

State of Wisconsin



2011 Assembly Bill 4

Date of enactment: **April 12, 2011**
Date of publication*: **April 26, 2011**

2011 WISCONSIN ACT 14

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

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

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

121.555 (2) (a) *Insurance.* If the vehicle is owned or leased by a school or a school bus contractor, or is a vehicle authorized under sub. (1) (b), it shall comply with s. 121.53. If the vehicle is transporting 9 or less fewer persons in addition to the operator and is not owned or leased by a school or by a school bus contractor, it shall be insured by a policy providing property damage coverage with a limit of not less than \$10,000 and bodily injury liability coverage with limits, as of the policy's effective date, equal to or greater than the minimum liability limits, as defined in s. 344.01 (2) (am) of not less than \$25,000 for each person, and, subject to the limit for each person, a total limit of not less than \$50,000 for each accident.

SECTION 2. 227.01 (13) (zz) of the statutes is repealed.

SECTION 3. 344.01 (2) (am) of the statutes is repealed.

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

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

SECTION 5. 344.11 of the statutes is repealed.

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

344.15 (1) No policy or bond is effective under s. 344.14 unless all of the following apply: ~~(a) The policy~~

* Section 991.11, WISCONSIN STATUTES 2009-10: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

~~or bond~~ is issued by an insurer authorized to do an automobile liability or surety business in this state, except as provided in sub. (2). ~~(b) The limits of liability under the, or unless the policy or bond, as of the date of the accident, are equal to or greater than the minimum liability limits is subject, if the accident has resulted in bodily injury or death, to a limit of not less than \$25,000 because of bodily injury to or death of one person in any one accident and, subject to that limit for one person, to a limit of not less than \$50,000 because of bodily injury to or death of 2 or more persons in any one accident and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$10,000 because of injury to or destruction of property of others in any one accident.~~

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

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

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

344.33 (2) (a) Twenty-five thousand dollars because of bodily injury to or death of one person in any one accident.

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

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

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

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

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

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

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

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

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

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

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

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

1. The motor vehicle is involved in an accident with a person who has uninsured motorist coverage.
2. In the accident, the motor vehicle makes no physical contact with the insured or with a vehicle the insured is occupying.
3. The identity of neither the operator nor the owner of the motor vehicle can be ascertained.

SECTION 15c. 632.32 (2) (e) of the statutes is repealed.

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

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:

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

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

- a. The facts of the accident are corroborated by competent evidence that is provided by someone other than

the insured or any other person who makes a claim against the uninsured motorist coverage as a result of the accident.

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

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

SECTION 17m. 632.32 (4) (title) of the statutes is amended to read:

632.32 (4) (title) REQUIRED UNINSURED MOTORIST; UNDERINSURED MOTORIST; AND MEDICAL PAYMENTS COVERAGES.

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

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

SECTION 19m. 632.32 (4) (a) 2m. of the statutes is repealed.

SECTION 20c. 632.32 (4) (a) 3m. of the statutes is renumbered 632.32 (4) (a) 2. and amended to read:

632.32 (4) (a) 2. Medical payments coverage, in the amount of at least \$40,000 \$1,000 per person. Coverage written under this subdivision may be excess coverage over any other source of reimbursement to which the insured person has a legal right.

SECTION 20m. 632.32 (4) (bc) of the statutes is amended to read:

632.32 (4) (bc) Notwithstanding par. (a) ~~3m. 2.~~, the named insured may reject medical payments coverage. If the named insured rejects the coverage, the coverage need not be provided in a subsequent renewal policy issued by the same insurer unless the insured requests it in writing.

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

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

SECTION 21m. 632.32 (4m) of the statutes is created to read:

632.32 (4m) UNDERINSURED MOTORIST COVERAGE. (a) Except as provided in par. (e), an insurer writing policies that insure with respect to a motor vehicle registered or principally garaged in this state against loss resulting from liability imposed by law for bodily injury or death

suffered by a person arising out of the ownership, maintenance, or use of a motor vehicle shall provide to one insured under each such insurance policy that goes into effect after the effective date of this paragraph ... [LRB inserts date], that is written by the insurer and that does not include underinsured motorist coverage written notice of the availability of underinsured motorist coverage, including a brief description of the coverage. An insurer is required to provide the notice required under this paragraph only one time and in conjunction with the delivery of the policy.

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

(c) If a person rejects underinsured motorist coverage after being notified under par. (a), the insurer is not required to provide such coverage under a policy that is renewed to the person by that insurer unless an insured under the policy subsequently requests such underinsured motorist coverage in writing.

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

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

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

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

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

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

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

insured, except that a policy may limit the number of motor vehicles for which coverage limits may be added to 3 vehicles.

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

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

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

SECTION 27. 632.355 of the statutes is repealed.

SECTION 28. Initial applicability.

(1) LIMITS AND MISCELLANEOUS CHANGES. The treatment of sections 121.555 (2) (a), 344.01 (2) (am) and (d),

344.11, 344.15 (1) (intro.), (a), and (b), 344.55 (1) (intro.), 631.43 (3), and 632.32 (2) (ac), (bh), (e), and (g) (intro.) and 2., (4) (title), (a) 1., 2m., and 3m., (bc), and (d), (4m), (4r), and (6) (d), (e), (f), and (g) of the statutes, 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 first apply to motor vehicle insurance policies that are newly issued or renewed on the effective date of this subsection.

(2) 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 29. Effective date.

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