

1999 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB63)

Received: 02/28/2000

Received By: kahlepj

Wanted: Soon

Identical to LRB:

For: Richard Grobschmidt (608) 266-7505

By/Representing: John Sumi

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Insurance - auto

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Authorization or acknowledgment of use of nonoriginal parts based on age or mileage

Instructions:

See Attached

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>
/?	kahlepj 02/28/2000	jgeller 02/29/2000		_____			
/1			martykr 02/29/2000	_____	lrb_docadmin 02/29/2000	lrb_docadmin 02/29/2000	

FE Sent For:

<END>

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1/?	kahlepj	1 2/29 jlg	3/2/29	HH 2 3/2/29			

FE Sent For:

<END>

2-28

John Sumi

6-705

Sub addt to SB63

based on sub

give consumer choice for first 7 yrs

but make it:

(for 5 yrs or 50,000^{miles} whichever
is later)

~~motorcycle~~

motorcycle → rules
penalty provision

use LRBs 0314/1



State of Wisconsin
1999 - 2000 LEGISLATURE

0344/1
LRB:00141
PJK: [unclear]
stays

SENATE SUBSTITUTE AMENDMENT,
TO 1999 SENATE BILL 63

SOON
(2-28)
D-note

Regen

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:

OR LOWER MILEAGE

Subpart A

- 1
- 2
- 3
- 4
- 5

~~632.38 (2) NOTICE OF INTENDED USE AND AUTHORIZATION FOR USE; NEWER VEHICLES.~~

(intro.) An insurer or the insurer's representative may ~~not~~ require ~~directly or indirectly~~ the use of a nonoriginal manufacturer replacement part in the repair of an insured's motor vehicle, ~~unless if the model year of the motor vehicle is 4 years old~~ or less, only if the insurer or the insurer's representative provides to the insured the notice and authorization form described in this subsection in the manner required in sub. (3) ~~or (4)~~ and receives written authorization from the insured before any nonoriginal manufacturer replacement part is installed on the insured's motor vehicle. The notice ~~shall be in writing and shall include all of~~ must be given, and authorization must be obtained, on a form that is entitled "Replacement Parts Notice and Authorization Form" and that includes only the following information:

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

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

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

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

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

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

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

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

5

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.

AND HIGHER MILEAGE

Insert B ✓

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

9 **632.38 (2m) NOTICE AND ACKNOWLEDGMENT OF USE; OLDER VEHICLES.** An insurer
 10 or the insurer's representative may require the use of a nonoriginal manufacturer
 11 replacement part in the repair of an insured's motor vehicle if the model year of the
 12 motor vehicle is more than ~~3~~²⁵ years old, only if the insurer or the insurer's
 13 representative provides to the insured the notice and acknowledgment form
 14 described in this subsection in the manner required in sub. (3) and receives written
 15 acknowledgment from the insured before any nonoriginal manufacturer
 16 replacement part is installed on the insured's motor vehicle. The notice must be
 17 given, and acknowledgment must be obtained, on a form that is entitled
 18 "Replacement Parts Notice and Acknowledgment Form" and that includes only the
 19 following information:

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

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

24 **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:

1 632.38 (5) RULES FOR MOTORCYCLE PARTS. The commissioner shall promulgate
2 rules that specify the parts of a motorcycle that are replacement parts, as defined in
3 sub. (1) (e).

4 **SECTION 22. Nonstatutory provisions.**

5 (1) RULES. The commissioner of insurance shall submit in proposed form the
6 rules required under section 632.38 (5) of the statutes, as created by this act, to the
7 legislative council staff under section 227.15 (1) of the statutes no later than the first
8 day of the 6th month beginning after the effective date of this subsection.

9 **SECTION 23. Initial applicability.**

10 (1) This act first applies to claims under motor vehicle insurance policies issued
11 or renewed on the effective date of this subsection.

12 **SECTION 24. Effective dates.** This act takes effect on the first day of the 3rd
13 month beginning after publication, except as follows:

14 (1) The treatment of section 632.38 (1) (e) and (5) of the statutes and SECTION
15 22 (1) of this act take effect on the day after publication.

16 (END)

D-Note

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0344/ins
PJK.....

INSERT A

or the actual mileage of the motor vehicle is 50,000 miles or less

(END OF INSERT A)

INSERT B

and the actual mileage of the motor vehicle is more than 50,000 miles

(END OF INSERT B)

plain

no
underline ↑

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

LRBs0344/dn

PJK.....

1
JG

John Sumi:

In this amendment, because the insurer requirement is dependent upon the *later* occurring of the specified age or mileage of the vehicle, to require authorization *either* the motor vehicle must be 5^y years old or less *or* the mileage must 50,000^v or less. If at least one applies, the later-occurring event has not yet occurred. To require only acknowledgment, however, *both* age and mileage requirements must be met because then we know the later-occurring of the two events has occurred.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

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

LRBs0344/1dn
PJK;jlg:km

February 29, 2000

John Sumi:

In this amendment, because the insurer requirement is dependent upon the *later* occurring of the specified age or mileage of the vehicle, to require authorization *either* the motor vehicle must be 5 years old or less *or* the mileage must be 50,000 or less. If at least one applies, the later-occurring event has not yet occurred. To require only acknowledgment, however, *both* age and mileage requirements must be met because then we know the later-occurring of the two events has occurred.

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Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us