



## 2009 ASSEMBLY BILL 897

March 24, 2010 – Introduced by Representatives NYGREN, BALLWEG, GOTTLIEB, GUNDERSON, KESTELL, KLEEFISCH, LEMAHIEU, MURSAU, A. OTT, SPANBAUER, SUDER, VAN ROY, VUKMIR, ZIEGELBAUER and HONADEL. Referred to Committee on Insurance.

1     **AN ACT** *to repeal* 227.01 (13) (zz), 344.01 (2) (am) 5., 344.11 and 632.32 (4r); *to*  
2     *renumber and amend* 632.32 (6) (d), 632.32 (6) (e) and 632.32 (6) (f); *to*  
3     *consolidate, renumber and amend* 632.355 (intro.) (except 632.355 (title))  
4     and (1); *to amend* 631.36 (5) (b) (intro.), 631.43 (3), 632.32 (1), 632.32 (2) (cm),  
5     632.32 (2) (e) 2., 632.32 (2) (e) 3., 632.32 (2) (g) 3., 632.32 (4) (a) (intro.), 632.32  
6     (4) (a) 1., 632.32 (4) (a) 3m., 632.32 (4) (bc) and 632.355 (title); and *to create*  
7     631.36 (5) (b) 3., 632.32 (2) (bc), 632.32 (4) (d) and 632.355 (2) of the statutes;  
8     **relating to:** motor vehicle insurance and proof of financial responsibility.

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### ***Analysis by the Legislative Reference Bureau***

#### ***Motor vehicle policy liability limits***

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 determined by DOT to be 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

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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 liability limits 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 by DOT, and published by DOT, at five-year intervals.

Also under current law, beginning on June 1, 2010, subject to certain exceptions, a person cannot operate a motor vehicle in this state unless the owner or operator of the vehicle has in effect a motor vehicle liability policy with respect to the vehicle being operated. The policy must provide coverage in at least the minimum liability limits specified immediately above.

This bill eliminates DOT's inflation adjustment of required minimum liability limits. The bill eliminates item 3., above, so that, for purposes of both mandatory liability insurance and proof of financial responsibility, the minimum liability limits after January 1, 2010, remain as specified in item 2., above.

***Miscellaneous motor vehicle insurance provisions***

This bill makes a number of changes to the current law provisions that relate to motor vehicle insurance policies and umbrella and excess liability policies, including the following:

1. Current law, as a result of provisions in the 2009–11 biennial budget act (budget act), makes a number of formerly permissible provisions prohibited in a motor vehicle liability insurance policy. The bill restores some of former law by making the following provisions permissible in a motor vehicle liability insurance policy:

a. 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.

b. 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.

c. 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

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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.

2. 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. Under former law, 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. As a result of provisions in the budget act, the level of uninsured motorist coverage that motor vehicle liability insurance policies, except for those written by town mutuals, must include is increased to \$100,000 per person and \$300,000 per accident and the level of medical payments coverage that those policies must include is increased to \$10,000 per person. The bill reduces the minimum required limits for uninsured motorist coverage to \$50,000 per person and \$100,000 per accident and eliminates any minimum required limit for medical payments coverage.

3. 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. Former law did not require motor vehicle liability insurance policies to include underinsured motorist coverage but required insurers to provide written notice of the availability of that coverage. 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. Current law, as a result of provisions in the budget act, requires every motor vehicle liability insurance policy, except for those written by town mutuals, to include underinsured motorist coverage coverage in limits of at least \$100,000 per person and \$300,000 per accident. The bill allows an insured to reject underinsured motorist coverage, which is the case under both former and current law for medical payments coverage.

4. Current law defines an underinsured motor vehicle as a motor vehicle that is involved in an accident with an insured and which, at the time of the accident, was covered by a motor vehicle liability insurance policy with limits that are less than the amount needed to fully compensate the insured for his or her damages. The bill defines an underinsured motor vehicle as one that is involved in an accident with an insured person who has underinsured motorist coverage and which vehicle, at the time of an accident, was covered by a motor vehicle liability insurance policy with limits that are less than the limits of that insured person's underinsured motorist coverage. The definition also includes a motor vehicle that is owned or operated by a person who has furnished proof of financial responsibility or who is self-insured under any other applicable motor vehicle law but with limits that are less than the limits of the insured person's underinsured motorist coverage.

5. Under current law, an uninsured motor vehicle includes an unidentified motor vehicle involved in a hit-and-run accident with the insured person. The bill specifies that an unidentified motor vehicle involved in a hit-and-run accident with

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the insured person is an uninsured motor vehicle if the vehicle makes contact with the insured person or the vehicle that the insured person is occupying.

6. Current law, as a result of provisions in the 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. The bill eliminates the requirement that an insurer writing an umbrella or excess liability policy make a written offer of uninsured motorist coverage and underinsured motorist coverage. In addition, the bill explicitly excludes umbrella and excess liability policies from the requirements that apply to motor vehicle insurance policies with respect to uninsured, underinsured, and medical payments coverage.

7. Current law, as a result of provisions in the budget act, prohibits an insurer from placing an applicant for insurance in a high-risk category on the basis that the applicant has not previously had motor vehicle insurance. The bill provides that this does not apply to a person who applies for motor vehicle insurance on or after January 1, 2011, and who, at the time of application, is in violation of the requirement beginning June 1, 2010, to have motor vehicle liability insurance as a condition for operating a motor vehicle.

8. Under current law, an insurer must provide at least 60 days' notice to an insured if the insured's policy will be renewed with increased premiums. The bill provides that this does not apply if the premium increase results from a statutory or regulatory change or a change based on case law.

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

1           **SECTION 1.** 227.01 (13) (zz) of the statutes, as created by 2009 Wisconsin Act  
2 28, is repealed.

3           **SECTION 2.** 344.01 (2) (am) 5. of the statutes, as created by 2009 Wisconsin Act  
4 28, is repealed.

5           **SECTION 3.** 344.11 of the statutes, as created by 2009 Wisconsin Act 28, is  
6 repealed.

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1           **SECTION 4.** 631.36 (5) (b) (intro.) of the statutes is amended to read:

2           631.36 **(5)** (b) *Exception.* (intro.) Paragraph (a) does not apply if the only  
3 change that is adverse to the policyholder is a premium increase and if either any of  
4 the following applies to the premium increase:

5           **SECTION 5.** 631.36 (5) (b) 3. of the statutes is created to read:

6           631.36 **(5)** (b) 3. The premium increase results from a statutory or regulatory  
7 change or a change based on case law.

8           **SECTION 6.** 631.43 (3) of the statutes, as affected by 2009 Wisconsin Act 28, is  
9 amended to read:

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

12          **SECTION 7.** 632.32 (1) of the statutes is amended to read:

13          632.32 **(1)** SCOPE. Except as otherwise provided, this section applies to every  
14 motor vehicle liability policy of insurance issued or delivered in this state against the  
15 insured's liability for loss or damage resulting from accident caused by any motor  
16 vehicle, whether the loss or damage is to property or to a person.

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

18          632.32 **(2)** (bc) "Motor vehicle liability policy" has the meaning given in s.  
19 344.61 (2).

20          **SECTION 9.** 632.32 (2) (cm) of the statutes, as created by 2009 Wisconsin Act 28,  
21 is amended to read:

22          632.32 **(2)** (cm) "Umbrella or excess liability policy" means an insurance  
23 contract providing at least \$1,000,000 of liability coverage per person or per  
24 occurrence in excess of certain required underlying motor vehicle liability insurance  
25 policy coverage or a specified amount of self-insured retention.

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1           **SECTION 10.** 632.32 (2) (e) 2. of the statutes, as created by 2009 Wisconsin Act  
2 28, is amended to read:

3           632.32 **(2)** (e) 2. ~~A~~ At the time of the accident, a bodily injury liability insurance  
4 policy applies to the motor vehicle ~~at the time of the accident~~ or the owner or operator  
5 of the motor vehicle has furnished proof of financial responsibility for the future  
6 under subch. III of ch. 344 and it is in effect or is a self-insurer under another  
7 applicable motor vehicle law.

8           **SECTION 11.** 632.32 (2) (e) 3. of the statutes, as created by 2009 Wisconsin Act  
9 28, is amended to read:

10           632.32 **(2)** (e) 3. The limits under the bodily injury liability insurance policy or  
11 with respect to the proof of financial responsibility or self-insurance are less than  
12 the amount needed to fully compensate the insured for his or her damages limits of  
13 the person's underinsured motorist coverage under subd. 1.

14           **SECTION 12.** 632.32 (2) (g) 3. of the statutes, as created by 2009 Wisconsin Act  
15 28, is amended to read:

16           632.32 **(2)** (g) 3. An unidentified motor vehicle involved in a hit-and-run  
17 accident with the person that makes contact, in the accident, with the person or the  
18 vehicle that the person is occupying.

19           **SECTION 13.** 632.32 (4) (a) (intro.) of the statutes, as affected by 2009 Wisconsin  
20 Act 28, is amended to read:

21           632.32 **(4)** (a) (intro.) ~~Every~~ Except as provided in par. (d), every motor vehicle  
22 liability policy ~~of insurance~~ subject to this section that insures with respect to any  
23 motor vehicle registered or principally garaged in this state against loss resulting  
24 from liability imposed by law for bodily injury or death suffered by any person arising



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1 out of the ownership, maintenance, or use of a motor vehicle shall contain therein or  
2 supplemental thereto provisions for all of the following coverages:

3 **SECTION 14.** 632.32 (4) (a) 1. of the statutes, as affected by 2009 Wisconsin Act  
4 28, is amended to read:

5 632.32 (4) (a) 1. Excluding a policy written by a town mutual organized under  
6 ch. 612, uninsured motorist coverage, in limits of at least \$100,000 \$50,000 per  
7 person and ~~\$300,000~~ \$100,000 per accident.

8 **SECTION 15.** 632.32 (4) (a) 3m. of the statutes, as affected by 2009 Wisconsin  
9 Act 28, is amended to read:

10 632.32 (4) (a) 3m. Medical payments coverage, ~~in the amount of at least \$10,000~~  
11 ~~per person.~~ Coverage written under this subdivision may be excess coverage over  
12 any other source of reimbursement to which the insured person has a legal right.

13 **SECTION 16.** 632.32 (4) (bc) of the statutes, as created by 2009 Wisconsin Act  
14 28, is amended to read:

15 632.32 (4) (bc) Notwithstanding par. (a) 2m. and 3m., the named insured may  
16 reject underinsured motorist coverage or medical payments coverage. ~~If the named~~  
17 ~~insured rejects the coverage, the~~ or both. ~~Any rejected~~ coverage need not be provided  
18 in a subsequent renewal policy issued by the same insurer unless the insured  
19 requests it in writing.

20 **SECTION 17.** 632.32 (4) (d) of the statutes is created to read:

21 632.32 (4) (d) This subsection does not apply to umbrella or excess liability  
22 policies.

23 **SECTION 18.** 632.32 (4r) of the statutes, as created by 2009 Wisconsin Act 28,  
24 is repealed.

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1           **SECTION 19.** 632.32 (6) (d) of the statutes, as affected by 2009 Wisconsin Act 28,  
2 is renumbered 632.32 (5) (f) and amended to read:

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

11           **SECTION 20.** 632.32 (6) (e) of the statutes, as affected by 2009 Wisconsin Act 28,  
12 is renumbered 632.32 (5) (g) and amended to read:

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

20           **SECTION 21.** 632.32 (6) (f) of the statutes, as affected by 2009 Wisconsin Act 28,  
21 is renumbered 632.32 (5) (h) and amended to read:

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



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1 is insured, ~~except that a policy may limit the number of motor vehicles for which~~  
2 ~~medical payments coverage limits may be added to 3 vehicles.~~

3 **SECTION 22.** 632.355 (title) of the statutes, as created by 2009 Wisconsin Act  
4 28, is amended to read:

5 **632.355 (title) Prohibited bases basis for assessing risk.**

6 **SECTION 23.** 632.355 (intro.) (except 632.355 (title)) and (1) of the statutes, as  
7 created by 2009 Wisconsin Act 28, are consolidated, renumbered 632.355 (1c) and  
8 amended to read:

9 **632.355 (1c)** In issuing or renewing a motor vehicle insurance policy, an insurer  
10 may not ~~do any of the following:~~ ~~(1)~~ Place place the applicant or insured in a  
11 high-risk category on the basis that the applicant or insured has not previously had  
12 motor vehicle insurance.

13 **SECTION 24.** 632.355 (2) of the statutes is created to read:

14 **632.355 (2)** Subsection (1c) does not apply to a person who applies for a motor  
15 vehicle insurance policy on or after January 1, 2011, and who is in violation of s.  
16 344.62 at the time of application.

17 **SECTION 25. Initial applicability.**

18 (1) LIMITS, REQUIRED COVERAGE, AND POLICY PROVISIONS. The treatment of sections  
19 631.43 (3) and 632.32 (4) (a) 1. and 3m. and (bc), (4r), and (6) (d), (e), and (f) of the  
20 statutes first applies to motor vehicle insurance policies and umbrella and excess  
21 liability policies that are issued or renewed on the effective date of this subsection.

22 (2) RENEWAL WITH INCREASED PREMIUM. The treatment of section 631.36 (5) (b)  
23 3. of the statutes first applies to policies that renewed on the first day of the 3rd  
24 month beginning after the effective date of this subsection.

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1           (3) UNINSURED AND UNDERINSURED MOTOR VEHICLE DEFINITIONS. If a motor vehicle  
2 insurance policy that is in effect on the effective date of this subsection contains a  
3 provision that is inconsistent with the treatment of section 632.32 (2) (e) 2. or 3. or  
4 (g) 3. or (4) (a) (intro.) or (d) of the statutes, the treatment of section 632.32 (2) (e) 2.  
5 or 3. or (g) 3. or (4) (a) (intro.) or (d) of the statutes, whichever is applicable, first  
6 applies to that motor vehicle insurance policy on the date on which it is renewed.

7   **(END)**