WISCONSIN LEGISLATIVE COUNCIL
INFORMATION MEMORANDUM

Mandatory Auto Insurance

Each person operating a motor vehicle on any road must have auto insurance for the vehicle being operated. The penalty for violating this law is a fine of not more than $500.

2009 Wisconsin Act 28, the 2009-2011 Biennial Budget Act, made auto insurance coverage mandatory in Wisconsin, effective June 1, 2010. 2011 Wisconsin Act 14 revised the minimum amounts of the mandatory auto insurance coverage, and modified other aspects of motor vehicle liability insurance.

This memorandum describes mandatory auto insurance coverage for individual consumers. It does not address auto insurance for commercial uses, such as school buses or human service vehicles used to transport the elderly and disabled.

MANDATORY MOTOR VEHICLE LIABILITY COVERAGE

LIABILITY COVERAGE IS MANDATORY

Effective June 1, 2010, each person operating a motor vehicle on a highway in this state must have in effect a liability policy for the vehicle being operated. [s. 344.62 (1), Stats.] A highway includes all public ways and thoroughfares that are open to the use of the public for vehicular traffic, but does not include private roads or driveways. [s. 340.01 (22), Stats.] The penalty for violating this provision is a forfeiture of not more than $500. [s. 344.65 (1) (a), Stats.]

A motor vehicle liability policy must insure a motor vehicle, and any person using that vehicle with express or implied permission of the owner, and must insure the owner who is using any other motor vehicle with express or implied permission of its owner, against loss from the liability imposed by law for damages arising out of the maintenance or use of the vehicle within the U.S. or Canada. [s. 344.33 (2), Stats.]

For purposes of the required motor vehicle liability insurance policy, a motor vehicle does not include a trailer, semi-trailer, or all-terrain vehicle. [s. 344.61 (1), Stats.]

MINIMUM AMOUNTS ARE REQUIRED FOR LIABILITY COVERAGE

The minimum requirements for coverage under a motor vehicle liability policy for a single accident are as follows, for each policy that is newly issued or renewed:

- Between January 1, 2010, and October 31, 2011: $50,000 for bodily injury or death of one person; $100,000 for bodily injury or death of two or more persons; and $15,000 for property damage. [s. 344.01 (2) (am), 2009 Stats.]

- On or after November 1, 2011: $25,000 for bodily injury or death of one person; $50,000 for bodily injury or death of two or more persons; and $10,000 for property damage. [s. 344.33 (2), 2011 Stats.]

PROOF OF LIABILITY COVERAGE IS MANDATORY

In addition, each person operating a motor vehicle on a highway in this state must have proof in the person's immediate possession of compliance with the requirement to have auto insurance. The person must display the proof on demand from any traffic officer. The penalty for violating this provision is a forfeiture of $10. [ss. 344.62 (2) and 344.65 (1) (b), Stats.]

However, if, after receiving a citation, a person produces proof to the law enforcement office, or to the court, that the person was in compliance with the requirement to have liability coverage at the time the citation was issued, then the person cannot be convicted for the failure to have the proof in the person's immediate possession. [s. 344.65 (1) (c), Stats.]

OFFICER MAY NOT STOP OR SEARCH SOLELY FOR LACK OF LIABILITY COVERAGE

A traffic officer may not stop or inspect a vehicle solely to determine whether a person has liability coverage or is carrying proof of liability coverage. [s. 344.65 (3), Stats.]

FRAUDULENT, FALSE, OR INVALID PROOF OF INSURANCE

No person may create the appearance of satisfying the requirement to have motor vehicle liability coverage by forging, falsifying, counterfeiting, or fraudulently altering any proof of insurance, or representing that any proof of insurance or the policy itself is valid and in effect, knowing or having reason to believe that the proof of insurance or the policy is not valid or not in effect. [s. 344.64, Stats.]

Any person who creates a false appearance of carrying proof of insurance may be required to forfeit not more than $5,000. [s. 344.65 (2), Stats.]

MANDATORY UNINSURED MOTORIST COVERAGE

Minimum liability coverage for uninsured motorists is also required for each policy of insurance for any motor vehicle registered or principally garaged in Wisconsin. For each policy that is newly issued or renewed as follows:

- Between November 1, 2009, and October 31, 2011: the policy must include uninsured motorist coverage of at least $100,000 per person and $300,000 per accident. [s. 632.32 (4) (a) 1., 2009 Stats.]

- On or after November 1, 2011: the policy must include uninsured motorist coverage of at least $25,000 per person and $50,000 per accident. [s. 632.32 (4) (a) 1., 2011 Stats.]

The requirement to include uninsured motorist coverage does not apply to an umbrella or excess liability policy, or to a policy written by a town mutual. [s. 632.32 (4) (a) 1. and (d), Stats.] The requirement to include uninsured motorist coverage also does not apply to a commercial liability policy newly issued or renewed after November 1, 2011. [s. 632.32 (4) (d), 2011 Stats.]

Additionally, no notice of availability for uninsured motorist coverage is required for each umbrella or excess liability policy newly issued or renewed on or after November 1, 2011. [s. 632.32 (4r), 2009 Stats., repealed.]

An uninsured motor vehicle is one that does not have motor vehicle liability coverage, has not furnished proof of financial responsibility for the future if required to do so to reinstate operating or registration privileges, and is not a self-insurer at the time of an accident. [s. 632.32 (2) (g), Stats.] A vehicle owned by a governmental unit cannot be considered uninsured. [s. 632.32 (2) (g), 2011 Stats.]

An uninsured motor vehicle also includes:

- An insured motor vehicle, or self-insured vehicle, if before or after the accident the insurer is declared insolvent.

- An unidentified motor vehicle if an independent third party provides evidence that the unidentified motor vehicle was involved in the accident. For a policy newly issued or renewed on or after November 1, 2011, this includes a so-called phantom motor vehicle that may cause an accident without physical contact between the vehicles. The facts of an accident with a phantom motor vehicle must be corroborated by someone other than the insured or the person making the claim for coverage, and the accident must be reported to police within 72 hours and to the insurer within 30 days.

- An unidentified motor vehicle involved in a hit-and-run accident with a person covered by the policy. In this case, independent corroboration is not required.

[s. 632.32 (2) (g), Stats.]

UNDERINSURED MOTORIST COVERAGE

A POLICY ISSUED OR RENEWED BETWEEN NOVEMBER 1, 2009, AND OCTOBER 31, 2011

Minimum liability coverage for underinsured motorists is required for each policy of insurance for any motor vehicle registered or principally garaged in Wisconsin between November 1, 2009, and October 31, 2011. During this period, underinsured motorist coverage must be at least $100,000 per person and $300,000 per accident. [s. 632.32 (4) (a) 2m., 2009 Stats.]

A POLICY ISSUED OR RENEWED ON OR AFTER NOVEMBER 1, 2011

For each motor vehicle insurance policy that is newly issued or renewed on or after November 1, 2011, no minimum liability coverage for underinsured motorists is required. However, if underinsured motorist coverage is not included in the policy, a written notice of its availability must be provided to the owner. [s. 632.32 (4m), 2011 Stats.]

The notice is required one time only, in conjunction with the delivery of the policy. Rejection or acceptance of the underinsured motorist coverage does not need to be in writing, and an absence of premium payments for underinsured motorist coverage is adequate proof of rejection.

If an owner does choose underinsured motorist coverage, with the definition of an underinsured motorist determined in the policy, then the coverage must be at least $50,000 per person and $100,000 per accident.

The requirement for notice of availability of underinsured motorist coverage does not apply to a commercial, umbrella, or excess liability policy newly issued or renewed on or after November 1, 2011.

MANDATORY MEDICAL PAYMENTS COVERAGE

Minimum medical payments coverage is required for each policy of insurance for any motor vehicle registered or principally garaged in Wisconsin, as follows, for each policy that is newly issued or renewed:

- Between November 1, 2009, and October 31, 2011: at least $10,000 per person. [s. 632.32 (4) (a) 3m., 2009 Stats.]

- On or after November 1, 2011: at least $1,000 per person. [s. 632.32 (4) (a) 2., 2011 Stats.]

However, medical payments coverage may be rejected, and need not be re-offered at the time of renewal, unless requested in writing by the owner. [s. 632.32 (4) (bc), Stats.]

The requirement for medical payments coverage does not apply to an umbrella or excess liability policy. [s. 632.32 (4) (d), Stats.] The requirement for medical payments coverage also does not apply to a commercial liability policy newly issued or renewed after November 1, 2011. [s. 632.32 (4) (d), 2011 Stats.]

Medical payments coverage indemnifies for medical and chiropractic payments for losses resulting from bodily injury or death of any person using the insured motor vehicle. [s. 632.32 (2) (am), Stats.] Medical payments coverage may be excess coverage over any other source of reimbursement to the insured person. [s. 632.32 (4) (a) 3m., 2009 Stats.; s. 632.32 (4) (a) 2., 2011 Stats.]

EXCEPTIONS TO MANDATORY LIABILITY COVERAGE

A person is not required to have motor vehicle liability coverage if any of the following apply:

- The owner or operator of the motor vehicle has in effect a bond with respect to the vehicle that is filed with the Secretary of Transportation, and the vehicle is being operated with the permission of the person who filed the bond.

- The motor vehicle is insured under another provision of current law, such as current law requiring insurance for school buses, and the vehicle is being operated by the owner or with the owner's permission.

- The motor vehicle is owned by a self-insurer who has a valid certificate of self-insurance if the person has registered more than 25 motor vehicles; the self-insurer has made an agreement that, if he or she has a motor vehicle accident, the self-insurer will pay the same amounts that an insurer would have been obligated to pay under a motor vehicle liability coverage policy; and the vehicle is being operated with the owner's permission.

- The owner or operator of the motor vehicle has made a deposit of cash or securities with the Secretary of Transportation for $60,000 per vehicle, and the vehicle is being operated by or with the permission of the person who made the deposit.

- The motor vehicle is subject to financial responsibility requirements for certain rented or leased vehicles, or to insurance requirements for human service vehicles.

- The motor vehicle is owned or leased to a federal, state, or local governmental unit (whether of Wisconsin or another state), and the vehicle is being operated with the governmental unit's permission.

[s. 344.63 (1), Stats.]

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

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