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12/23



LRB-0524/D

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Sech

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

D-note

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1 AN ACT *to repeal* 227.01 (13) (zz), 344.01 (2) (am), 344.11, 632.32 (4r), 632.32 (6)  
 2 (f) and 632.355; *to renumber and amend* 344.33 (2), 632.32 (6) (d), 632.32 (6)  
 3 (e) and 632.32 (6) (g); *to consolidate, renumber and amend* 344.15 (1)  
 4 (intro.), (a) and (b); *to amend* 121.555 (2) (a), 344.01 (2) (d), 344.55 (1) (intro.),  
 5 631.43 (3), 632.32 (2) (e) 3., 632.32 (2) (g) (intro.), 632.32 (4) (a) 1., 632.32 (4) (a)  
 6 2m., 632.32 (4) (a) 3m. and 632.32 (4) (d); *to repeal and recreate* 632.32 (2)  
 7 (g) 2.; and *to create* 344.33 (2) (a), 344.33 (2) (b), 344.33 (2) (c), 632.32 (2) (ac)  
 8 and 632.32 (2) (bh) of the statutes; **relating to:** automobile insurance coverage  
 9 limits, permissible policy provisions, and proof of financial responsibility. ✓

*Analysis by the Legislative Reference Bureau*

***Proof of financial responsibility***

Under former law, prior to 2009 Wisconsin Act 28 (the biennial budget act), motor vehicles operated in this state were not required to be covered by policies of bodily injury and property damage liability insurance, but owners and operators of motor vehicles involved in accidents were subject to certain financial responsibility requirements. The biennial budget act retained and modified these financial responsibility requirements following a motor vehicle accident while also requiring insurance coverage for motor vehicles operated in this state.

Under current law, 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, exclusive of interest and costs, for any single accident:

1. Before January 1, 2010, \$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.

2. From January 1, 2010, to December 31, 2016, \$50,000 for bodily injury to or death of one person, \$100,000 for bodily injury to or death of more than one person, and \$15,000 for property damage.

3. After December 31, 2016, the limits specified in item 2., above, adjusted for inflation and published by DOT.

This bill decreases the minimum limits required under a policy that is acceptable proof of financial responsibility to ~~\$25,000~~ <sup>\$25,000</sup> for bodily injury to or death of one person, ~~\$50,000~~ <sup>\$50,000</sup> for bodily injury to or death of more than one person, and \$10,000 for property damage. The bill also eliminates inflation adjustments for these limits and eliminates statutory language that these limits are determined exclusive of interest and costs.

This bill does not eliminate the provisions of the biennial budget act that, as of June 1, 2010, prohibit a person from operating a motor vehicle in this state unless the owner or operator has a motor vehicle liability insurance policy in effect with respect to the motor vehicle. However, the bill affects these provisions by reducing the required coverage from the minimum limits specified in items 1. to 3., above, to ~~\$25,000~~ <sup>\$25,000</sup> for bodily injury to or death of one person, ~~\$50,000~~ <sup>\$50,000</sup> for bodily injury to or death of more than one person, and \$10,000 for property damage.

**Uninsured motorist and medical payments coverages**

Before the biennial budget act, all motor vehicle liability insurance policies were required to 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, although an insured could reject medical payments coverage. 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. Starting on November 1, 2009, as a result of provisions in the biennial budget act, the minimum limits for uninsured motorist coverage that motor vehicle liability insurance policies must include, except for those written by town mutuals, is \$100,000 per person and \$300,000 per accident and the minimum limits for medical payments coverage that those policies must include is \$10,000. This bill changes the required minimum limits to \$30,000 per person and \$60,000 per accident for uninsured motorist coverage and back to \$1,000 per person for medical payments coverage.

back

\$ 25,000

\$ 50,000

**Underinsured motorist coverage**

Before the biennial budget act, motor vehicle liability insurance policies did not have to include underinsured motorist coverage but insurers were required to provide written notice of the availability of that coverage and, if an insured accepted underinsured motorist coverage after receiving notice of its availability, the policy had to 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" was not defined in the statutes.

The biennial budget act eliminated the requirement to provide notice of the availability of underinsured motorist coverage and required, starting on November 1, 2009, every motor vehicle liability insurance policy, except for those written by town mutuals, to include that coverage in limits of at least \$100,000 per person and \$300,000 per accident. In addition, current law now 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 liability limits that are less than the amount needed to fully compensate the insured for his or her damages. The bill retains the requirement that underinsured motorist coverage be provided in every motor vehicle liability insurance policy, except for those written by town mutuals, and reduces the minimum required limits to \$60,000 per person and \$120,000 per accident. The bill modifies the definition of an underinsured motor vehicle to one with liability limits that are lower than the limits of the insured's underinsured motorist coverage. The effect of this change is that, regardless of the extent of the insured's damages, there is no coverage under the insured's underinsured motorist coverage if the other vehicle involved in the accident has liability limits at least as great as the limits of the insured's underinsured motorist coverage.

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**Umbrella and excess liability insurance policies**

Current law, as a result of provisions in the biennial budget act, requires an insurer, except for a town mutual, 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. An applicant or insured may reject the coverage, but must do so in writing. 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. Current law also excludes umbrella and excess liability policies from the statutory requirements related to the types of coverage that must be provided in a policy that covers motor vehicles and the minimum limits required for those types of coverage (coverage and limits requirements).

The bill restores former law by eliminating the requirement that an insurer writing an umbrella or excess liability policy must make a written offer of uninsured motorist coverage and underinsured motorist coverage and the requirement that a court must reform such a policy to include either coverage. However, the bill retains the current law provision that umbrella and excess liability policies are not subject to the coverage and limits requirements. In addition, the bill also excludes commercial liability policies from the coverage and limits requirements and defines those policies as ones that are intended principally to provide primary coverage for an insured's general liability arising out of its business or other commercial activities but that include coverage for the insured's liability arising out of the ownership, maintenance, or use of a motor vehicle as one component of the policy.

**Miscellaneous motor vehicle insurance provisions**

Current law, as a result of provisions in the biennial budget act, defines an uninsured motor vehicle as including not only an unidentified motor vehicle involved in a hit-and-run accident with an insured but also an unidentified motor vehicle that is simply involved in an accident with the insured, provided that an independent third party provides evidence in support of the unidentified motor vehicle's involvement in the accident. The bill replaces that part of the definition of an uninsured motor vehicle with a "phantom motor vehicle," which is defined as one that is involved in an accident with the insured, that does not make contact with the insured or a vehicle the insured is occupying at the time of the accident, and for which neither the owner nor the operator can be ascertained. Additionally, the facts of the accident must be corroborated by competent evidence provided by someone other than the insured or any other person with an underinsured motorist claim as a result of the accident, the accident must be reported to the police or other authorities within 72 hours, and the insured or his or her legal representative must, within 30 days, file with the insurer a statement under oath that the insured has a cause of action for damages against a person whose identity cannot be ascertained and that sets forth the facts supporting the statement. The bill also excludes a motor vehicle that is owned by a governmental unit from the definition of an uninsured motor vehicle.

Current law, as a result of provisions in the biennial budget act, makes a number of formerly permissible provisions prohibited in a motor vehicle liability insurance policy. The bill restores former law, making the following provisions permissible in a motor vehicle liability insurance policy:

1. Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for any 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.

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Not to be added to the basis of the availability of

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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 the highest 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 the highest 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.

Current law provides that an insurer may not place an applicant for motor vehicle insurance in a high-risk category on the basis that the applicant has not previously had motor vehicle insurance. The bill removes this prohibition as of the effective date of the bill or June 1, 2011, whichever is later.

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

1           **SECTION 1.** 121.555 (2) (a) of the statutes is amended to read:

2           121.555 (2) (a) *Insurance.* If the vehicle is owned or leased by a school or a  
3 school bus contractor, or is a vehicle authorized under sub. (1) (b), it shall comply with  
4 s. 121.53. If the vehicle is transporting 9 or less fewer persons in addition to the  
5 operator and is not owned or leased by a school or by a school bus contractor, it shall  
6 be insured by a policy providing property damage coverage with a limit of not less  
7 than \$10,000 and bodily injury liability coverage with limits, ~~as of the policy's~~  
8 ~~effective date, equal to or greater than the minimum liability limits, as defined in s.~~  
9 344.01 (2) (am) of not less than \$<sup>25</sup>0,000 for each person, and, subject to the limit for  
10 each person, a total limit of not less than \$<sup>5</sup>0,000 for each accident.

11           **SECTION 2.** 227.01 (13) (zz) of the statutes is repealed.

12           **SECTION 3.** 344.01 (2) (am) of the statutes is repealed.

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

2 344.01 (2) (d) "Proof of financial responsibility" or "proof of financial  
3 responsibility for the future" means proof of ability to respond in damages for  
4 liability on account of accidents occurring subsequent to the effective date of such  
5 proof, arising out of the maintenance or use of a motor vehicle, in ~~an~~ the amount, as  
6 of the date that proof is furnished to the department, equal to or greater than the  
7 minimum liability limits  $\frac{25}{\cancel{\$60,000}}$  because of bodily injury to or death of one person  
8 in any one accident and, subject to that limit for one person, in the amount of  $\frac{5}{\cancel{\$60,000}}$   
9 because of bodily injury to or death of 2 or more persons in any one accident and in  
10 the amount of \$10,000 because of injury to or destruction of property of others in any  
11 one accident.

12 SECTION 5. 344.11 of the statutes is repealed.

13 SECTION 6. 344.15 (1) (intro.), (a) and (b) of the statutes are consolidated,  
14 renumbered 344.15 (1) and amended to read:

15 344.15 (1) No policy or bond is effective under s. 344.14 unless all of the  
16 following apply: (a) ~~The policy or bond is issued by an insurer authorized to do an~~  
17 ~~automobile liability or surety business in this state, except as provided in sub. (2).~~  
18 ~~(b) The limits of liability under the, or unless the policy or bond, as of the date of the~~  
19 ~~accident, are equal to or greater than the minimum liability limits is subject, if the~~  
20 accident has resulted in bodily injury or death, to a limit of not less than  $\frac{25}{\cancel{\$60,000}}$   
21 because of bodily injury to or death of one person in any one accident and, subject to  
22 that limit for one person, to a limit of not less than  $\frac{5}{\cancel{\$60,000}}$  because of bodily injury  
23 to or death of 2 or more persons in any one accident and, if the accident has resulted  
24 in injury to or destruction of property, to a limit of not less than \$10,000 because of  
25 injury to or destruction of property of others in any one accident.

1           **SECTION 7.** 344.33 (2) of the statutes is renumbered 344.33 (2) (intro.) and  
2 amended to read:

3           **344.33 (2) MOTOR VEHICLE LIABILITY POLICY.** (intro.) A motor vehicle policy of  
4 liability insurance shall insure the person named therein using any motor vehicle  
5 with the express or implied permission of the owner, or shall insure any motor vehicle  
6 owned by the named insured and any person using such motor vehicle with the  
7 express or implied permission of the named insured, against loss from the liability  
8 imposed by law for damages arising out of the maintenance or use of the motor  
9 vehicle within the United States of America or the Dominion of Canada, subject to  
10 the ~~minimum liability~~ following limits with respect to each such motor vehicle.:

11           **SECTION 8.** 344.33 (2) (a) of the statutes is created to read:

12           344.33 (2) (a) ~~Thirty~~<sup>Twenty-five</sup> thousand dollars because of bodily injury to or death of  
13 one person in any one accident.

14           **SECTION 9.** 344.33 (2) (b) of the statutes is created to read:

15           344.33 (2) (b) Subject to the limit under par. (a) for one person, ~~\$10,000~~<sup>5</sup> because  
16 of bodily injury to or death of 2 or more persons in any one accident.

17           **SECTION 10.** 344.33 (2) (c) of the statutes is created to read:

18           344.33 (2) (c) Ten thousand dollars because of injury to or destruction of  
19 property of others in any one accident.

20           **SECTION 11.** 344.55 (1) (intro.) of the statutes is amended to read:

21           344.55 (1) (intro.) No motor vehicle may be used as a human service vehicle  
22 unless a policy of bodily injury and property damage liability insurance, issued by  
23 an insurer authorized to transact business in this state, is maintained thereon. The  
24 policy shall provide property damage liability coverage with a limit of not less than  
25 \$10,000. The policy also shall provide bodily injury liability coverage with limits, as

**SECTION 11**

1 of the policy's effective date, of at least the minimum liability limits or, if greater, of  
2 not less than \$75,000 for each person and, subject to such limit for each person, total  
3 limits as follows:

4 **SECTION 12.** 631.43 (3) of the statutes is amended to read:

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

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

8 632.32 (2) (ac) "Commercial liability policy" means any form of liability  
9 insurance policy, including a commercial or business package policy or a policy  
10 written on farm and agricultural operations, that is intended principally to provide  
11 primary coverage for the insured's general liability arising out of its business or other  
12 commercial activities, and that includes coverage for the insured's liability arising  
13 out of the ownership, maintenance, or use of a motor vehicle as only one component  
14 of the policy or as coverage that is only incidental to the principal purpose of the  
15 policy. "Commercial liability policy" does not include a worker's compensation policy.

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

17 632.32 (2) (bh) "Phantom motor vehicle" means a motor vehicle to which all of  
18 the following apply:

19 1. The motor vehicle is involved in an accident with a person who has uninsured  
20 motorist coverage.

21 2. In the accident, the motor vehicle makes no physical contact with the insured  
22 or with a vehicle the insured is occupying.

23 3. The identity of neither the operator nor the owner of the motor vehicle can  
24 be ascertained.

25 **SECTION 15.** 632.32 (2) (e) 3. of the statutes is amended to read:



1           632.32 (2) (e) 3. The limits under the bodily injury liability insurance policy or  
2 with respect to the proof of financial responsibility or self-insurance are less than  
3 the ~~amount needed to fully compensate the insured for his or her damages~~ limits of  
4 the insured's underinsured motorist coverage.

5           **SECTION 16.** 632.32 (2) (g) (intro.) of the statutes is amended to read:

6           632.32 (2) (g) (intro.) "Uninsured motor vehicle" means a motor vehicle, other  
7 than a motor vehicle owned by a governmental unit, that is involved in an accident  
8 with a person who has uninsured motorist coverage and with respect to which, at the  
9 time of the accident, a bodily injury liability insurance policy is not in effect and the  
10 owner or operator has not furnished proof of financial responsibility for the future  
11 under subch. III of ch. 344 and is not a self-insurer under any other applicable motor  
12 vehicle law. "Uninsured motor vehicle" also includes any of the following motor  
13 vehicles, other than a motor vehicle owned by a governmental unit, involved in an  
14 accident with a person who has uninsured motorist coverage:

15           **SECTION 17.** 632.32 (2) (g) 2. of the statutes is repealed and recreated to read:

16           632.32 (2) (g) 2. A phantom motor vehicle, if all of the following apply:

17           a. The facts of the accident are corroborated by competent evidence that is  
18 (18) provided by someone other than the insured or any other person who <sup>✓</sup> ~~may~~ <sup>g</sup> make <sup>→ A</sup> a  
19 claim against the uninsured motorist coverage as a result of the accident.

\*\*\*\*NOTE: The suggested language was "or any person having an uninsured motorist claim resulting from the accident." See how I have modified this language. If the language were "a person who makes a claim," there would be an objective standard: either a person does or does not make a claim. The language as drafted, or as suggested, is not objective and will, I think, require construction by a court in many cases.

20           b. Within 72 hours after the accident, the insured or someone on behalf of the  
21 insured reports the accident to a police, peace, or judicial officer or to the department

1 of transportation or, if the accident occurs outside of Wisconsin, the equivalent  
2 agency in the state where the accident occurs.

3 c. Within 30 days after the accident occurs, the insured or someone on behalf  
4 of the insured files with the insurer a statement under oath that the insured or a legal  
5 representative of the insured has a cause of action arising out of the accident for  
6 damages against a person whose identity is not ascertainable and setting forth the  
7 facts in support of the statement.

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

9 632.32 (4) (a) 1. Excluding a policy written by a town mutual organized under  
10 ch. 612, uninsured motorist coverage, in limits of at least \$100,000 ~~\$30,000~~ per  
11 person and \$300,000 ~~\$60,000~~ per accident. → \$50,000

12 SECTION 19. 632.32 (4) (a) 2m. of the statutes is amended to read: ~~repealed~~

13 632.32 (4) (a) 2m. Excluding a policy written by a town mutual organized under  
14 ch. 612, underinsured motorist coverage, in limits of at least \$100,000 ~~\$60,000~~ per  
15 person and \$300,000 ~~\$120,000~~ per accident.

16 SECTION 20. 632.32 (4) (a) 3m. of the statutes is amended to read: → renumbered 632.32(4)(a)2.5

17 632.32 (4) (a) ~~2m~~ <sup>2</sup>. Medical payments coverage, in the amount of at least \$10,000  
18 \$1,000 per person. Coverage written under this subdivision may be excess coverage  
19 over any other source of reimbursement to which the insured person has a legal right.

20 SECTION 21. 632.32 (4) (d) of the statutes is amended to read:

21 632.32 (4) (d) This subsection does not apply to commercial liability policies or  
22 umbrella or excess liability policies, which are subject to sub. (4r).

23 SECTION 22. 632.32 (4r) of the statutes is repealed.

24 SECTION 23. 632.32 (6) (d) of the statutes is renumbered 632.32 (5) (f) and  
25 amended to read:

Inset 10-22B ✓

Inset 10-7 ✓

LPS - change components

Inset 10-19 ✓

Inset 10-22A ✓

\$25,000

0

1           632.32 (5) (f) ~~No A~~ policy may provide that, regardless of the number of policies  
2 involved, vehicles involved, persons covered, claims made, vehicles or premiums  
3 shown on the policy, or premiums paid, the limits for any ~~uninsured motorist~~  
4 ~~coverage or underinsured motorist~~ coverage under the policy may not be added to the  
5 limits for similar coverage applying to other motor vehicles to determine the limit of  
6 insurance coverage available for bodily injury or death suffered by a person in any  
7 one accident, ~~except that a policy may limit the number of motor vehicles for which~~  
8 ~~the limits for coverage may be added to 3 vehicles.~~

9           **SECTION 24.** 632.32 (6) (e) of the statutes is renumbered 632.32 (5) (g) and  
10 amended to read:

11           632.32 (5) (g) ~~No A~~ policy may provide that the maximum amount of uninsured  
12 motorist coverage ~~or~~, underinsured motorist coverage, or medical payments coverage  
13 available for bodily injury or death suffered by a person who was not using a motor  
14 vehicle at the time of an accident is any the highest single limit of uninsured motorist  
15 coverage ~~or~~, underinsured motorist coverage, or medical payments coverage,  
16 whichever is applicable, for any motor vehicle with respect to which the person is  
17 insured, ~~except that a policy may limit the number of motor vehicles for which~~  
18 ~~coverage limits may be added to 3 vehicles.~~

19           **SECTION 25.** 632.32 (6) (f) of the statutes is repealed.

20           **SECTION 26.** 632.32 (6) (g) of the statutes is renumbered 632.32 (5) (i), and  
21 632.32 (5) (i) (intro.), as renumbered, is amended to read:

22           632.32 (5) (i) (intro.) ~~No A~~ policy may provide that the limits under the policy  
23 for uninsured motorist coverage or underinsured motorist coverage for bodily injury  
24 or death resulting from any one accident shall be reduced by any of the following that  
25 apply:



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0524/1dn

PJK:.....

rum is rum

JLd

date

In addition to having the new limits for liability coverage, uninsured motorist coverage, and medical payments coverage apply to modifications of existing policies if requested by insureds, I also provided that the change in the definition of an underinsured motor vehicle, making underinsured motorist coverage optional, and the change in the limits for underinsured motorist coverage could apply to policies in effect if the insured requests the modification. Okay?

Pamela J. Kahler  
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E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

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INSERT A-3

reinstates former law, requiring notice of the availability of underinsured motorist coverage and requiring minimum limits of \$50,000 per person and \$100,000 per accident if the coverage is included in a policy. Also, the

(END OF INSERT A-3)

INSERT A-4

*4* The bill not only eliminates the requirement that an insurer writing an umbrella or excess liability policy must make a written offer of uninsured motorist coverage and underinsured motorist coverage and the requirement that a court must reform such a policy to include either coverage, it specifically excludes those policies from the requirement to provide notice of the availability of underinsured motorist coverage, which applies to motor vehicle insurance policies. The bill retains the current law provision that umbrella and excess liability policies are not subject to the coverage and limits requirements that apply to motor vehicle insurance policies. In addition, the bill also excludes commercial liability policies from the coverage and limits requirements that apply to motor vehicle insurance policies and the requirement to provide notice of the availability of underinsured motorist coverage and defines commercial liability policies as ones that are intended principally to provide primary coverage for an insured's general liability arising out of its business or other commercial activities but that include coverage for the insured's liability arising out of the ownership, maintenance, or use of a motor vehicle as one component of the policy.

(END OF INSERT A-4)

INSERT 10-7

- 1 SECTION 1. 632.32 (4) (title) of the statutes is amended to read:  
2 632.32 (4) (title) REQUIRED UNINSURED MOTORIST, UNDERINSURED MOTORIST, AND  
3 MEDICAL PAYMENTS COVERAGES.

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28, 342.

(END OF INSERT 10-7)

INSERT 10-19

- 4 SECTION 2. 632.32 (4) (bc) of the statutes is amended to read:  
5 632.32 (4) (bc) Notwithstanding par. (a) ~~3m.~~ 2., the named insured may reject  
6 medical payments coverage. If the named insured rejects the coverage, the coverage



*July 10-19 cont'd*

1 need not be provided in a subsequent renewal policy issued by the same insurer  
2 unless the insured requests it in writing.

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28, 342.

(END OF INSERT 10-19)

*(insert 10-22A on separate sheets)*

INSERT 10-22B

3 (d) If an insured accepts underinsured motorist coverage, the insurer shall  
4 include the coverage in limits of at least \$50,000<sup>✓</sup> per person and \$100,000<sup>✓</sup> per  
5 accident.

6 (e) This subsection<sup>✓</sup> does not apply to commercial liability policies or umbrella  
7 or excess liability policies.

(END OF INSERT 10-22B)

INSERT 12-11

8 **SECTION 3. Initial applicability.**

9 (1) LIMITS. The treatment of sections 121.555 (2) (a), 344.01 (2) (am) and (d),  
10 344.11, 344.15 (1) (intro.), (a), and (b), 344.33 (2), 344.33 (2) (a), (b), and (c), 344.55  
11 (1) (intro.), and 632.32 (2) (e) 3., (4) (title), (a) 1., 2m., and 3m., and (bc) and (4m) of  
12 the statutes first *apply* to all of the following:

13 (a) Motor vehicle insurance policies that are newly issued on the effective date  
14 of this paragraph.

15 (b) Motor vehicle insurance policies in effect before the effective date of this  
16 paragraph that are renewed on the effective date of this paragraph.

17 (c) Motor vehicle insurance policies in effect before the effective date of this  
18 paragraph that are, at the request of the insured, modified on the effective date of  
19 this paragraph.

*the renumbering and amendment of section 344.33 (2) of the statutes, and the creation of section 344.33 (2) (a), (b), and (c) of the statutes*

*lvs. 12-11 cont'd*

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(2) MISCELLANEOUS CHANGES. The treatment of sections 631.43 (3) and 632.32 (2) (ac), (bh), and (g) (intro.) and 2., (4) (d), (4r), and (6) (d), (e), (f), and (g) of the statutes first applies to motor vehicle insurance policies that are newly issued or renewed on the effective date of this subsection.

(3) HIGH-RISK CATEGORY. The treatment of section 632.355 of the statutes first applies to motor vehicle insurance policies that are newly issued on the effective date of this subsection.

(END OF INSERT 12-11)



1 632.32 (4) (a) 3. ~~Unless an insurer waives the right to subrogation, insurers~~  
2 ~~Insurers~~ making payment under ~~any of the coverages under this subsection the~~  
3 ~~uninsured motorists' coverage~~ shall, to the extent of the payment, be subrogated to  
4 the rights of their insureds.

5 SECTION 28. 632.32 (4) (d) of the statutes is repealed.

6 SECTION 29. 632.32 (4m) of the statutes is created to read:

7 632.32 (4m) UNDERINSURED MOTORIST COVERAGE. (a) An insurer writing policies  
8 that insure with respect to a motor vehicle registered or principally garaged in this  
9 state against loss resulting from liability imposed by law for bodily injury or death  
10 suffered by a person arising out of the ownership, maintenance, or use of a motor  
11 vehicle shall provide to one insured under each such insurance policy that goes into  
12 effect after the effective date of this paragraph.... [LRB inserts date], that is written  
13 by the insurer and that does not include underinsured motorist coverage written  
14 notice of the availability of underinsured motorist coverage, including a brief  
15 description of the coverage. An insurer is required to provide the notice required  
16 under this paragraph only one time and in conjunction with the delivery of the policy.

17 (b) Acceptance or rejection of underinsured motorist coverage by a person after  
18 being notified under par. (a) need not be in writing. The absence of a premium  
19 payment for underinsured motorist coverage is conclusive proof that the person has  
20 rejected such coverage. The rejection of such coverage by the person notified under  
21 par. (a) shall apply to all persons insured under the policy, including any renewal of  
22 the policy.

23 (c) If a person rejects underinsured motorist coverage after being notified under  
24 par. (a), the insurer is not required to provide such coverage under a policy that is

→ Except as provided in par. (e)



*Insert 10-22A cont'd*

1 renewed to the person by that insurer unless an insured under the policy  
2 subsequently requests such underinsured motorist coverage in writing.

3 ~~(d) If an insured who is notified under par. (a) accepts underinsured motorist  
4 coverage, the insurer shall include the coverage under the policy just delivered to the  
5 insured in limits of at least \$50,000 per person and \$100,000 per accident.~~

6 ~~SECTION 30. 632.32 (4r) of the statutes is repealed.~~

7 ~~SECTION 31. 632.32 (6) (d) of the statutes is renumbered 632.32 (5) (f) and  
8 amended to read:~~

9 ~~632.32 (5) (f) No A policy may provide that, regardless of the number of policies  
10 involved, vehicles involved, persons covered, claims made, vehicles or premiums  
11 shown on the policy, or premiums paid, the limits for any uninsured motorist  
12 coverage or underinsured motorist coverage under the policy may not be added to the  
13 limits for similar coverage applying to other motor vehicles to determine the limit of  
14 insurance coverage available for bodily injury or death suffered by a person in any  
15 one accident, except that a policy may limit the number of motor vehicles for which  
16 the limits for coverage may be added to 3 vehicles.~~

17 ~~SECTION 32. 632.32 (6) (e) of the statutes is renumbered 632.32 (5) (g) and  
18 amended to read:~~

19 ~~632.32 (5) (g) No A policy may provide that the maximum amount of uninsured  
20 motorist coverage or underinsured motorist coverage available for bodily injury or  
21 death suffered by a person who was not using a motor vehicle at the time of an  
22 accident is any the highest single limit of uninsured motorist coverage or  
23 underinsured motorist coverage, whichever is applicable, for any motor vehicle with  
24 respect to which the person is insured, except that a policy may limit the number of  
25 motor vehicles for which coverage limits may be added to 3 vehicles.~~

*(end of insert 10-22A)*

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0524/1dn  
PJK:jld:md

January 3, 2011

In addition to having the new limits for liability coverage, uninsured motorist coverage, and medical payments coverage apply to modifications of existing policies if requested by insureds, I also provided that the change in the definition of an underinsured motor vehicle, making underinsured motorist coverage optional, and the change in the limits for underinsured motorist coverage could apply to policies in effect if the insured requests the modification. Okay?

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

## Kahler, Pam

---

**From:** Froelich, Brooke  
**Sent:** Wednesday, January 05, 2011 12:18 PM  
**To:** Kahler, Pam  
**Subject:** RE: LRB0524/1

Pam,

Sorry I didn't get back to you earlier. I was in a meeting. For the first instruction, the object is to keep the current law of UIM coverage which is to make it "mandatory coverage" and for the second instruction, yes you are correct. Thanks

Brooke Froelich  
Legislative Assistant  
Rep. John Nygren's Office  
89<sup>th</sup> District

*as for limits for UIM, keep at  
\$50,000 & \$100,000 as in current  
version ("1")*

---

**From:** Kahler, Pam  
**Sent:** Wednesday, January 05, 2011 10:26 AM  
**To:** Froelich, Brooke  
**Subject:** RE: LRB0524/1

Brooke:

I left a phone message, but I don't understand what the object of the first instruction is. That definition for "uninsured motor vehicle" is in the draft, and it wouldn't make any sense to put it in the location you specify. For the second instruction, you just want to get rid of the specific option to change limits, etc., midstream at the request of an insured, right?

Pam

---

**From:** Froelich, Brooke  
**Sent:** Wednesday, January 05, 2011 10:08 AM  
**To:** Kahler, Pam  
**Cc:** Rep. Nygren  
**Subject:** LRB0524/1  
**Importance:** High

Pam,

After reviewing the draft with Rep. Nygren we found some things that need to be revised. On page 11 section 24 line 7-17 of the draft needs to be deleted and replaced with the following language, from LRB 0524-p2;

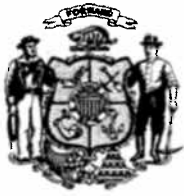
632.32 (2) (g) (intro.) "Uninsured motor vehicle" means a motor vehicle, other than a motor vehicle owned by a governmental unit, that is involved in an accident with a person who has uninsured motorist coverage and with respect to which, at the time of the accident, a bodily injury liability insurance policy is not in effect and the owner or operator has not furnished proof of financial responsibility for the future under subch. III of ch. 344 and is not a self-insurer under any other applicable motor vehicle law. "Uninsured motor vehicle" also includes any of the following motor vehicles, other than a motor vehicle owned by a governmental unit, involved in an accident with a person who has uninsured motorist coverage:

also we need changed on p13 section 31 line 22-24 of the draft needs to be deleted.

If you have any questions we give you permission to talk with Noreen Parrett and 608.251.1967. We need this done as soon as possible as this is a rush per Rep. Nygren and Speaker Jeff Fitzgerald.

Please feel free to contact me with any additional questions. 266-2343

Brooke Froelich  
Legislative Assistant  
Rep. John Nygren's Office



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-0524/4

PJK&ARG:kjf&jld:md

Stays v m is new

2

2011 BILL

Thursday

regenerate ↓

1 AN ACT *to repeal* 227.01 (13) (zz), 344.01 (2) (am), 344.11, 632.32 (4) (a) 2m.,  
2 632.32 (4r), 632.32 (6) (f) and 632.355; *to renumber and amend* 344.33 (2),  
3 632.32 (4) (a) 3m., 632.32 (6) (d), 632.32 (6) (e) and 632.32 (6) (g); *to*  
4 *consolidate, renumber and amend* 344.15 (1) (intro.), (a) and (b); *to amend*  
5 121.555 (2) (a), 344.01 (2) (d), 344.55 (1) (intro.), 631.43 (3), 632.32 (2) (e) 3.,  
6 632.32 (2) (g) (intro.), 632.32 (4) (title), 632.32 (4) (a) 1., 632.32 (4) (bc) and  
7 632.32 (4) (d); *to repeal and recreate* 632.32 (2) (g) 2.; and *to create* 344.33  
8 (2) (a), 344.33 (2) (b), 344.33 (2) (c), 632.32 (2) (ac), 632.32 (2) (bh) and 632.32  
9 (4m) of the statutes; **relating to:** automobile insurance coverage limits,  
10 permissible policy provisions, and proof of financial responsibility.

*Analysis by the Legislative Reference Bureau*

*Proof of financial responsibility*

Under former law, prior to 2009 Wisconsin Act 28 (the biennial budget act), motor vehicles operated in this state were not required to be covered by policies of bodily injury and property damage liability insurance, but owners and operators of motor vehicles involved in accidents were subject to certain financial responsibility

**BILL**

requirements. The biennial budget act retained and modified these financial responsibility requirements following a motor vehicle accident while also requiring insurance coverage for motor vehicles operated in this state.

Under current law, 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, exclusive of interest and costs, for any single accident:

1. Before January 1, 2010, \$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.
2. From January 1, 2010, to December 31, 2016, \$50,000 for bodily injury to or death of one person, \$100,000 for bodily injury to or death of more than one person, and \$15,000 for property damage.
3. After December 31, 2016, the limits specified in item 2., above, adjusted for inflation and published by DOT.

This bill decreases the minimum limits required under a policy that is acceptable proof of financial responsibility to \$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. The bill also eliminates inflation adjustments for these limits and eliminates statutory language that these limits are determined exclusive of interest and costs.

This bill does not eliminate the provisions of the biennial budget act that, as of June 1, 2010, prohibit a person from operating a motor vehicle in this state unless the owner or operator has a motor vehicle liability insurance policy in effect with respect to the motor vehicle. However, the bill affects these provisions by reducing the required coverage from the minimum limits specified in items 1. to 3., above, to \$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.

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

Before the biennial budget act, all motor vehicle liability insurance policies were required to 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, although an insured could reject medical payments

**BILL**

coverage. 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. Starting on November 1, 2009, as a result of provisions in the biennial budget act, the minimum limits for uninsured motorist coverage that motor vehicle liability insurance policies must include, except for those written by town mutuals, is \$100,000 per person and \$300,000 per accident and the minimum limits for medical payments coverage that those policies must include is \$10,000. This bill changes the required minimum limits back to \$25,000 per person and \$50,000 per accident for uninsured motorist coverage and back to \$1,000 per person for medical payments coverage.

***Underinsured motorist coverage***

Before the biennial budget act, motor vehicle liability insurance policies did not have to include underinsured motorist coverage but insurers were required to provide written notice of the availability of that coverage and, if an insured accepted underinsured motorist coverage after receiving notice of its availability, the policy had to 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" was not defined in the statutes.

The biennial budget act eliminated the requirement to provide notice of the availability of underinsured motorist coverage and required, starting on November 1, 2009, every motor vehicle liability insurance policy, except for those written by town mutuals, to include that coverage in limits of at least \$100,000 per person and \$300,000 per accident. In addition, current law now 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 liability limits that are less than the amount needed to fully compensate the insured for his or her damages. The bill reinstates former law, requiring notice of the availability of underinsured motorist coverage and requiring minimum limits of \$50,000 per person and \$100,000 per accident if the coverage is included in a policy.

Also, the bill modifies the definition of an underinsured motor vehicle to one with liability limits that are lower than the limits of the insured's underinsured motorist coverage. The effect of this change is that, regardless of the extent of the insured's damages, there is no coverage under the insured's underinsured motorist coverage if the other vehicle involved in the accident has liability limits at least as great as the limits of the insured's underinsured motorist coverage.

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

Current law, as a result of provisions in the biennial budget act, requires an insurer, except for a town mutual, 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. An applicant or insured may reject the

Insert A-3





**BILL**

coverage, but must do so in writing. 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. Current law also excludes umbrella and excess liability policies from the statutory requirements related to the types of coverage that must be provided in a policy that covers motor vehicles and the minimum limits required for those types of coverage (coverage and limits requirements).

The bill not only eliminates the requirement that an insurer writing an umbrella or excess liability policy must make a written offer of uninsured motorist coverage and underinsured motorist coverage and the requirement that a court must reform such a policy to include either coverage, it specifically excludes those policies from the requirement to provide notice of the availability of underinsured motorist coverage, which applies to motor vehicle insurance policies. The bill retains the current law provision that umbrella and excess liability policies are not subject to the coverage and limits requirements that apply to motor vehicle insurance policies. In addition, the bill also excludes commercial liability policies from the coverage and limits requirements that apply to motor vehicle insurance policies and the requirement to provide notice of the availability of underinsured motorist coverage. The bill defines "commercial liability policies" as ones that are intended principally to provide primary coverage for an insured's general liability arising out of its business or other commercial activities but that include coverage for the insured's liability arising out of the ownership, maintenance, or use of a motor vehicle as one component of the policy.

Insert A-4

***Miscellaneous motor vehicle insurance provisions***

Current law, as a result of provisions in the biennial budget act, defines an uninsured motor vehicle as including not only an unidentified motor vehicle involved in a hit-and-run accident with an insured but also an unidentified motor vehicle that is simply involved in an accident with the insured, provided that an independent third party provides evidence in support of the unidentified motor vehicle's involvement in the accident. The bill replaces that part of the definition of an uninsured motor vehicle with a "phantom motor vehicle," which is defined as one that is involved in an accident with the insured, that does not make contact with the insured or a vehicle the insured is occupying at the time of the accident, and for which neither the owner nor the operator can be ascertained. Additionally, the facts of the accident must be corroborated by competent evidence provided by someone other than the insured or any other person who makes an underinsured motorist claim as a result of the accident, the accident must be reported to the police or other authorities within 72 hours, and the insured or his or her legal representative must, within 30 days, file with the insurer a statement under oath that the insured has a cause of action for damages against a person whose identity cannot be ascertained and that sets forth the facts supporting the statement. The bill also excludes a motor vehicle that is owned by a governmental unit from the definition of an uninsured motor vehicle.

**BILL**

Current law, as a result of provisions in the biennial budget act, makes a number of formerly permissible provisions prohibited in a motor vehicle liability insurance policy. The bill restores former law, making the following provisions permissible in a motor vehicle liability insurance policy:

1. Providing that, regardless of the number of policies, persons, or vehicles involved, the limits for any 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 the highest 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 the highest 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.

Current law provides that an insurer may not place an applicant for motor vehicle insurance in a high-risk category on the basis that the applicant has not previously had motor vehicle insurance. The bill removes this prohibition.

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

✓

1           **SECTION 1.** 121.555 (2) (a) of the statutes is amended to read:  
 2           121.555 (2) (a) *Insurance.* If the vehicle is owned or leased by a school or a  
 3 school bus contractor, or is a vehicle authorized under sub. (1) (b), it shall comply with  
 4 s. 121.53. If the vehicle is transporting 9 or ~~less~~ fewer persons in addition to the  
 5 operator and is not owned or leased by a school or by a school bus contractor, it shall  
 6 be insured by a policy providing property damage coverage with a limit of not less  
 7 than \$10,000 and bodily injury liability coverage with limits, ~~as of the policy's~~  
 8 ~~effective date, equal to or greater than the minimum liability limits, as defined in s.~~

**BILL****SECTION 1**

1 ~~344.01 (2) (am) of not less than \$25,000 for each person, and, subject to the limit for~~  
2 ~~each person, a total limit of not less than \$50,000 for each accident.~~

3 **SECTION 2.** 227.01 (13) (zz) of the statutes is repealed.

4 **SECTION 3.** 344.01 (2) (am) of the statutes is repealed.

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

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

16 **SECTION 5.** 344.11 of the statutes is repealed.

17 **SECTION 6.** 344.15 (1) (intro.), (a) and (b) of the statutes are consolidated,  
18 renumbered 344.15 (1) and amended to read:

19 344.15 (1) No policy or bond is effective under s. 344.14 unless all of the  
20 following apply: (a) ~~The policy or bond is issued by an insurer authorized to do an~~  
21 ~~automobile liability or surety business in this state, except as provided in sub. (2).~~  
22 ~~(b) The limits of liability under the, or unless the policy or bond, as of the date of the~~  
23 ~~accident, are equal to or greater than the minimum liability limits is subject, if the~~  
24 ~~accident has resulted in bodily injury or death, to a limit of not less than \$25,000~~  
25 because of bodily injury to or death of one person in any one accident and, subject to

**BILL**

1 that limit for one person, to a limit of not less than \$50,000 because of bodily injury  
2 to or death of 2 or more persons in any one accident and, if the accident has resulted  
3 in injury to or destruction of property, to a limit of not less than \$10,000 because of  
4 injury to or destruction of property of others in any one accident.

5 **SECTION 7.** 344.33 (2) of the statutes <sup>✓</sup> is renumbered 344.33 (2) (intro.) and  
6 amended to read:

7 344.33 (2) MOTOR VEHICLE LIABILITY POLICY. (intro.) A motor vehicle policy of  
8 liability insurance shall insure the person named therein using any motor vehicle  
9 with the express or implied permission of the owner, or shall insure any motor vehicle  
10 owned by the named insured and any person using such motor vehicle with the  
11 express or implied permission of the named insured, against loss from the liability  
12 imposed by law for damages arising out of the maintenance or use of the motor  
13 vehicle within the United States of America or the Dominion of Canada, subject to  
14 the ~~minimum liability~~ following limits with respect to each such motor vehicle:

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

16 344.33 (2) (a) Twenty-five thousand dollars because of bodily injury to or death  
17 of one person in any one accident. <sup>✓</sup>

18 **SECTION 9.** 344.33 (2) (b) of the statutes is created to read:

19 344.33 (2) (b) Subject to the limit under par. (a) for one person, \$50,000 because  
20 of bodily injury to or death of 2 or more persons in any one accident.

21 **SECTION 10.** 344.33 (2) (c) of the statutes <sup>✓</sup> is created to read:

22 344.33 (2) (c) Ten thousand dollars because of injury to or destruction of  
23 property of others in any one accident.

24 **SECTION 11.** 344.55 (1) (intro.) of the statutes <sup>✓</sup> is amended to read:

**BILL**

1           344.55 (1) (intro.) No motor vehicle may be used as a human service vehicle  
2 unless a policy of bodily injury and property damage liability insurance, issued by  
3 an insurer authorized to transact business in this state, is maintained thereon. The  
4 policy shall provide property damage liability coverage with a limit of not less than  
5 \$10,000. The policy also shall provide bodily injury liability coverage with limits, as  
6 of the policy's effective date, of at least the minimum liability limits or, if greater, of  
7 not less than \$75,000 for each person and, subject to such limit for each person, total  
8 limits as follows:

9           **SECTION 12.** 631.43 (3) of the statutes is amended to read:

10           631.43 (3) EXCEPTION. Subsection (1) does not affect the rights of insurers to  
11 limit ~~or~~, restrict, reduce, or exclude coverage under s. 632.32 (5) (b) ~~or~~, (c), or (f) to (j).

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

13           632.32 (2) (ac) "Commercial liability policy" means any form of liability  
14 insurance policy, including a commercial or business package policy or a policy  
15 written on farm and agricultural operations, that is intended principally to provide  
16 primary coverage for the insured's general liability arising out of its business or other  
17 commercial activities, and that includes coverage for the insured's liability arising  
18 out of the ownership, maintenance, or use of a motor vehicle as only one component  
19 of the policy or as coverage that is only incidental to the principal purpose of the  
20 policy. "Commercial liability policy" does not include a worker's compensation policy.

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

22           632.32 (2) (bh) "Phantom motor vehicle" means a motor vehicle to which all of  
23 the following apply:

24           1. The motor vehicle is involved in an accident with a person who has uninsured  
25 motorist coverage.

**BILL**

1           2. In the accident, the motor vehicle makes no physical contact with the insured  
2 or with a vehicle the insured is occupying.

3           3. The identity of neither the operator nor the owner of the motor vehicle can  
4 be ascertained.

5           **SECTION 15.** 632.32 (2) (e) 3. of the statutes is amended to read:

6           632.32 (2) (e) 3. The limits under the bodily injury liability insurance policy or  
7 with respect to the proof of financial responsibility or self-insurance are less than  
8 the amount needed to fully compensate the insured for his or her damages limits of  
9 the insured's underinsured motorist coverage.

10          **SECTION 16.** 632.32 (2) (g) (intro.) of the statutes is amended to read:

11          632.32 (2) (g) (intro.) "Uninsured motor vehicle" means a motor vehicle, other  
12 than a motor vehicle owned by a governmental unit, that is involved in an accident  
13 with a person who has uninsured motorist coverage and with respect to which, at the  
14 time of the accident, a bodily injury liability insurance policy is not in effect and the  
15 owner or operator has not furnished proof of financial responsibility for the future  
16 under subch. III of ch. 344 and is not a self-insurer under any other applicable motor  
17 vehicle law. "Uninsured motor vehicle" also includes any of the following motor  
18 vehicles, other than a motor vehicle owned by a governmental unit, involved in an  
19 accident with a person who has uninsured motorist coverage:

20          **SECTION 17.** 632.32 (2) (g) 2. of the statutes is repealed and recreated to read:

21          632.32 (2) (g) 2. A phantom motor vehicle, if all of the following apply:

22          a. The facts of the accident are corroborated by competent evidence that is  
23 provided by someone other than the insured or any other person who makes a claim  
24 against the uninsured motorist coverage as a result of the accident.

**BILL**

1 b. Within 72 hours after the accident, the insured or someone on behalf of the  
2 insured reports the accident to a police, peace, or judicial officer or to the department  
3 of transportation or, if the accident occurs outside of Wisconsin, the equivalent  
4 agency in the state where the accident occurs.

5 c. Within 30 days after the accident occurs, the insured or someone on behalf  
6 of the insured files with the insurer a statement under oath that the insured or a legal  
7 representative of the insured has a cause of action arising out of the accident for  
8 damages against a person whose identity is not ascertainable and setting forth the  
9 facts in support of the statement.

10 **SECTION 18.** 632.32 (4) (title) of the statutes is amended to read:

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

13 **SECTION 19.** 632.32 (4) (a) 1. of the statutes is amended to read:

14 632.32 (4) (a) 1. Excluding a policy written by a town mutual organized under  
15 ch. 612, uninsured motorist coverage, in limits of at least \$100,000 \$25,000 per  
16 person and ~~\$300,000~~ \$50,000 per accident.

17 **SECTION 20.** 632.32 (4) (a) 2m. of the statutes is repealed.

18 **SECTION 21.** 632.32 (4) (a) 3m. of the statutes is renumbered 632.32 (4) (a) 2.

19 and amended to read: → 3m

20 632.32 (4) (a) ~~2~~. Medical payments coverage, in the amount of at least \$10,000  
21 \$1,000 per person. Coverage written under this subdivision may be excess coverage  
22 over any other source of reimbursement to which the insured person has a legal right.

23 **SECTION 22.** 632.32 (4) (bc) of the statutes is amended to read:

24 632.32 (4) (bc) Notwithstanding par. (a) ~~3m. 2.~~, the named insured may reject  
25 medical payments coverage. If the named insured rejects the coverage, the coverage

Change  
component  
insert 10-16

**BILL**

1 need not be provided in a subsequent renewal policy issued by the same insurer  
2 unless the insured requests it in writing.

3 **SECTION 23.** 632.32 (4) (d) of the statutes is amended to read:

4 632.32 (4) (d) This subsection does not apply to commercial liability policies or  
5 umbrella or excess liability policies, which are subject to sub. (4r).

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

7 632.32 (4m) UNDERINSURED MOTORIST COVERAGE. (a) Except as provided in par.  
8 (e), an insurer writing policies that insure with respect to a motor vehicle registered  
9 or principally garaged in this state against loss resulting from liability imposed by  
10 law for bodily injury or death suffered by a person arising out of the ownership,  
11 maintenance, or use of a motor vehicle shall provide to one insured under each such  
12 insurance policy that goes into effect after the effective date of this paragraph ....  
13 [LRB inserts date], that is written by the insurer and that does not include  
14 underinsured motorist coverage written notice of the availability of underinsured  
15 motorist coverage, including a brief description of the coverage. An insurer is  
16 required to provide the notice required under this paragraph only one time and in  
17 conjunction with the delivery of the policy.

18 (b) Acceptance or rejection of underinsured motorist coverage by a person after  
19 being notified under par. (a) need not be in writing. The absence of a premium  
20 payment for underinsured motorist coverage is conclusive proof that the person has  
21 rejected such coverage. The rejection of such coverage by the person notified under  
22 par. (a) shall apply to all persons insured under the policy, including any renewal of  
23 the policy.

24 (c) If a person rejects underinsured motorist coverage after being notified under  
25 par. (a), the insurer is not required to provide such coverage under a policy that is



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1 renewed to the person by that insurer unless an insured under the policy  
2 subsequently requests such underinsured motorist coverage in writing.

3 (d) If an insured accepts underinsured motorist coverage, the insurer shall  
4 include the coverage in limits of at least \$50,000 per person and \$100,000 per  
5 accident.

6 (e) This subsection does not apply to commercial liability policies or umbrella  
7 or excess liability policies.

8 **SECTION 25.** 632.32 (4r) of the statutes is repealed.

9 **SECTION 26.** 632.32 (6) (d) of the statutes is renumbered 632.32 (5) (f) and  
10 amended to read:

11 632.32 (5) (f) ~~No A~~ policy may provide that, regardless of the number of policies  
12 involved, vehicles involved, persons covered, claims made, vehicles or premiums  
13 shown on the policy, or premiums paid, the limits for any ~~uninsured motorist~~  
14 ~~coverage or underinsured motorist coverage~~ under the policy may not be added to the  
15 limits for similar coverage applying to other motor vehicles to determine the limit of  
16 insurance coverage available for bodily injury or death suffered by a person in any  
17 one accident, ~~except that a policy may limit the number of motor vehicles for which~~  
18 ~~the limits for coverage may be added to 3 vehicles.~~

19 **SECTION 27.** 632.32 (6) (e) of the statutes is renumbered 632.32 (5) (g) and  
20 amended to read:

21 632.32 (5) (g) ~~No A~~ policy may provide that the maximum amount of uninsured  
22 motorist coverage ~~or~~, underinsured motorist coverage, or medical payments coverage  
23 available for bodily injury or death suffered by a person who was not using a motor  
24 vehicle at the time of an accident is any the highest single limit of uninsured motorist  
25 coverage ~~or~~, underinsured motorist coverage, or medical payments coverage,

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1 whichever is applicable, for any motor vehicle with respect to which the person is  
2 insured, ~~except that a policy may limit the number of motor vehicles for which~~  
3 ~~coverage limits may be added to 3 vehicles.~~

4 **SECTION 28.** 632.32 (6) (f) of the statutes is repealed.

5 **SECTION 29.** 632.32 (6) (g) of the statutes is renumbered 632.32 (5) (i), and  
6 632.32 (5) (i) (intro.), as renumbered, is amended to read:

7 632.32 (5) (i) (intro.) ~~No~~ A policy may provide that the limits under the policy  
8 for uninsured motorist coverage or underinsured motorist coverage for bodily injury  
9 or death resulting from any one accident shall be reduced by any of the following that  
10 apply:

11 **SECTION 30.** 632.355 of the statutes is repealed.

12 **SECTION 31. Initial applicability.**

*CS*  
AND MISCELLANEOUS  
CHANGES

13 (1) LIMITS. The treatment of sections 121.555 (2) (a), 344.01 (2) (am) and (d),  
14 344.11, 344.15 (1) (intro.), (a), and (b), 344.55 (1) (intro.), and 632.32 (2) (e) 3., (4)

15 (title), (a) 1., 2m., and 3m., and (b), (c), and (4m) of the statutes, the renumbering and  
16 amendment of section 344.33 (2) of the statutes, and the creation of section 344.33

17 (2) (a), (b), and (c) of the statutes first apply to all of the following:

18 (a) Motor vehicle insurance policies that are newly issued on the effective date  
19 of this paragraph.

20 (b) Motor vehicle insurance policies in effect before the effective date of this  
21 paragraph that are renewed on the effective date of this paragraph.

22 (c) Motor vehicle insurance policies in effect before the effective date of this  
23 paragraph that are, at the request of the insured, modified on the effective date of  
24 this paragraph.

*and (g) (intro.) and 2.)*

*(See next page for inserts)*

*631.43(3), (ac), (bh), (4)*  
*insert 13-15*  
*insert 13-17*

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*Insert 13-15*

1  
2  
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11

(2) MISCELLANEOUS CHANGES. The treatment of sections 631.43 (3) and ~~632.32~~

(2) (ac), (bh), and (g) (intro.) and 2., (4) (d), (4r), and (6) (d), (e), (f), and (g) of the

statutes first applies to motor vehicle insurance policies that are newly issued or renewed on the effective date of this subsection.

2 ~~(3)~~ HIGH-RISK CATEGORY. The treatment of section 632.355 of the statutes first applies to motor vehicle insurance policies that are newly issued on the effective date of this subsection.

**SECTION 32. Effective date.**

(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)

*Insert 13-17*

2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0524/2ins  
PJK:.....

INSERT A-3

*not* retains the requirement that underinsured motorist coverage be provided in every motor vehicle liability insurance policy, except for those written by town mutuals, and reduces the minimum required limits to  
(END OF INSERT A-3)

INSERT A-4

*ck* The bill restores former law by eliminating the requirement that an insurer writing an umbrella or excess liability policy must make a written offer of uninsured motorist coverage and underinsured motorist coverage and the requirement that a court must reform such a policy to include either coverage. However, the bill retains the current law provision that umbrella and excess liability policies are not subject to the coverage and limits requirements. In addition, the bill also excludes commercial liability policies from the coverage and limits requirements and defines those policies as ones that are intended principally to provide primary coverage for an insured's general liability arising out of its business or other commercial activities but that include coverage for the insured's liability arising out of the ownership, maintenance, or use of a motor vehicle as one component of the policy.  
(END OF INSERT A-4)

INSERT 10-16

1           SECTION 1. 632.32 (4) (a) 2m. of the statutes is amended to read:  
2           632.32 (4) (a) 2m. Excluding a policy written by a town mutual organized under  
3           ch. 612, underinsured motorist coverage, in limits of at least ~~\$100,000~~ \$50,000 per  
4           person and ~~\$300,000~~ \$100,000 per accident.

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28, 342.

(END OF INSERT 10-16)

**Basford, Sarah**

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**From:** Rep.Nygren  
**Sent:** Monday, January 10, 2011 11:52 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-0524/2 Topic: Miscellaneous auto insurance changes

Please Jacket LRB 11-0524/2 for the ASSEMBLY.