



1995 SENATE BILL 6

January 5, 1995 – Introduced by Senators HUELSMAN, RUDE, ROSENZWEIG, LEEAN, BRESKE, SCHULTZ, HELBACH, ELLIS, ANDREA, BUETTNER, FARROW, ZIEN, FITZGERALD and PANZER, cosponsored by Representatives BRANCEL, ALBERS, BRANDEMUEHL, KREIBICH, FOTI, VRAKAS, HAHN, GOETSCH, MUSSER, DUFF, LADWIG, DOBYNS, WALKER, LEHMAN, SCHNEIDERS, WARD, KAUFERT, URBAN, JOHNSRUD, AINSWORTH, OWENS, OTT, GARD, HANDRICK, SILBAUGH, HARS DORF, HASENOHRL, ZUKOWSKI, FREESE, WILLIAMS, SKINDRUD, RYBA and OTTE. Referred to Committee on Judiciary.

- 1 **AN ACT to amend** 631.43 (3); and **to create** 632.32 (5) (f) to (j) of the statutes;
2 **relating to:** stacking of motor vehicle insurance coverage and drive–other–car
3 exclusions under motor vehicle policies.

Analysis by the Legislative Reference Bureau

This bill overturns a series of Wisconsin appellate court decisions which have held that a motor vehicle insurance policy may not prohibit stacking of uninsured or underinsured motorist coverage. Stacking means that the limits of 2 or more coverages indemnifying an insured against the same loss, whether under the same or different policies, are added together to determine the limits of recovery for the insured. The bill permits motor vehicle insurance policies to prohibit stacking of uninsured or underinsured motorist coverage or any other coverage provided by the policy.

The bill also specifies the applicable policy limits if a pedestrian is injured by a motor vehicle. The policy may provide that the maximum amount of uninsured or underinsured motorist coverage, or medical payments coverage, available to the pedestrian is the highest limit of that coverage for any vehicle with respect to which the person is insured.

The bill also permits motor vehicle insurance policies to reduce the limits payable under the policy for uninsured or underinsured motorist coverage by payments received from other sources. Payments for bodily injury or death may be reduced by amounts paid by a person who is legally responsible, by amounts paid or payable under a worker's compensation law and by amounts paid or payable under a disability benefits law.

The bill also validates certain drive–other–car exclusions, which courts have invalidated when used to prevent stacking. Under the bill, a policy may exclude coverage for losses resulting from the use of a vehicle that is not described in the

policy and that is owned by the named insured or a family member residing with the named insured.

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

1 **SECTION 1.** 631.43 (3) of the statutes is amended to read:

2 631.43 (3) EXCEPTION. Subsection (1) does not affect the rights of insurers to
3 exclude coverages, limit or reduce coverage under s. 632.32 (5) (b) and, (c) or (f) to (j).

4 **SECTION 2.** 632.32 (5) (f) to (j) of the statutes are created to read:

5 632.32 (5) (f) A policy may provide that regardless of the number of policies
6 involved, vehicles involved, persons covered, claims made, vehicles or premiums
7 shown on the policy or premiums paid the limits for any coverage under the policy
8 may not be added to the limits for similar coverage applying to other motor vehicles
9 to determine the limit of insurance coverage available for bodily injury or death
10 suffered by a person in any one accident.

11 (g) A policy may provide that the maximum amount of uninsured or
12 underinsured motorist coverage available for bodily injury or death suffered by a
13 person who was not using a motor vehicle at the time of an accident is the highest
14 single limit of uninsured or underinsured motorist coverage, whichever is applicable,
15 for any motor vehicle with respect to which the person is insured.

16 (h) A policy may provide that the maximum amount of medical payments
17 coverage available for bodily injury or death suffered by a person who was not using
18 a motor vehicle at the time of an accident is the highest single limit of medical
19 payments coverage for any motor vehicle with respect to which the person is insured.

1 (i) A policy may provide that the limits under the policy for uninsured or
2 underinsured motorist coverage for bodily injury or death resulting from any one
3 accident shall be reduced by any of the following that apply:

4 1. Amounts paid by or on behalf of any person or organization that may be
5 legally responsible.

6 2. Amounts paid or payable under any worker's compensation law.

7 3. Amounts paid or payable under any disability benefits laws.

8 (j) A policy may provide that any coverage under the policy does not apply to
9 a loss resulting from the use of a motor vehicle that meets all of the following
10 conditions:

11 1. Is owned by the named insured, or is owned by the named insured's spouse
12 or a relative of the named insured if the spouse or relative resides in the same
13 household as the named insured.

14 2. Is not described in the policy under which the claim is made.

15 3. Is not covered under the terms of the policy as a newly acquired or
16 replacement motor vehicle.

17 **SECTION 3. Initial applicability.**

18 (1) Except as provided in subsection (2), this act first applies to motor vehicle
19 insurance policies that are issued or renewed on the effective date of this subsection.

20 (2) If a motor vehicle insurance policy in existence on the effective date of this
21 subsection contains a provision authorized under section 632.32 (5) (f) to (j) of the
22 statutes, as created by this act, the provision is first enforceable with respect to
23 claims arising out of motor vehicle accidents occurring on the effective date of this
24 subsection.

25 (END)