

1995 Senate Bill 6

Date of enactment: **June 30, 1995**
Date of publication*: **July 14, 1995**

1995 WISCONSIN ACT 21

AN ACT to amend 631.43 (3) and 632.32 (4) (a) 1.; and to create 632.32 (4m) and 632.32 (5) (f) to (j) of the statutes; relating to: notification of the availability of underinsured motorist coverage, stacking of motor vehicle insurance coverage and drive-other-car exclusions under motor vehicle policies.

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

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

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

SECTION 2. 632.32 (4) (a) 1. of the statutes is amended to read:

632.32 (4) (a) 1. For the protection of persons injured who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom, in limits of at least \$25,000 per person and \$50,000 per accident. ~~The insurer may increase the coverage limits provided under this paragraph up to the bodily injury liability limits provided in the policy.~~

SECTION 3. 632.32 (4m) of the statutes is created to read:

632.32 (4m) UNDERINSURED MOTORIST COVERAGE. (a) 1. 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 insur-

ance policy that goes into effect after the effective date of this subdivision [revisor 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 subdivision only one time and in conjunction with the delivery of the policy.

2. An insurer under subd. 1. shall provide to one insured under each insurance policy described in subd. 1. that is in effect on the effective date of this subdivision [revisor 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 subdivision only one time and in conjunction with the notice of the first renewal of each policy occurring after 120 days after the effective date of this subdivision [revisor inserts date].

(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.

* Section 991.11, WISCONSIN STATUTES 1993-94: 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].

(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 who is notified under par. (a) 1. accepts underinsured motorist coverage, the insurer shall include the coverage under the policy just delivered to the insured in limits of at least \$50,000 per person and \$100,000 per accident. For any insured who accepts the coverage after notification under par. (a) 2., the insurer shall include the coverage under the renewed policy in limits of at least \$50,000 per person and \$100,000 per accident.

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

632.32 (5) (f) 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 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.

(g) A policy may provide that the maximum amount of uninsured or underinsured motorist 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 the highest single limit of uninsured or underinsured motorist coverage, whichever is applicable, for any motor vehicle with respect to which the person is insured.

(h) A policy may provide that the maximum amount of 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 the highest single limit of medical payments coverage for any motor vehicle with respect to which the person is insured.

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

1. Amounts paid by or on behalf of any person or organization that may be legally responsible for the bodily injury or death for which the payment is made.

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

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

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

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

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

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

SECTION 5. Initial applicability.

(1) Except as provided in subsection (2), the treatment of sections 631.43 (3) and 632.32 (4) (a) 1. and (5) (f) to (j) of the statutes first applies to motor vehicle insurance policies that are issued or renewed on the effective date of this subsection.

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

SECTION 6. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 632.32 (4m) of the statutes takes effect on the first day of the 3rd month beginning after publication.