

1991 Senate Bill 399

Date of enactment: **April 29, 1992**

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## 1991 WISCONSIN ACT 279

AN ACT *to renumber and amend* 625.12 (1); *to amend* 625.12 (2), 625.15 (1) and 628.34 (3) (a); and *to create* 632.365 of the statutes, **relating to:** prohibiting insurers from using data obtained in the course of an auto emission inspection to set auto insurance rates.

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

**SECTION 1.** 625.12 (1) of the statutes is renumbered 625.12 (1) (intro.) and amended to read:

625.12 (1) BASIC FACTORS IN RATES. (intro.) Due consideration shall be given to past all of the following that apply:

(a) Past and prospective loss and expense experience within and outside of this state, ~~to catastrophe,~~

(b) Catastrophe hazards and contingencies, ~~to trends,~~

(c) Trends within and outside of this state, ~~to loadings,~~

(d) Loadings for leveling premium rates over time or for dividends or savings to be allowed or returned by insurers to their policyholders, members or subscribers, ~~and to,~~

(e) Subject to s. 632.365, all other relevant factors, including the judgment of technical personnel.

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

625.12 (2) CLASSIFICATION. Risks may be classified in any reasonable way for the establishment of rates and minimum premiums, except that no classifications may be based on race, color, creed or national origin, and classifications in automobile insurance may not be based on physical condition or developmental disability as defined in s. 51.01 (5). ~~Rates~~ Subject to s. 632.365, rates thus produced may be modified for individual risks in accordance with rating plans or schedules ~~which that~~ establish reasonable standards for measuring probable variations in

hazards, expenses, or both. Rates may also be modified for individual risks under s. 625.13 (2).

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

625.15 (1) RATE MAKING. An insurer may itself establish rates and supplementary rate information for any one or more market segment segments based on the factors in s. 625.12 and, if the rates are for motor vehicle liability insurance, subject to s. 632.365, or ~~if the insurer~~ may use rates and supplementary rate information prepared by a rate service organization, with average expense factors determined by the rate service organization or with such modification for its own expense and loss experience as the credibility of that experience allows.

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

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

**SECTION 5.** 632.365 of the statutes is created to read:  
**632.365 Use of emission inspection data in setting rates.** An insurer may not use odometer reading data collected in the course of an inspection under s. 110.20 (6), (6m) or (7) as a factor in setting rates or premiums for a

motor vehicle liability insurance policy or as a factor in altering rates or premiums during the term, or at renewal, of such a policy. However, an insurer may use such data

as a basis for investigation into the number of miles that the motor vehicle is normally driven.

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