



**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:

