |  | chanaman<br>02/04/2009 | _____           | _____           |

12 bjk 2/6

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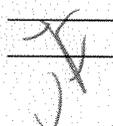
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV

done

1 AN ACT *to repeal* 632.32 (4) (a) (title), 632.32 (4) (a) 2., 632.32 (4) (b) (title) and  
 2 632.32 (4m); *to renumber* 632.32 (2) (a) and 632.32 (2) (c); *to renumber and*  
 3 *amend* 632.32 (4) (intro.) (except 632.32 (4) (title)), 632.32 (4) (a) 3., 632.32 (4)  
 4 (b), 632.32 (5) (f), 632.32 (5) (g), 632.32 (5) (h), 632.32 (5) (i) and 632.32 (5) (j);  
 5 *to amend* 62.67, 121.555 (2) (a), 344.01 (2) (d), 344.15 (1), 344.33 (2), 631.43 (3),  
 6 632.32 (4) (title) and 632.32 (4) (a) 1.; and *to create* 632.32 (2) (am), 632.32 (2)  
 7 (cm), 632.32 (2) (d), 632.32 (2) (e), 632.32 (2) (f), 632.32 (2) (g), 632.32 (4) (a) 2m.,  
 8 632.32 (4) (bc), 632.32 (4r) and 632.845 of the statutes; **relating to:** uninsured  
 9 and underinsured motorist coverages, coverage limits for and prohibited  
 10 provisions in motor vehicle liability insurance policies, and prohibiting a  
 11 refusal to pay a health care claim on the basis that a liability insurance policy  
 12 is liable for payment.

anal: title: head  
Insurance

the budget

**Analysis by the Legislative Reference Bureau**  
**Proof of financial responsibility**  
 Current law does not generally require motor vehicles operated in this state to be covered by policies of bodily injury and property damage liability insurance.

However, current law imposes certain financial responsibility requirements on owners and operators of motor vehicles involved in accidents. If a motor vehicle accident results in injury, death, or property damage of \$1,000 or more, the Department of Transportation (DOT) is required to notify the operator and owner of the vehicle involved in the accident that the person must deposit with DOT security for the accident in an amount specified by DOT, which DOT has determined is sufficient to satisfy any judgment for damages resulting from the accident. Unless an exception applies, if a person fails to timely deposit security after this notice, DOT must suspend the person's operating privilege if the person was the vehicle operator and suspend all vehicle registrations of the person if the person was the vehicle owner. One of the exceptions is that the person provides proof of financial responsibility. In addition, if DOT receives a certified copy of a judgment for damages of \$500 or more arising out of a motor vehicle accident, DOT must immediately suspend the operating privilege and all registrations of the person against whom the judgment was rendered unless the person can provide proof of financial responsibility. In both situations, proof of financial responsibility includes coverage under a motor vehicle liability insurance policy with the following minimum limits for any single accident: \$25,000 for bodily injury to or death of one person, \$50,000 for bodily injury to or death of more than one person, and \$10,000 for property damage. This bill increases the minimum limits required under a policy that is acceptable proof of financial responsibility to \$100,000 for bodily injury to or death of one person, \$300,000 for bodily injury to or death of more than one person, and \$25,000 for property damage.

#### ***Uninsured motorist and medical payments coverages***

Under current law, all motor vehicle liability insurance policies must include uninsured motorist coverage in limits of at least \$25,000 per person and \$50,000 per accident and medical payments coverage in the amount of at least \$1,000 per person. Uninsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of motor vehicles that are not insured. Medical payments coverage pays for medical or chiropractic services provided to persons who are injured while using the insured motor vehicle. The bill increases the level of uninsured motorist coverage that motor vehicle liability insurance policies must include to \$100,000 per person and \$300,000 per accident, and increases the level of medical payments coverage that those policies must include to \$10,000.

#### ***Underinsured motorist coverage***

Current law, while not requiring that motor vehicle liability insurance policies include underinsured motorist coverage, requires insurers to provide written notice of the availability of that coverage to one insured under each policy written after October 1, 1995, that does not include the coverage, as well as to one insured under each motor vehicle liability insurance policy in effect on that date that did not include the coverage. If an insured accepts underinsured motorist coverage after receiving notice of its availability, the policy must include the coverage in limits of at least \$50,000 per person and \$100,000 per accident. Underinsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily

injury from owners or operators of underinsured motor vehicles. "Underinsured motor vehicle" is not defined in the statutes.

The bill eliminates the requirement to provide notice of the availability of underinsured motorist coverage and requires every motor vehicle liability insurance policy to include that coverage in limits of at least \$100,000 per person and \$300,000 per accident. In addition, the bill defines an underinsured motor vehicle as a motor vehicle that is involved in an accident with an insured and which, at the time of the accident, was covered by a motor vehicle liability insurance policy with limits that are less than the amount needed to fully compensate the insured for his or her damages.

### ***Umbrella and excess liability insurance policies***

The Wisconsin Administrative Code exempts umbrella and excess liability insurance policies from the requirement under the statutes that a policy covering motor vehicle liability must include uninsured motorist coverage. Nothing in current law, however, exempts an insurer writing umbrella or excess liability insurance policies from the requirement to provide notice of the availability of underinsured motorist coverage. The bill affirmatively requires an insurer that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both uninsured motorist coverage and underinsured motorist coverage whenever application is made for such an umbrella or excess liability policy. The bill also requires an insurer to make a written offer of uninsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage and a written offer of underinsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage. An applicant or insured may reject the coverage, but must do so in writing. The bill provides that, if an insurer fails to provide a required written offer of uninsured or underinsured motorist coverage and the umbrella or excess liability policy does not include the coverage, or coverages, for which an offer was not given, a court must, on the request of the insured, reform the policy to include the coverage or coverages with the same limits as the liability coverage limits under the policy. This result modifies the decision of the Wisconsin Supreme Court in *Stone v. Acuity*, 2008 WI 30, 308 Wis. 2d 558, 747 N.W. 2d 766. In that case, the insurer had failed to provide notice of the availability of underinsured coverage for an umbrella insurance policy and the policy did not include that coverage. The court determined that in such a case the policy should be reformed to include underinsured coverage in the minimum amount that is required under the statute (\$50,000 per person and \$100,000 per accident).

### ***Miscellaneous motor vehicle liability insurance provisions***

Under current law, an uninsured motor vehicle is defined to include "an unidentified motor vehicle involved in a hit-and-run accident." The Wisconsin Supreme Court has held that, under this definition, actual contact is necessary. Consequently, uninsured motorist coverage does not apply if, for example, a motor vehicle is run off the road by another motor vehicle without actual contact between the two vehicles. The bill changes this so that actual contact is not necessary for

uninsured motorist coverage to apply. All that is required is that an unidentified motor vehicle be involved in the accident.

Current law specifies a number of provisions that are permissible in a motor vehicle liability insurance policy and a number of provisions that are prohibited in such a policy. The bill makes the following currently permissible provisions prohibited in a motor vehicle liability insurance policy:

1. Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine an overall limit of coverage available for a person in any one accident.

2. Providing that the maximum amount of uninsured or underinsured motorist coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident (such as a pedestrian) is any single limit of uninsured or underinsured motorist coverage for any vehicle with respect to which the person is insured at the time of the accident.

3. Providing that the maximum amount of medical payments coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident is any single limit of medical payments coverage for any vehicle with respect to which the person is insured at the time of the accident.

4. Providing that the limits under the policy for uninsured or underinsured motorist coverage for bodily injury or death resulting from an accident shall be reduced by amounts paid or payable by or on behalf of a person or organization that is legally responsible for the bodily injury or death; amounts paid or payable under any worker's compensation law; or amounts paid or payable under any disability benefits laws.

5. Providing that any coverage under the policy does not apply to a loss resulting from the use of a motor vehicle that is owned by the named insured or a spouse or relative of the named insured who lives in the named insured's household, that is not described in the policy, and that is not covered under the terms of the policy as a newly acquired or replacement motor vehicle.

***Requirement for health insurer to cover claims***

Finally, the bill prohibits a health insurer from refusing to cover claims for health care services provided to an insured on the basis that there may be coverage for those services under a liability insurance policy.

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

- 1           SECTION 1. 62.67<sup>✓</sup> of the statutes is amended to read:
- 2           **62.67 Uninsured motorist coverage; 1st class cities.** A 1st class city shall
- 3 provide uninsured motorist motor vehicle liability insurance coverage for motor
- 4 vehicles owned by the city and operated by city employees in the course of

1 employment. The coverage required by this section shall have at least the limits  
2 prescribed for uninsured motorist coverage under s. 632.32 (4) (a) 1.

3 **SECTION 2.** <sup>✓</sup> 121.555 (2) (a) of the statutes is amended to read:

4 121.555 (2) (a) *Insurance*. If the vehicle is owned or leased by a school or a  
5 school bus contractor, or is a vehicle authorized under sub. (1) (b), it shall comply with  
6 s. 121.53. If the vehicle is transporting 9 or less persons in addition to the operator  
7 and is not owned or leased by a school or by a school bus contractor, it shall be insured  
8 by a policy providing property damage coverage with a limit of not less than \$10,000  
9 \$25,000 and bodily injury liability coverage with limits of not less than \$25,000  
10 \$100,000 for each person, and, subject to the limit for each person, a total limit of not  
11 less than ~~\$50,000~~ \$300,000 for each accident.

12 **SECTION 3.** <sup>✓</sup> 344.01 (2) (d) of the statutes is amended to read:

13 344.01 (2) (d) "Proof of financial responsibility" or "proof of financial  
14 responsibility for the future" means proof of ability to respond in damages for  
15 liability on account of accidents occurring subsequent to the effective date of such  
16 proof, arising out of the maintenance or use of a motor vehicle in the amount of  
17 ~~\$25,000~~ \$100,000 because of bodily injury to or death of one person in any one  
18 accident and, subject to such limit for one person, in the amount of ~~\$50,000~~ \$300,000  
19 because of bodily injury to or death of 2 or more persons in any one accident and in  
20 the amount of ~~\$10,000~~ \$25,000 because of injury to or destruction of property of  
21 others in any one accident.

22 **SECTION 4.** <sup>✓</sup> 344.15 (1) of the statutes is amended to read:

23 344.15 (1) No policy or bond is effective under s. 344.14 unless issued by an  
24 insurer authorized to do an automobile liability or surety business in this state,  
25 except as provided in sub. (2), or unless the policy or bond is subject, if the accident

1 has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not  
2 less than ~~\$25,000~~ \$100,000 because of bodily injury to or death of one person in any  
3 one accident and, subject to that limit for one person, to a limit of not less than  
4 ~~\$50,000~~ \$300,000 because of bodily injury to or death of 2 or more persons in any one  
5 accident and, if the accident has resulted in injury to or destruction of property, to  
6 a limit of not less than ~~\$10,000~~ \$25,000 because of injury to or destruction of property  
7 of others in any one accident.

8 **SECTION 5.** <sup>✓</sup> 344.33 (2) of the statutes is amended to read:

9 344.33 (2) MOTOR VEHICLE LIABILITY POLICY. A motor vehicle policy of liability  
10 insurance shall insure the person named therein using any motor vehicle with the  
11 express or implied permission of the owner, or shall insure any motor vehicle owned  
12 by the named insured and any person using such motor vehicle with the express or  
13 implied permission of the named insured, against loss from the liability imposed by  
14 law for damages arising out of the maintenance or use of the motor vehicle within  
15 the United States of America or the Dominion of Canada, subject to the limits  
16 exclusive of interest and costs, with respect to each such motor vehicle as follows:  
17 ~~\$25,000~~ \$100,000 because of bodily injury to or death of one person in any one  
18 accident and, subject to such limit for one person, ~~\$50,000~~ \$300,000 because of bodily  
19 injury to or death of 2 or more persons in any one accident, and ~~\$10,000~~ \$25,000  
20 because of injury to or destruction of property of others in any one accident.

21 **SECTION 6.** <sup>✓</sup> 631.43 (3) of the statutes is amended to read:

22 631.43 (3) EXCEPTION. Subsection (1) does not affect the rights of insurers to  
23 ~~exclude, limit or reduce~~ restrict coverage under s. 632.32 (5) (b), or (c) ~~or (f) to (j)~~.

24 **SECTION 7.** <sup>✓</sup> 632.32 (2) (a) of the statutes is renumbered 632.32 (2) (at).

25 **SECTION 8.** <sup>✓</sup> 632.32 (2) (am) of the statutes is created to read:

1           632.32 (2) (am) "Medical payments coverage" means coverage to indemnify for  
2           medical payments or chiropractic payments or both for the protection of all persons  
3           using the insured motor vehicle from losses resulting from bodily injury or death.

4           SECTION 9. 632.32 (2) (c) of the statutes is renumbered 632.32 (2) (h).

5           SECTION 10. 632.32 (2) (cm) of the statutes is created to read:

6           632.32 (2) (cm) "Umbrella or excess liability policy" means an insurance  
7           contract providing at least \$1,000,000 of liability coverage per person or per  
8           occurrence in excess of certain required underlying liability insurance coverage or  
9           a specified amount of self-insured retention.

10          SECTION 11. 632.32 (2) (d) of the statutes is created to read:

11          632.32 (2) (d) "Underinsured motor vehicle" means a motor vehicle to which all  
12          of the following apply:

13           1. The motor vehicle is involved in an accident with a person who has  
14           underinsured motorist coverage.

15           2. A bodily injury liability insurance policy applies to the motor vehicle at the  
16           time of the accident.

17           3. The limits under the bodily injury liability insurance policy are less than the  
18           amount needed to fully compensate the insured for his or her damages.

19          SECTION 12. 632.32 (2) (e) of the statutes is created to read:

20          632.32 (2) (e) "Underinsured motorist coverage" means coverage for the  
21          protection of persons insured under that coverage who are legally entitled to recover  
22          damages for bodily injury, death, sickness, or disease from owners or operators of  
23          underinsured motor vehicles.

24          SECTION 13. 632.32 (2) (f) of the statutes is created to read:

1           632.32 (2) (f) "Uninsured motor vehicle" means a motor vehicle that is involved  
2 in an accident with a person who has uninsured motorist coverage and with respect  
3 to which, at the time of the accident, a bodily injury liability insurance policy is not  
4 in effect and the owner or operator has not furnished proof of financial responsibility  
5 for the future under subch. III of ch. 344. "Uninsured motor vehicle" also includes  
6 both of the following motor vehicles involved in an accident with a person who has  
7 uninsured motorist coverage:

8           1. An insured motor vehicle if before or after the accident the liability insurer  
9 of the motor vehicle is declared insolvent by a court of competent jurisdiction.

10           2. An unidentified motor vehicle.

11           **SECTION 14.** <sup>✓</sup> 632.32 (2) (g) of the statutes is created to read:

12           632.32 (2) (g) "Uninsured motorist coverage" means coverage for the protection  
13 of persons insured under that coverage who are legally entitled to recover damages  
14 for bodily injury, death, sickness, or disease from owners or operators of uninsured  
15 motor vehicles.

16           **SECTION 15.** <sup>✓</sup> 632.32 (4) (title) of the statutes is amended to read:

17           632.32 (4) (title) REQUIRED UNINSURED MOTORIST, UNDERINSURED MOTORIST, AND  
18 MEDICAL PAYMENTS COVERAGES.

19           **SECTION 16.** <sup>✓</sup> 632.32 (4) (intro.) (except 632.32 (4) (title)) of the statutes is  
20 renumbered 632.32 (4) (a) (intro.) and amended to read:

21           632.32 (4) (a) (intro.) Every policy of insurance subject to this section that  
22 insures with respect to any motor vehicle registered or principally garaged in this  
23 state against loss resulting from liability imposed by law for bodily injury or death  
24 suffered by any person arising out of the ownership, maintenance, or use of a motor

1 vehicle shall contain therein or supplemental thereto the following provisions for all  
2 of the following coverages:

3 SECTION 17. 632.32 (4) (a) (title) of the statutes is repealed.

4 SECTION 18. 632.32 (4) (a) 1. of the statutes is amended to read:

5 632.32 (4) (a) 1. ~~For the protection of persons injured who are legally entitled~~  
6 ~~to recover damages from owners or operators of uninsured motor vehicles because~~  
7 ~~of bodily injury, sickness or disease, including death resulting therefrom~~ Uninsured  
8 motorist coverage, in limits of at least \$25,000 \$100,000 per person and \$50,000  
9 \$300,000 per accident.

10 SECTION 19. 632.32 (4) (a) 2. of the statutes is repealed.

11 SECTION 20. 632.32 (4) (a) 2m. of the statutes is created to read:

12 632.32 (4) (a) 2m. Underinsured motorist coverage, in limits of at least  
13 \$100,000 per person and \$300,000 per accident.

14 SECTION 21. 632.32 (4) (a) 3. of the statutes is renumbered 632.32 (4) (c) and  
15 amended to read:

16 632.32 (4) (c) Insurers Unless an insurer waives the right to subrogation,  
17 insurers making payment under the ~~uninsured motorists' coverage~~ any of the  
18 coverages under this subsection shall, to the extent of the payment, be subrogated  
19 to the rights of their insureds.

20 SECTION 22. 632.32 (4) (b) (title) of the statutes is repealed.

21 SECTION 23. 632.32 (4) (b) of the statutes is renumbered 632.32 (4) (a) 3m. and  
22 amended to read:

23 632.32 (4) (a) 3m. ~~To indemnify for medical payments or chiropractic payments~~  
24 ~~or both~~ Medical payments coverage, in the amount of at least \$1,000 \$10,000 per  
25 person ~~for protection of all persons using the insured motor vehicle from losses~~

1 ~~resulting from bodily injury or death. The named insured may reject the coverage.~~  
2 ~~If the named insured rejects the coverage, it need not be provided in a subsequent~~  
3 ~~renewal policy issued by the same insurer unless the insured requests it in writing.~~  
4 ~~Under the medical or chiropractic payments coverage, the insurer shall be~~  
5 ~~subrogated to the rights of its insured to the extent of its payments. Coverage written~~  
6 ~~under this paragraph subdivision may be excess coverage over any other source of~~  
7 ~~reimbursement to which the insured person has a legal right.~~

8 **SECTION 24.** <sup>✓</sup> 632.32 (4) (bc) of the statutes is created to read:

9 632.32 (4) (bc) Notwithstanding par. (a) 3m., the named insured may reject  
10 medical payments coverage. If the named insured rejects the coverage, the coverage  
11 need not be provided in a subsequent renewal policy issued by the same insurer  
12 unless the insured requests it in writing.

13 **SECTION 25.** <sup>✓</sup> 632.32 (4m) of the statutes is repealed.

14 **SECTION 26.** <sup>✓</sup> 632.32 (4r) of the statutes is created to read:

15 632.32 (4r) REQUIRED WRITTEN OFFERS OF UNINSURED MOTORIST AND  
16 UNDERINSURED MOTORIST COVERAGES FOR UMBRELLA OR EXCESS LIABILITY POLICIES. (a)  
17 An insurer writing umbrella or excess liability policies that insure with respect to a  
18 motor vehicle registered or principally garaged in this state against loss resulting  
19 from liability imposed by law for bodily injury or death suffered by a person arising  
20 out of the ownership, maintenance, or use of a motor vehicle shall provide written  
21 offers of uninsured motorist coverage and underinsured motorist coverage, which  
22 offers shall include a brief description of the coverage offered. An insurer is required  
23 to provide the offers required under this subsection only one time with respect to any  
24 policy in the manner provided in par. (b).

1           (b) 1. Each application for an umbrella or excess liability policy issued on or  
2 after the effective date of this subdivision .... [LRB inserts date], shall contain a  
3 written offer of uninsured motorist coverage and a written offer of underinsured  
4 motorist coverage.

5           2. For umbrella or excess liability policies that are in effect on the effective date  
6 of this subdivision .... [LRB inserts date], the insurer shall provide a written offer of  
7 uninsured motorist coverage to the named insureds under each policy that does not  
8 include uninsured motorist coverage and a written offer of underinsured motorist  
9 coverage to the named insureds under each policy that does not include  
10 underinsured motorist coverage. The insurer shall provide an offer under this  
11 subdivision in conjunction with the notice of the first renewal of the policy occurring  
12 after the effective date of this subdivision .... [LRB inserts date].

13           (c) An applicant or named insureds may reject one or both of the coverages  
14 offered, but must do so in writing. If the applicant or named insureds reject either  
15 of the coverages offered, the insurer is not required to provide the rejected coverage  
16 under a policy that is renewed to the person by that insurer unless an insured under  
17 the policy subsequently requests the rejected coverage in writing.

18           (d) If an umbrella or excess liability policy that was issued on or after the  
19 effective date of this paragraph ... [LRB inserts date], or an umbrella or excess  
20 liability policy that was in effect on, but renewed after, the effective date of this  
21 paragraph .... [LRB inserts date], includes neither uninsured motorist coverage nor  
22 underinsured motorist coverage, or only one of the coverages, and the insurer did not  
23 provide a written offer required under par. (b) 1. or 2. with respect to the coverage  
24 or coverages not included, on the request of the insured the court shall reform the  
25 policy to include the coverage or coverages not included and for which the insurer did

1 not provide a written offer, with the same limits as the liability coverage limits under  
2 the policy.

3 **SECTION 27.** 632.32 (5) (f) of the statutes is renumbered 632.32 (6) (d) and  
4 amended to read:

5 632.32 (6) (d) ~~A~~ No policy may provide that, regardless of the number of  
6 policies involved, vehicles involved, persons covered, claims made, vehicles or  
7 premiums shown on the policy, or premiums paid, the limits for any coverage under  
8 the policy may not be added to the limits for similar coverage applying to other motor  
9 vehicles to determine the limit of insurance coverage available for bodily injury or  
10 death suffered by a person in any one accident.

11 **SECTION 28.** 632.32 (5) (g) of the statutes is renumbered 632.32 (6) (e) and  
12 amended to read:

13 632.32 (6) (e) ~~A~~ No policy may provide that the maximum amount of uninsured  
14 motorist coverage or underinsured motorist coverage available for bodily injury or  
15 death suffered by a person who was not using a motor vehicle at the time of an  
16 accident is ~~the highest~~ any single limit of uninsured motorist coverage or  
17 underinsured motorist coverage, whichever is applicable, for any motor vehicle with  
18 respect to which the person is insured.

19 **SECTION 29.** 632.32 (5) (h) of the statutes is renumbered 632.32 (6) (f) and  
20 amended to read:

21 632.32 (6) (f) ~~A~~ No policy may provide that the maximum amount of medical  
22 payments coverage available for bodily injury or death suffered by a person who was  
23 not using a motor vehicle at the time of an accident is ~~the highest~~ any single limit of  
24 medical payments coverage for any motor vehicle with respect to which the person  
25 is insured.

1            **SECTION 30.** 632.32 (5) (i) of the statutes is renumbered 632.32 (6) (g), and  
2            632.32 (6) (g) (intro.), as renumbered, is amended to read:

3            632.32 (6) (g) (intro.) ~~A~~ No policy may provide that the limits under the policy  
4            for uninsured motorist coverage or underinsured motorist coverage for bodily injury  
5            or death resulting from any one accident shall be reduced by any of the following that  
6            apply:

7            **SECTION 31.** 632.32 (5) (j) of the statutes is renumbered 632.32 (6) (h), and  
8            632.32 (6) (h) (intro.), as renumbered, is amended to read:

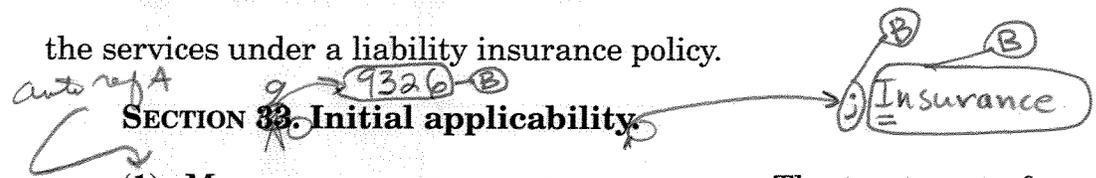
9            632.32 (6) (h) (intro.) ~~A~~ No policy may provide that any coverage under the  
10            policy does not apply to a loss resulting from the use of a motor vehicle that meets  
11            all of the following conditions:

12            **SECTION 32.** 632.845 of the statutes is created to read:

13            **632.845 Prohibiting refusal to cover services because liability policy**

14            **may cover. (1)** In this section, "health care plan" has the meaning given in s. 628.36  
15            (2) (a) 1.

16            (2) An insurer that provides coverage under a health care plan may not refuse  
17            to cover health care services that are provided to an insured under the plan and for  
18            which there is coverage under the plan on the basis that there may be coverage for  
19            the services under a liability insurance policy.

20            **SECTION 33. Initial applicability.** 

21            (1) **MOTOR VEHICLE INSURANCE COVERAGES.** The treatment of sections 62.67,  
22            121.555 (2) (a), 631.43 (3), and 632.32 (2) (a), (am), (c), (cm), (d), (e), (f), and (g), (4)  
23            (title), (intro.), (a) (title), 1., 2., 2m., and 3., (bc), (4m), and (5) (f), (g), (h), (i), and (j)  
24            of the statutes, the repeal of section 632.32 (4) (b) (title) of the statutes, and the  
25            renumbering and amendment of section 632.32 (4) (b) of the statutes first apply to

1 motor vehicle insurance policies issued or renewed on the effective date of this  
2 subsection.

*auto ref B*

3 (2) FINANCIAL RESPONSIBILITY.

*auto-ref 1*  
*insert*

4 (a) The treatment of section 344.15 (1) of the statutes first applies with respect  
5 to accidents occurring on the effective date of this paragraph.

*auto-ref 2*  
*insert*

6 (b) The treatment of sections 344.01 (2) (d) and 344.33 (2) of the statutes first  
7 applies to proof of financial responsibility or proof of financial responsibility for the  
8 future that is furnished on the effective date of this paragraph.

*auto ref C*

9 (3) PAYMENT FOR HEALTH CARE SERVICES.

*auto-ref 3*

10 (a) Subject to paragraph (b), the treatment of section 632.845 of the statutes  
11 first applies to claims for payment of health care services that are made on the  
12 effective date of this paragraph.

*auto-ref 4*

13 (b) If a health care plan that is in effect on the effective date of this paragraph  
14 contains a provision that is inconsistent with the treatment of section 632.845 of the  
15 statutes, the treatment of section 632.845 of the statutes first applies to that health  
16 care plan on the date on which it is renewed.

17 **SECTION 34. Effective date.**

18 (1) This act takes effect on the first day of the 5th month beginning after  
19 publication.

20

(END)

*Insert 14-19*

Insert 14-19

(B)

SECTION 9426 Effective dates Insurance

(1) ~~Insurance~~ Motor vehicle coverages and liability provisions. The treatment of sections 62067

121.555(2)(a) 344.01(2)(d) 344.15(1) 344.33(2)

631.43(3) 632.32(2)(a) (am) (c) (cm) (d)

(e) (f) and (g) (4) (title) (intro) (a) (title) b

20 2m and 30 (bc) (4m) (4r) (5) (f) (g)

(h) (i) (j) and 632.845 of the statutes the

repeal of section 632.32(4)(b) (title) of the statutes

the renumbering and amendment of section

632.32(4) (b) of the statutes and SECTION

9326(1)(2)(a) and (b) and (3)(a) and (b) of this

act take effect on the first day of the 5th

month beginning after publication

(end of ins 14-19)

**Kahler, Pam**

---

**From:** Gauger, Michelle C - DOA [Michelle.Gauger@Wisconsin.gov]  
**Sent:** Wednesday, February 04, 2009 8:29 AM  
**To:** Kahler, Pam  
**Cc:** Jablonsky, Sue - DOA  
**Subject:** FW: Truth in Auto bill draft  
**Importance:** High  
**Attachments:** pdf icon; image001.gif; image002.gif; image003.gif

Pam, can you please make the following change to draft 09-1924, Uninsured and underinsured motorist coverage? Please let me know if you have any questions or concerns.

Thank you.

Michelle Gauger  
266-3420

---

**From:** Shaul, Kimberly A - OCI  
**To:** Schooff, Dan - DOA; Schmiedicke, David P - DOA  
**Cc:** Shaul, Kimberly A - OCI  
**Sent:** Tue Feb 03 18:35:56 2009  
**Subject:** Truth in Auto bill draft  
Dan and Dave:

Below is section 26 of the Truth in Auto bill draft that could create issues for commercial liability policies issued by small insurers, town mutual insurers and insurers serving specialized markets. These types of insurers may find it difficult to obtain reinsurance for UM (uninsured) and UIM (underinsured) coverage and may incur significant additional administrative costs to do so.

This same issue was raised in the rule making process resulting from the *Rebernick* and *Rocker* WI Supreme Court decisions. INS 6.77 rule requires that commercial automobile policies provide UM coverage. General commercial liability policies, if they include coverage for owned motor vehicles, must also provide UM coverage. A notice of the availability of UIM coverage must also be given.

In rule 6.77, an exemption was created for town mutuals due to the reasons listed previously and I've added it below as suggested new language for the Truth in Auto bill draft.

I will review again tomorrow, as well, and if there are any additional improvements to the proposed change - I will share ASAP in the morning.

Thanks! Call if questions.

Kim

SECTION 26. 632.32 (4r) of the statutes is created to read:

632.32 (4r) REQUIRED WRITTEN OFFERS OF UNINSURED MOTORIST AND

## UNDERINSURED MOTORIST COVERAGES FOR UMBRELLA OR EXCESS LIABILITY POLICIES. (a)

An insurer writing umbrella or excess liability policies that insure with respect to a motor vehicle registered or principally garaged in this state against loss resulting from liability imposed by law for bodily injury or death suffered by a person arising out of the ownership, maintenance, or use of a motor vehicle shall provide written offers of uninsured motorist coverage and underinsured motorist coverage, which offers shall include a brief description of the coverage offered. An insurer is required to provide the offers required under this subsection only one time with respect to any policy in the manner provided in par. (b).

**This is suggested language to add which would exempt town mutuals and certain specialized insurers:**

**"Any commercial liability policy (as defined in INS 6.77 (3) (am) \*\*\*) issued or renewed on or after July 1, 2007, is**

**exempt from these requirements if its coverage of the insured's liability arising out of the maintenance or use of a motor vehicle is limited to coverage for non-owned motor vehicles."**

\*\*\*Ins 6.77(3)(am)

(am) "Commercial liability policy" means any form of liability insurance policy, including a commercial or business package policy or a policy written on farm and agriculture operations, that is intended principally to provide primary coverage for the insured's general liability arising out of its business or other commercial activities, and which includes coverage for the insured's liability arising out of the ownership, maintenance or use of motor vehicles as only one component of the policy or as coverage that is only incidental to the principal purpose of the policy.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1924/P1

PJK:bjk:rs

stay r m s run

DOA:.....Gauger - Uninsured and underinsured motorist coverage; auto insurance liability coverage limits

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

9/19/11

SA -  
Insert

do not go out

1 AN ACT relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**INSURANCE**

***Proof of financial responsibility***

Current law does not generally require motor vehicles operated in this state to be covered by policies of bodily injury and property damage liability insurance. However, current law imposes certain financial responsibility requirements on owners and operators of motor vehicles involved in accidents. If a motor vehicle accident results in injury, death, or property damage of \$1,000 or more, the Department of Transportation (DOT) is required to notify the operator and owner of the vehicle involved in the accident that the person must deposit with DOT security for the accident in an amount specified by DOT, which DOT has determined is sufficient to satisfy any judgment for damages resulting from the accident. Unless an exception applies, if a person fails to timely deposit security after this notice, DOT must suspend the person's operating privilege if the person was the vehicle operator and suspend all vehicle registrations of the person if the person was the vehicle owner. One of the exceptions is that the person provides proof of financial responsibility. In addition, if DOT receives a certified copy of a judgment for damages of \$500 or more arising out of a motor vehicle accident, DOT must immediately suspend the operating privilege and all registrations of the person against whom the

judgment was rendered unless the person can provide proof of financial responsibility. In both situations, proof of financial responsibility includes coverage under a motor vehicle liability insurance policy with the following minimum limits for any single accident: \$25,000 for bodily injury to or death of one person, \$50,000 for bodily injury to or death of more than one person, and \$10,000 for property damage. This bill increases the minimum limits required under a policy that is acceptable proof of financial responsibility to \$100,000 for bodily injury to or death of one person, \$300,000 for bodily injury to or death of more than one person, and \$25,000 for property damage.

#### ***Uninsured motorist and medical payments coverages***

Under current law, all motor vehicle liability insurance policies must include uninsured motorist coverage in limits of at least \$25,000 per person and \$50,000 per accident and medical payments coverage in the amount of at least \$1,000 per person. Uninsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of motor vehicles that are not insured. Medical payments coverage pays for medical or chiropractic services provided to persons who are injured while using the insured motor vehicle. The bill increases the level of uninsured motorist coverage that motor vehicle liability insurance policies must include to \$100,000 per person and \$300,000 per accident, and increases the level of medical payments coverage that those policies must include to \$10,000.

#### ***Underinsured motorist coverage***

Current law, while not requiring that motor vehicle liability insurance policies include underinsured motorist coverage, requires insurers to provide written notice of the availability of that coverage to one insured under each policy written after October 1, 1995, that does not include the coverage, as well as to one insured under each motor vehicle liability insurance policy in effect on that date that did not include the coverage. If an insured accepts underinsured motorist coverage after receiving notice of its availability, the policy must include the coverage in limits of at least \$50,000 per person and \$100,000 per accident. Underinsured motorist coverage provides coverage for persons who are legally entitled to recover damages for bodily injury from owners or operators of underinsured motor vehicles. "Underinsured motor vehicle" is not defined in the statutes.

The bill eliminates the requirement to provide notice of the availability of underinsured motorist coverage and requires every motor vehicle liability insurance policy to include that coverage in limits of at least \$100,000 per person and \$300,000 per accident. In addition, the bill defines an underinsured motor vehicle as a motor vehicle that is involved in an accident with an insured and which, at the time of the accident, was covered by a motor vehicle liability insurance policy with limits that are less than the amount needed to fully compensate the insured for his or her damages.

#### ***Umbrella and excess liability insurance policies***

The Wisconsin Administrative Code exempts umbrella and excess liability insurance policies from the requirement under the statutes that a policy covering motor vehicle liability must include uninsured motorist coverage. Nothing in

current law, however, exempts an insurer writing umbrella or excess liability insurance policies from the requirement to provide notice of the availability of underinsured motorist coverage. The bill affirmatively requires an insurer that writes umbrella or excess liability policies that cover motor vehicle liability to make a written offer of both uninsured motorist coverage and underinsured motorist coverage whenever application is made for such an umbrella or excess liability policy. The bill also requires an insurer to make a written offer of uninsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage and a written offer of underinsured motorist coverage at the first renewal after the effective date of the bill of such a policy that does not include that coverage. An applicant or insured may reject the coverage, but must do so in writing. The bill provides that, if an insurer fails to provide a required written offer of uninsured or underinsured motorist coverage and the umbrella or excess liability policy does not include the coverage, or coverages, for which an offer was not given, a court must, on the request of the insured, reform the policy to include the coverage or coverages with the same limits as the liability coverage limits under the policy. This result modifies the decision of the Wisconsin Supreme Court in *Stone v. Acuity*, 2008 WI 30, 308 Wis. 2d 558, 747 N.W. 2d 766. In that case, the insurer had failed to provide notice of the availability of underinsured coverage for an umbrella insurance policy and the policy did not include that coverage. The court determined that in such a case the policy should be reformed to include underinsured coverage in the minimum amount that is required under the statute (\$50,000 per person and \$100,000 per accident).

#### ***Miscellaneous motor vehicle liability insurance provisions***

Under current law, an uninsured motor vehicle is defined to include "an unidentified motor vehicle involved in a hit-and-run accident." The Wisconsin Supreme Court has held that, under this definition, actual contact is necessary. Consequently, uninsured motorist coverage does not apply if, for example, a motor vehicle is run off the road by another motor vehicle without actual contact between the two vehicles. The bill changes this so that actual contact is not necessary for uninsured motorist coverage to apply. All that is required is that an unidentified motor vehicle be involved in the accident.

Current law specifies a number of provisions that are permissible in a motor vehicle liability insurance policy and a number of provisions that are prohibited in such a policy. The bill makes the following currently permissible provisions prohibited in a motor vehicle liability insurance policy:

1. Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for coverage under the policy may not be added to the limits for similar coverage applying to other motor vehicles to determine an overall limit of coverage available for a person in any one accident.

2. Providing that the maximum amount of uninsured or underinsured motorist coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident (such as a pedestrian) is any single limit of uninsured or underinsured motorist coverage for any vehicle with respect to which the person is insured at the time of the accident.

3. Providing that the maximum amount of medical payments coverage available for bodily injury or death suffered by a person not using a motor vehicle in an accident is any single limit of medical payments coverage for any vehicle with respect to which the person is insured at the time of the accident.

4. Providing that the limits under the policy for uninsured or underinsured motorist coverage for bodily injury or death resulting from an accident shall be reduced by amounts paid or payable by or on behalf of a person or organization that is legally responsible for the bodily injury or death; amounts paid or payable under any worker's compensation law; or amounts paid or payable under any disability benefits laws.

5. Providing that any coverage under the policy does not apply to a loss resulting from the use of a motor vehicle that is owned by the named insured or a spouse or relative of the named insured who lives in the named insured's household, that is not described in the policy, and that is not covered under the terms of the policy as a newly acquired or replacement motor vehicle.

***Requirement for health insurer to cover claims***

Finally, the bill prohibits a health insurer from refusing to cover claims for health care services provided to an insured on the basis that there may be coverage for those services under a liability insurance policy.

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

1           **SECTION 1.** 62.67 of the statutes is amended to read:

2           **62.67 Uninsured motorist coverage; 1st class cities.** A 1st class city shall  
3 provide uninsured motorist motor vehicle liability insurance coverage for motor  
4 vehicles owned by the city and operated by city employees in the course of  
5 employment. The coverage required by this section shall have at least the limits  
6 prescribed for uninsured motorist coverage under s. 632.32 (4) (a) 1.

7           **SECTION 2.** 121.555 (2) (a) of the statutes is amended to read:

8           121.555 (2) (a) *Insurance.* If the vehicle is owned or leased by a school or a  
9 school bus contractor, or is a vehicle authorized under sub. (1) (b), it shall comply with  
10 s. 121.53. If the vehicle is transporting 9 or less persons in addition to the operator  
11 and is not owned or leased by a school or by a school bus contractor, it shall be insured  
12 by a policy providing property damage coverage with a limit of not less than \$10,000

1     ~~\$25,000~~ and bodily injury liability coverage with limits of not less than ~~\$25,000~~  
2     ~~\$100,000~~ for each person, and, subject to the limit for each person, a total limit of not  
3     less than ~~\$50,000~~ \$300,000 for each accident.

4           **SECTION 3.** 344.01 (2) (d) of the statutes is amended to read:

5           344.01 (2) (d) "Proof of financial responsibility" or "proof of financial  
6     responsibility for the future" means proof of ability to respond in damages for  
7     liability on account of accidents occurring subsequent to the effective date of such  
8     proof, arising out of the maintenance or use of a motor vehicle in the amount of  
9     ~~\$25,000~~ \$100,000 because of bodily injury to or death of one person in any one  
10    accident and, subject to such limit for one person, in the amount of ~~\$50,000~~ \$300,000  
11    because of bodily injury to or death of 2 or more persons in any one accident and in  
12    the amount of ~~\$10,000~~ \$25,000 because of injury to or destruction of property of  
13    others in any one accident.

14           **SECTION 4.** 344.15 (1) of the statutes is amended to read:

15           344.15 (1) No policy or bond is effective under s. 344.14 unless issued by an  
16     insurer authorized to do an automobile liability or surety business in this state,  
17     except as provided in sub. (2), or unless the policy or bond is subject, if the accident  
18     has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not  
19     less than ~~\$25,000~~ \$100,000 because of bodily injury to or death of one person in any  
20     one accident and, subject to that limit for one person, to a limit of not less than  
21     ~~\$50,000~~ \$300,000 because of bodily injury to or death of 2 or more persons in any one  
22     accident and, if the accident has resulted in injury to or destruction of property, to  
23     a limit of not less than ~~\$10,000~~ \$25,000 because of injury to or destruction of property  
24     of others in any one accident.

25           **SECTION 5.** 344.33 (2) of the statutes is amended to read:

1           344.33 (2) MOTOR VEHICLE LIABILITY POLICY. A motor vehicle policy of liability  
2 insurance shall insure the person named therein using any motor vehicle with the  
3 express or implied permission of the owner, or shall insure any motor vehicle owned  
4 by the named insured and any person using such motor vehicle with the express or  
5 implied permission of the named insured, against loss from the liability imposed by  
6 law for damages arising out of the maintenance or use of the motor vehicle within  
7 the United States of America or the Dominion of Canada, subject to the limits  
8 exclusive of interest and costs, with respect to each such motor vehicle as follows:  
9 \$25,000 \$100,000 because of bodily injury to or death of one person in any one  
10 accident and, subject to such limit for one person, \$50,000 \$300,000 because of bodily  
11 injury to or death of 2 or more persons in any one accident, and \$10,000 \$25,000  
12 because of injury to or destruction of property of others in any one accident.

13           **SECTION 6.** 631.43 (3) of the statutes is amended to read:

14           631.43 (3) EXCEPTION. Subsection (1) does not affect the rights of insurers to  
15 ~~exclude, limit or reduce~~ restrict coverage under s. 632.32 (5) (b), or (c) ~~or (f) to (j)~~.

16           **SECTION 7.** 632.32 (2) (a) of the statutes is renumbered 632.32 (2) (at).

17           **SECTION 8.** 632.32 (2) (am) of the statutes is created to read:

18           632.32 (2) (am) "Medical payments coverage" means coverage to indemnify for  
19 medical payments or chiropractic payments or both for the protection of all persons  
20 using the insured motor vehicle from losses resulting from bodily injury or death.

21           **SECTION 9.** 632.32 (2) (c) of the statutes is renumbered 632.32 (2) (h).

22           **SECTION 10.** 632.32 (2) (cm) of the statutes is created to read:

23           632.32 (2) (cm) "Umbrella or excess liability policy" means an insurance  
24 contract providing at least \$1,000,000 of liability coverage per person or per

1 occurrence in excess of certain required underlying liability insurance coverage or  
2 a specified amount of self-insured retention.

3 **SECTION 11.** 632.32 (2) (d) of the statutes is created to read:

4 632.32 (2) (d) "Underinsured motor vehicle" means a motor vehicle to which all  
5 of the following apply:

6 1. The motor vehicle is involved in an accident with a person who has  
7 underinsured motorist coverage.

8 2. A bodily injury liability insurance policy applies to the motor vehicle at the  
9 time of the accident.

10 3. The limits under the bodily injury liability insurance policy are less than the  
11 amount needed to fully compensate the insured for his or her damages.

12 **SECTION 12.** 632.32 (2) (e) of the statutes is created to read:

13 632.32 (2) (e) "Underinsured motorist coverage" means coverage for the  
14 protection of persons insured under that coverage who are legally entitled to recover  
15 damages for bodily injury, death, sickness, or disease from owners or operators of  
16 underinsured motor vehicles.

17 **SECTION 13.** 632.32 (2) (f) of the statutes is created to read:

18 632.32 (2) (f) "Uninsured motor vehicle" means a motor vehicle that is involved  
19 in an accident with a person who has uninsured motorist coverage and with respect  
20 to which, at the time of the accident, a bodily injury liability insurance policy is not  
21 in effect and the owner or operator has not furnished proof of financial responsibility  
22 for the future under subch. III of ch. 344. "Uninsured motor vehicle" also includes  
23 both of the following motor vehicles involved in an accident with a person who has  
24 uninsured motorist coverage:

1           1. An insured motor vehicle if before or after the accident the liability insurer  
2 of the motor vehicle is declared insolvent by a court of competent jurisdiction.

3           2. An unidentified motor vehicle.

4           **SECTION 14.** 632.32 (2) (g) of the statutes is created to read:

5           632.32 (2) (g) "Uninsured motorist coverage" means coverage for the protection  
6 of persons insured under that coverage who are legally entitled to recover damages  
7 for bodily injury, death, sickness, or disease from owners or operators of uninsured  
8 motor vehicles.

9           **SECTION 15.** 632.32 (4) (title) of the statutes is amended to read:

10          632.32 (4) (title) REQUIRED UNINSURED MOTORIST, UNDERINSURED MOTORIST, AND  
11 MEDICAL PAYMENTS COVERAGES.

12          **SECTION 16.** 632.32 (4) (intro.) (except 632.32 (4) (title)) of the statutes is  
13 renumbered 632.32 (4) (a) (intro.) and amended to read:

14          632.32 (4) (a) (intro.) Every policy of insurance subject to this section that  
15 insures with respect to any motor vehicle registered or principally garaged in this  
16 state against loss resulting from liability imposed by law for bodily injury or death  
17 suffered by any person arising out of the ownership, maintenance, or use of a motor  
18 vehicle shall contain therein or supplemental thereto the following provisions for all  
19 of the following coverages:

20          **SECTION 17.** 632.32 (4) (a) (title) of the statutes is repealed.

21          **SECTION 18.** 632.32 (4) (a) 1. of the statutes is amended to read:

22          632.32 (4) (a) 1. ~~For the protection of persons injured who are legally entitled~~  
23 ~~to recover damages from owners or operators of uninsured motor vehicles because~~  
24 ~~of bodily injury, sickness or disease, including death resulting therefrom~~ Uninsured

1 motorist coverage, in limits of at least ~~\$25,000~~ \$100,000 per person and ~~\$50,000~~  
2 \$300,000 per accident.

3 **SECTION 19.** 632.32 (4) (a) 2. of the statutes is repealed.

4 **SECTION 20.** 632.32 (4) (a) 2m. of the statutes is created to read:

5 632.32 (4) (a) 2m. Underinsured motorist coverage, in limits of at least  
6 \$100,000 per person and \$300,000 per accident.

7 **SECTION 21.** 632.32 (4) (a) 3. of the statutes is renumbered 632.32 (4) (c) and  
8 amended to read:

9 632.32 (4) (c) Insurers Unless an insurer waives the right to subrogation,  
10 insurers making payment under ~~the uninsured motorists' coverage~~ any of the  
11 coverages under this subsection shall, to the extent of the payment, be subrogated  
12 to the rights of their insureds.

13 **SECTION 22.** 632.32 (4) (b) (title) of the statutes is repealed.

14 **SECTION 23.** 632.32 (4) (b) of the statutes is renumbered 632.32 (4) (a) 3m. and  
15 amended to read:

16 632.32 (4) (a) 3m. ~~To indemnify for medical payments or chiropractic payments~~  
17 ~~or both~~ Medical payments coverage, in the amount of at least ~~\$1,000~~ \$10,000 per  
18 person for ~~protection of all persons using the insured motor vehicle from losses~~  
19 ~~resulting from bodily injury or death.~~ ~~The named insured may reject the coverage.~~  
20 ~~If the named insured rejects the coverage, it need not be provided in a subsequent~~  
21 ~~renewal policy issued by the same insurer unless the insured requests it in writing.~~  
22 ~~Under the medical or chiropractic payments coverage, the insurer shall be~~  
23 ~~subrogated to the rights of its insured to the extent of its payments.~~ Coverage written  
24 under this ~~paragraph~~ subdivision may be excess coverage over any other source of  
25 reimbursement to which the insured person has a legal right.

1           **SECTION 24.** 632.32 (4) (bc) of the statutes is created to read:

2           632.32 (4) (bc) Notwithstanding par. (a) 3m., the named insured may reject  
3           medical payments coverage. If the named insured rejects the coverage, the coverage  
4           need not be provided in a subsequent renewal policy issued by the same insurer  
5           unless the insured requests it in writing.

6           **SECTION 25.** 632.32 (4m) of the statutes is repealed.

7           **SECTION 26.** 632.32 (4r) of the statutes is created to read:

8           632.32 (4r)    REQUIRED WRITTEN OFFERS OF UNINSURED MOTORIST AND  
9           UNDERINSURED MOTORIST COVERAGES FOR UMBRELLA OR EXCESS LIABILITY POLICIES. (a)  
10          An insurer writing umbrella or excess liability policies that insure with respect to a  
11          motor vehicle registered or principally garaged in this state against loss resulting  
12          from liability imposed by law for bodily injury or death suffered by a person arising  
13          out of the ownership, maintenance, or use of a motor vehicle shall provide written  
14          offers of uninsured motorist coverage and underinsured motorist coverage, which  
15          offers shall include a brief description of the coverage offered. An insurer is required  
16          to provide the offers required under this subsection only one time with respect to any  
17          policy in the manner provided in par. (b).

18          (b) 1. Each application for an umbrella or excess liability policy issued on or  
19          after the effective date of this subdivision .... [LRB inserts date], shall contain a  
20          written offer of uninsured motorist coverage and a written offer of underinsured  
21          motorist coverage.

22          2. For umbrella or excess liability policies that are in effect on the effective date  
23          of this subdivision .... [LRB inserts date], the insurer shall provide a written offer of  
24          uninsured motorist coverage to the named insureds under each policy that does not  
25          include uninsured motorist coverage and a written offer of underinsured motorist

1 coverage to the named insureds under each policy that does not include  
2 underinsured motorist coverage. The insurer shall provide an offer under this  
3 subdivision in conjunction with the notice of the first renewal of the policy occurring  
4 after the effective date of this subdivision .... [LRB inserts date].

5 (c) An applicant or named insureds may reject one or both of the coverages  
6 offered, but must do so in writing. If the applicant or named insureds reject either  
7 of the coverages offered, the insurer is not required to provide the rejected coverage  
8 under a policy that is renewed to the person by that insurer unless an insured under  
9 the policy subsequently requests the rejected coverage in writing.

10 (d) If an umbrella or excess liability policy that was issued on or after the  
11 effective date of this paragraph .... [LRB inserts date], or an umbrella or excess  
12 liability policy that was in effect on, but renewed after, the effective date of this  
13 paragraph .... [LRB inserts date], includes neither uninsured motorist coverage nor  
14 underinsured motorist coverage, or only one of the coverages, and the insurer did not  
15 provide a written offer required under par. (b) 1. or 2. with respect to the coverage  
16 or coverages not included, on the request of the insured the court shall reform the  
17 policy to include the coverage or coverages not included and for which the insurer did  
18 not provide a written offer, with the same limits as the liability coverage limits under  
19 the policy.

Insert 11-19

20 SECTION 27. 632.32 (5) (f) of the statutes is renumbered 632.32 (6) (d) and  
21 amended to read:

22 632.32 (6) (d) ~~A~~ No policy may provide that, regardless of the number of  
23 policies involved, vehicles involved, persons covered, claims made, vehicles or  
24 premiums shown on the policy, or premiums paid, the limits for any coverage under  
25 the policy may not be added to the limits for similar coverage applying to other motor

1 vehicles to determine the limit of insurance coverage available for bodily injury or  
2 death suffered by a person in any one accident.

3 **SECTION 28.** 632.32 (5) (g) of the statutes is renumbered 632.32 (6) (e) and  
4 amended to read:

5 632.32 (6) (e) ~~A~~ No policy may provide that the maximum amount of uninsured  
6 motorist coverage or underinsured motorist coverage available for bodily injury or  
7 death suffered by a person who was not using a motor vehicle at the time of an  
8 accident is the ~~highest~~ any single limit of uninsured motorist coverage or  
9 underinsured motorist coverage, whichever is applicable, for any motor vehicle with  
10 respect to which the person is insured.

11 **SECTION 29.** 632.32 (5) (h) of the statutes is renumbered 632.32 (6) (f) and  
12 amended to read:

13 632.32 (6) (f) ~~A~~ No policy may provide that the maximum amount of medical  
14 payments coverage available for bodily injury or death suffered by a person who was  
15 not using a motor vehicle at the time of an accident is the ~~highest~~ any single limit of  
16 medical payments coverage for any motor vehicle with respect to which the person  
17 is insured.

18 **SECTION 30.** 632.32 (5) (i) of the statutes is renumbered 632.32 (6) (g), and  
19 632.32 (6) (g) (intro.), as renumbered, is amended to read:

20 632.32 (6) (g) (intro.) ~~A~~ No policy may provide that the limits under the policy  
21 for uninsured motorist coverage or underinsured motorist coverage for bodily injury  
22 or death resulting from any one accident shall be reduced by any of the following that  
23 apply:

24 **SECTION 31.** 632.32 (5) (j) of the statutes is renumbered 632.32 (6) (h), and  
25 632.32 (6) (h) (intro.), as renumbered, is amended to read:

1           632.32 (6) (h) (intro.) ~~A~~ No policy may provide that any coverage under the  
2 policy does not apply to a loss resulting from the use of a motor vehicle that meets  
3 all of the following conditions:

4           **SECTION 32.** 632.845 of the statutes is created to read:

5           **632.845 Prohibiting refusal to cover services because liability policy**  
6 **may cover.** (1) In this section, "health care plan" has the meaning given in s. 628.36  
7 (2) (a) 1.

8           (2) An insurer that provides coverage under a health care plan may not refuse  
9 to cover health care services that are provided to an insured under the plan and for  
10 which there is coverage under the plan on the basis that there may be coverage for  
11 the services under a liability insurance policy.

12           **SECTION 9326. Initial applicability; Insurance.**

13           (1) MOTOR VEHICLE INSURANCE COVERAGES. The treatment of sections 62.67,  
14 121.555 (2) (a), 631.43 (3), and 632.32 (2) (a), (am), (c), (cm), (d), (e), (f), and (g), (4)  
15 (title), (intro.), (a) (title), 1., 2., 2m., and 3., (bc), (4m), and (5) (f), (g), (h), (i), and (j)  
16 of the statutes, the repeal of section 632.32 (4) (b) (title) of the statutes, and the  
17 renumbering and amendment of section 632.32 (4) (b) of the statutes first apply to  
18 motor vehicle insurance policies issued or renewed on the effective date of this  
19 subsection.

20           (2) FINANCIAL RESPONSIBILITY.

21           (a) The treatment of section 344.15 (1) of the statutes first applies with respect  
22 to accidents occurring on the effective date of this paragraph.

23           (b) The treatment of sections 344.01 (2) (d) and 344.33 (2) of the statutes first  
24 applies to proof of financial responsibility or proof of financial responsibility for the  
25 future that is furnished on the effective date of this paragraph.



**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1924/lins  
PJK:.....

**INSERT 11-19**

1       ~~Q~~ (e) This subsection does not apply to a commercial liability policy, as defined  
2       in s. INS 6.77 (3) (am), Wis. adm. code, issued or renewed after June 30, 2007, that  
3       limits coverage of the insured's liability arising out of the maintenance or use of a  
4       motor vehicle to coverage for nonowned motor vehicles.

**(END OF INSERT 11-19)**

**Kahler, Pam**

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**From:** Gauger, Michelle C - DOA [Michelle.Gauger@Wisconsin.gov]  
**Sent:** Friday, February 06, 2009 8:53 AM  
**To:** Kahler, Pam  
**Cc:** Jablonsky, Sue - DOA  
**Subject:** Budget Bill Statutory Language Change - Uninsured and Underinsured Motorist Insurance Coverage  
**Importance:** High  
**Attachments:** image001.gif; image002.gif; image003.gif

Good morning, Pam,

I'm sorry but I have another change to 09-1924.

This change should replace the modification to the language that I sent on Wednesday morning at 8:30. The previous edit created too broad of an exemption. The intent of this change is to create a narrow exemption from these requirements only for town mutual insurers.

Please let me know if you have any questions, and thank you yet again!

Michelle Gauger  
608-266-3420

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**From:** Shaul, Kimberly A - OCI  
**Sent:** Wednesday, February 04, 2009 3:29 PM  
**To:** Schooff, Dan - DOA; Schmiedicke, David P - DOA  
**Cc:** Shaul, Kimberly A - OCI  
**Subject:** Truth in Auto - suggested revision re: town mutuals

Dan and Dave:

Please find below a modification to the substitute technical revision to the "Truth in Auto" draft sent last night. This suggested revision is limited to excluding town mutual insurers from the requirement to issue underinsured motorist and uninsured motorist coverage. Town mutual insurers are not authorized to offer this coverage.

- 1) Note that my earlier draft also addressed excluding commercial liability policies that cover only non-owned auto. This revision does not include that proposal. We expect that insurers offering those products will contend that they do not typically offer uninsured and underinsured motorist coverage and therefore lack access to reinsurance and systems to provide this coverage. However the thrust of the draft proposal is to mandate inclusion, not merely offering, of the coverage. I withdraw my earlier draft as it is potentially inconsistent with the direction of the legislation.
- 2) The proposed legislation requires insurers to offer UM and UIM in connection with umbrella coverage. The legislation requires that this offer be written and a signature be obtained for rejection. We note, but did not try to address, that insurers sell this type of

coverage over the telephone, by direct mail solicitation and over the internet. The legislation does not provide for a procedure that would allow compliance when an application is taken by one of those means. S. INS 6.77, Wis. Adm Code, currently provides such a scheme. However incorporation of this into the draft would require a revision.

Here are the 2 changes to exclude town mutuals from the uninsured and underinsured provisions of the Truth in Auto Insurance language.

**SECTION 16.** 632.32 (4) (intro.) (except 632.32 (4) (title)) of the statutes is renumbered 632.32 (4) (a) (intro.) and amended to read:

**632.32 (4) (a)** Every policy of insurance subject to this section **excluding policies written by town mutuals organized under ch. 612** that insures with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall contain therein or supplemental thereto ~~the following~~ provisions for all of the following coverages:

**SECTION 26.** 632.32 (4r) of the statutes is created to read:

**632.32 (4r) REQUIRED WRITTEN OFFERS OF UNINSURED MOTORIST AND UNDERINSURED MOTORIST COVERAGES FOR UMBRELLA OR EXCESS LIABILITY POLICIES.**

(a) An insurer, **excluding a town mutual organized under ch. 612**, writing umbrella or excess liability policies that insure with respect to a motor vehicle registered or principally garaged in this state against loss resulting from liability imposed by law for bodily injury or death suffered by a person arising out of the ownership, maintenance, or use of a motor vehicle shall provide written offers of uninsured motorist coverage and underinsured motorist coverage, which offers shall include a brief description of the coverage offered. An insurer is required to provide the offers required under this subsection only one time with respect to any policy in the manner provided in par. (b).

If you have other questions, please contact me.

Kim