

**SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 SENATE BILL 63**

March 14, 2000 – Offered by COMMITTEE ON JUDICIARY AND CONSUMER AFFAIRS.

1 **AN ACT** *to repeal* 632.38 (2) (b), 632.38 (3) (c), 632.38 (3) (d) and 632.38 (4); *to*
2 *renumber* 100.44 (4); *to amend* 100.44 (4) (title), 632.38 (1) (c), 632.38 (1) (e),
3 632.38 (2) (intro.), 632.38 (2) (a), 632.38 (3) (title), 632.38 (3) (a) and 632.38 (3)
4 (b); and *to create* 100.44 (1) (am), 100.44 (3m), 100.44 (4) (b), 632.38 (2) (c),
5 632.38 (2) (d), 632.38 (2) (e), 632.38 (2m) and 632.38 (5) of the statutes; **relating**
6 **to:** authorization for or acknowledgment of the use of nonoriginal
7 manufacturer replacement parts in the repair of a motor vehicle, granting
8 rule-making authority and providing a penalty.

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

9 **SECTION 1.** 100.44 (1) (am) of the statutes is created to read:
10 100.44 (1) (am) “Nonoriginal manufacturer replacement part” means a
11 replacement part that is not made by or for the manufacturer of an insured’s motor
12 vehicle.

1 **SECTION 2.** 100.44 (3m) of the statutes is created to read:

2 **100.44 (3m)** UNAUTHORIZED USE OF NONORIGINAL MANUFACTURER REPLACEMENT
3 PARTS. No person may use a nonoriginal manufacturer replacement part in the repair
4 of an insured's motor vehicle to which s. 632.38 (2) applies, unless the insurer paying
5 for the repair has received authorization for the use of the nonoriginal manufacturer
6 replacement part on the form described in s. 632.38 (2) and exhibits proof of the
7 authorization to the person making the repair.

8 **SECTION 3.** 100.44 (4) (title) of the statutes is amended to read:

9 **100.44 (4)** (title) ~~PENALTY~~ PENALTIES.

10 **SECTION 4.** 100.44 (4) of the statutes is renumbered 100.44 (4) (a).

11 **SECTION 5.** 100.44 (4) (b) of the statutes is created to read:

12 **100.44 (4)** (b) Any person who violates sub. (3m) may be required to forfeit not
13 more than \$1,000 for each violation. Each day of violation constitutes a separate
14 offense.

15 **SECTION 6.** 632.38 (1) (c) of the statutes is amended to read:

16 **632.38 (1)** (c) "Motor vehicle" means any motor-driven vehicle required to be
17 registered under ch. 341 or exempt from registration under s. 341.05 (2), including
18 a demonstrator or executive vehicle not titled or titled by a manufacturer or a motor
19 vehicle dealer. "Motor vehicle" does not mean a moped, as defined in s. 340.01 (29m),
20 semitrailer or trailer designed for use in combination with a truck or truck tractor.

21 **SECTION 7.** 632.38 (1) (e) of the statutes is amended to read:

22 **632.38 (1)** (e) "~~Replacement~~ Subject to sub. (5), "replacement part" means a
23 replacement for any of the nonmechanical sheet metal or plastic parts that generally
24 constitute the exterior of a motor vehicle, including inner and outer panels.

25 **SECTION 8.** 632.38 (2) (intro.) of the statutes is amended to read:

1 **632.38 (2)** ~~NOTICE OF INTENDED USE AND AUTHORIZATION FOR USE; NEWER OR LOWER~~
2 ~~MILEAGE VEHICLES.~~ (intro.) An insurer or the insurer’s representative may not require
3 ~~directly or indirectly~~ the use of a nonoriginal manufacturer replacement part in the
4 repair of an insured’s motor vehicle, ~~unless~~ if the model year of the motor vehicle is
5 5 years old or less or the actual mileage of the motor vehicle is 50,000 miles or less,
6 only if the insurer or the insurer’s representative provides to the insured the notice
7 and authorization form described in this subsection in the manner required in sub.
8 (3) ~~or (4)~~ and receives written authorization from the insured before any nonoriginal
9 manufacturer replacement part is installed on the insured’s motor vehicle. The
10 notice ~~shall be in writing and shall include all of~~ must be given, and authorization
11 must be obtained, on a form that is entitled “Replacement Parts Notice and
12 Authorization Form” and that includes only the following information:

13 **SECTION 9.** 632.38 (2) (a) of the statutes is amended to read:

14 **632.38 (2)** (a) A clear identification of each nonoriginal manufacturer
15 replacement part that ~~is intended for use~~ will be used in the repair of the insured’s
16 motor vehicle if the insured provides authorization for the part’s use.

17 **SECTION 10.** 632.38 (2) (b) of the statutes is repealed.

18 **SECTION 11.** 632.38 (2) (c) of the statutes is created to read:

19 **632.38 (2)** (c) A statement that the insured may choose to have replacement
20 parts made by or for the manufacturer of the insured’s motor vehicle used in the
21 repair of the insured’s motor vehicle.

22 **SECTION 12.** 632.38 (2) (d) of the statutes is created to read:

23 **632.38 (2)** (d) A statement that the insurer’s obligation to cover repairs to the
24 insured’s motor vehicle will not be affected by the insured’s choice under par. (c).

25 **SECTION 13.** 632.38 (2) (e) of the statutes is created to read:

1 632.38 (2) (e) Two signature lines for the insured’s signature, with one line
2 designated as authorizing the use of nonoriginal manufacturer replacement parts in
3 the repair and the other line designated as requiring the use of only original
4 manufacturer replacement parts in the repair. In addition, the form shall allow the
5 insured to authorize the use of a nonoriginal manufacturer replacement part or to
6 require the use of an original manufacturer replacement part with respect to each
7 replacement part to be used in the repair.

8 **SECTION 14.** 632.38 (2m) of the statutes is created to read:

9 **632.38 (2m)** NOTICE AND ACKNOWLEDGMENT OF USE; OLDER AND HIGHER MILEAGE
10 VEHICLES. An insurer or the insurer’s representative may require the use of a
11 nonoriginal manufacturer replacement part in the repair of an insured’s motor
12 vehicle if the model year of the motor vehicle is more than 5 years old and the actual
13 mileage of the motor vehicle is more than 50,000 miles, only if the insurer or the
14 insurer’s representative provides to the insured the notice and acknowledgment
15 form described in this subsection in the manner required in sub. (3) and receives
16 written acknowledgment from the insured before any nonoriginal manufacturer
17 replacement part is installed on the insured’s motor vehicle. The notice must be
18 given, and acknowledgment must be obtained, on a form that is entitled
19 “Replacement Parts Notice and Acknowledgment Form” and that includes only the
20 following information:

21 (a) A clear identification of each nonoriginal manufacturer replacement part
22 that will be used in the repair of the insured’s motor vehicle.

23 (b) A signature line for the insured’s signature, designated as acknowledging
24 the use of nonoriginal manufacturer replacement parts in the repair.

25 **SECTION 15.** 632.38 (3) (title) of the statutes is amended to read:

1 632.38 (3) (title) DELIVERY OF NOTICE AND AUTHORIZATION OR ACKNOWLEDGMENT
2 FORM.

3 **SECTION 16.** 632.38 (3) (a) of the statutes is amended to read:

4 632.38 (3) (a) The notice and authorization form described in sub. (2) or the
5 notice and acknowledgment form described in sub. (2m), whichever is appropriate.
6 shall appear ~~on or~~ be attached to the estimate of the cost of repairing the insured's
7 motor vehicle if the estimate is based on the use of one or more nonoriginal
8 manufacturer replacement parts and is prepared by the insurer or the insurer's
9 representative. The insurer or the insurer's representative shall deliver the
10 estimate and the notice and authorization form or notice and acknowledgment form
11 to the insured before the motor vehicle is repaired.

12 **SECTION 17.** 632.38 (3) (b) of the statutes is amended to read:

13 632.38 (3) (b) If the insurer or the insurer's representative directs the insured
14 to obtain one or more estimates of the cost of repairing the insured's motor vehicle
15 and the estimate approved by the insurer or the insurer's representative clearly
16 identifies one or more nonoriginal manufacturer replacement parts to be used in the
17 repair, the insurer or the insurer's representative shall ~~assure delivery of the notice~~
18 ~~described in sub. (2)~~ deliver the estimate approved by the insurer or the insurer's
19 representative, with the notice and authorization form or notice and
20 acknowledgment form attached, to the insured before the motor vehicle is repaired.

21 **SECTION 18.** 632.38 (3) (c) of the statutes is repealed.

22 **SECTION 19.** 632.38 (3) (d) of the statutes is repealed.

23 **SECTION 20.** 632.38 (4) of the statutes is repealed.

24 **SECTION 21.** 632.38 (5) of the statutes is created to read:

