



WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

Mandatory Auto Insurance

2009 Wisconsin Act 28, the Biennial Budget Act, makes motor vehicle liability coverage, or auto insurance, mandatory in Wisconsin effective June 1, 2010. Currently, 49 states and the District of Columbia require drivers to have motor vehicle liability coverage. New Hampshire is the only state that does not require such coverage.¹ Under Wisconsin law, no person may operate a motor vehicle upon a highway in this state unless the owner or operator of the vehicle has in effect a liability policy for the vehicle being operated. The penalty for violating this provision is a forfeiture of not more than \$500. In addition, no person may operate a motor vehicle upon a highway in this state unless the person, while operating the vehicle, has in his or her immediate possession proof that he or she is in compliance with the requirement to have in effect a liability policy. The operator of the motor vehicle must display the proof required upon demand from any traffic officer. The penalty for violating this provision is a forfeiture of not more than \$10.

Act 28 also changed various requirements for motor vehicle liability policies, including increasing the minimum coverage amounts.

MANDATORY MOTOR VEHICLE LIABILITY COVERAGE

REQUIREMENTS AND PENALTIES

Effective June 1, 2010, no person may operate a motor vehicle² upon a highway in this state unless the owner or operator of the vehicle has in effect a liability policy for the vehicle being operated. The penalty for violating this provision is a forfeiture of not more than \$500. In addition, no person may operate a motor vehicle upon a highway in this state unless the person, while operating the vehicle, has in his or her immediate possession proof that he or she is in compliance with the requirement to have liability coverage. The operator of the motor vehicle must display the proof required upon demand from any traffic officer. The penalty for violating this provision is a forfeiture of not more than \$10. [ss. 344.62 and 344.65 (1), Stats.]

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.]

EXCEPTIONS

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 in an amount of \$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 and human service vehicles.
- The motor vehicle is owned or leased to the United States, the State of Wisconsin or another state, or any county or municipality of Wisconsin or another state, and the vehicle is being operated with the owner's or lessee's permission.

[s. 344.63 (1), Stats.]

FRAUDULENT, FALSE, OR INVALID PROOF OF INSURANCE

Effective June 1, 2010, no person may create the appearance of satisfying the requirement to have motor vehicle liability coverage by doing any of the following:

- Forging, falsifying, counterfeiting, or fraudulently altering any proof of insurance, or other insurance document, or possessing any forged, falsified, fictitious, counterfeit, or fraudulently altered proof of insurance, policy of insurance, or other insurance document.
- Representing that any proof of insurance, policy of insurance, or other insurance document is valid and in effect, knowing or having reason to believe that the proof of insurance, policy of insurance, or other insurance document is not valid or not in effect.

[s. 344.64, Stats.]

Any person who violates the above provision may be required to forfeit not more than \$5,000. [s. 344.65 (2), Stats.]

MINIMUM LIABILITY LIMITS FOR AUTO INSURANCE POLICIES

LIABILITY COVERAGE

The minimum limits for coverage under a motor vehicle liability policy for a single accident are as follows:

- Before January 1, 2010, \$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.
- On or after January 1, 2010, \$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.
- After December 31, 2016, the limits determined by the Department of Transportation (DOT) after making adjustments based on the consumer price index for the medical care group on a five-year basis and published by the DOT.

[s. 344.01 (2) (am), Stats.]

UNINSURED MOTORIST, UNDERINSURED MOTORIST, AND MEDICAL PAYMENTS COVERAGE

For policies issued or renewed on or after November 1, 2009, each motor vehicle liability insurance policy³ must contain ***uninsured motorist coverage*** in limits of at least \$100,000 per person and \$300,000 per accident. This provision does not apply to a policy written by a town mutual. “Uninsured motorist coverage” covers persons insured under that coverage who are legally entitled to recover damages for bodily injury, death, sickness, or disease from owners or operators of uninsured motor vehicles. An “uninsured motor vehicle” is a motor vehicle that is involved in an accident with a person who, at the time of the accident, does not have motor vehicle liability coverage, has not furnished proof of financial responsibility for the future⁴, and is not a self-insurer under any other applicable motor vehicle law. “Uninsured motor vehicle” also includes any of the following motor vehicles:

- An insured motor vehicle, or a motor vehicle with respect to which the owner or operator is a self-insurer, if before or after the accident the liability insurer of the motor vehicle is declared insolvent.
- An unidentified motor vehicle if an independent third party provides evidence that the unidentified motor vehicle was involved in the accident.
- An unidentified motor vehicle involved in a hit-and-run accident with the person. In this case, third-party verification is not required.

[s. 632.32 (2) (f) and (g) and (4) (a) 1., Stats.]

Also, effective November 1, 2009, every motor vehicle liability insurance policy must contain ***underinsured motorist coverage*** in limits of at least \$100,000 per person and \$300,000 per accident. This provision does not apply to a policy written by a town mutual. “Underinsured motorist coverage” covers persons insured under that coverage who are legally entitled to recover damages for bodily injury, death, sickness, or disease from owners or operators of underinsured motor vehicles. An “underinsured motor vehicle” is a motor vehicle that meets all of the following conditions:

- The motor vehicle is involved in an accident with a person who has underinsured motorist coverage.
- At the time of the accident, a bodily injury liability insurance policy applies to the motor vehicle; the owner or operator of the motor vehicle has furnished proof of financial responsibility for the future or the owner or operator of the motor vehicle is a self-insurer under another applicable motor vehicle law.
- The limits under the bodily injury liability insurance policy or with respect to the proof of financial responsibility or self-insurance are less than the damages needed to fully compensate the insured for his or her damages.

[s. 632.32 (2) (d) and (e) and (4) (a) 2., Stats.]

Finally, effective November 1, 2009, every motor vehicle liability insurance policy must contain ***medical payments coverage***, in an amount of at least \$10,000 per person. However, as described below, this coverage may be rejected. Coverage written under this provision may be excess coverage over any other source of reimbursement to which the insured person has a legal right. “Medical payments coverage” is defined as coverage to indemnify for medical payment or chiropractic payments or both for the protection of all persons using⁵ the insured motor vehicle from losses resulting from bodily injury or death. An insured may reject medical payments coverage. If the insured rejects the coverage, the coverage does not need to be provided in a subsequent renewal policy issued by the same insurer unless the insured requests it in writing. [s. 632.32 (2) (am) and (4) (a) 3m. and (bc), Stats.]

The above provisions relating to uninsured motorist, underinsured motorist, and medical payments coverage do not apply to umbrella or excess liability coverage, described below. [s. 632.32 (4) (d), Stats.]

UMBRELLA OR EXCESS LIABILITY POLICIES

An “umbrella or excess liability policy” means an insurance contract providing at least \$1,000,000 of liability coverage per person or per occurrence in excess of certain required underlying liability insurance coverage or a specified amount of self-insured retention. For policies issued or renewed on or after November 1, 2009, an insurer writing umbrella or excess liability policies for an owned motor vehicle must provide written offers of uninsured and underinsured motorist coverage. An insurer is required to provide the offers only one time with respect to any policy. The offers must include a brief description of the coverage offered.

An applicant for umbrella or excess liability policy coverage or insured may reject one or both of the coverages offered, but the rejection must be in writing. If the applicant or insured rejects

either of the coverages offered, the insurer is not required to provide the rejected coverage under a policy that is renewed to the person by that insurer unless an insured under the policy subsequently requests the rejected coverage in writing. The action of one named insured to reject or request coverage applies to all persons insured under the policy.

If an umbrella or excess liability policy that was issued on or after November 1, 2009, or that was in effect on, but renewed after, November 1, 2009, does not include either uninsured or underinsured motorist coverage, or only one of the coverages, and the insurer did not provide a written offer of such coverages, on the request of the insured the court must reform the policy to include the coverage or coverages not included and for which the insurer did not provide a written offer, with the same limits and the liability coverage limits under the policy.

These provisions do not apply to a town mutual. [s. 632.32 (4r), Stats.]

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

This memorandum was prepared by Anne Sappenfield, Senior Staff Attorney, on May 28, 2010.

¹ Insurance Information Institute, *Compulsory Auto/Uninsured Motorists* (March, 2010).

² “Motor vehicle” does not include trailers, semitrailers, and all-terrain vehicles.

³ For purposes of minimum liability limits, “motor vehicle liability insurance policy” means every policy of insurance that insures with respect to any owned motor vehicle registered or principally garaged in Wisconsin against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle. An “owned motor vehicle” is defined as a motor vehicle that is owned by the insured or that is leased by the insured for a term of six months or longer.

⁴ An uninsured motorist who appeared to be at fault in a motor vehicle accident that results in bodily injury, death, or property damage of \$1,000 or more is subject to the financial responsibility law under ch. 344, Stats., and ch. Trans 100, Wis. Adm. Code. Under that law, the person may be required to provide proof of financial responsibility for the future before having his or her operating or registration privileges reinstated. Proof of financial responsibility for the future may be demonstrated by maintaining a liability insurance policy in at least the amounts required under current law, maintaining a bond in those amounts, maintaining a deposit in cash or securities with DOT, or maintaining a certificate of self-insurance if the person has registered more than 25 motor vehicles. [s. 344.30, Stats.]

⁵ “Using” includes driving, operating, manipulating, riding in, and any other use.

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