

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
ADOPTING RULES**

The Wisconsin Department of Transportation proposes an order to amend Trans 100.02(11m), (12m), and (13m), relating to mandatory minimum liability limits for insurance policies under safety responsibility, damage judgment and mandatory insurance laws.

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: ss. 344.01(2)(d), 344.15(1), 344.33(2)(a) to (c), Stats.

Statutory authority: ss. 85.16(1), 227.11, and 343.02, Stats.

Explanation of agency authority: The Department is charged with administering the safety responsibility, damage judgment, and mandatory insurance laws contained in ch. 344, Stats. This rule making implements ch. 344, Stats., as amended by 2011 Wis. Act 14.

Related statute or rule: ch. 344, Stats.

Plain language analysis: Current Wis. Admin. Code ch. Trans 100 reflects the mandatory minimum liability limit amounts established under 2009 Wis. Act 28 and the indexing system for adjustments to those limits. 2011 Wis. Act 14 lowered the mandatory minimum liability limit amounts and repealed the indexing system. This rule making will amend the mandatory minimum insurance limits in current Trans 100 to conform to those set by 2011 Wis. Act 14, and repeal the current rule's references to the indexing system.

The Property Casualty Insurers Association of America has produced a memo discussing the impact on the insurance industry of the liability limits set in 2009 Wis. Act 28. ["2009 Wisconsin Act 28: Analyzing the Repeal of Automobile Insurance-Related Provisions," Property Casualty Insurers Association of America, January 18, 2011.] According to that industry group, the \$15,000, \$50,000, \$100,000 minimum insurance limits set in Act 28 affected about 10% of the state's insured population and increased premiums for that group by 10% to 12.5%.

The industry report suggests the higher limits were not needed because 96 out of 100 claims result in total economic claims of \$25,000 or less, the average cost of property damage claims from motor vehicle accidents in Wisconsin is \$2,600 and that the average cost of motor vehicle bodily injury claims in Wisconsin is \$17,700. The paper claimed that repealing this provision would result in decreased premiums for those insured drivers affected by the Act 28 increases in liability limits.

The paper also concluded that the liability limit indexing system that was included in Act 28 was not necessary because the increased liability limits of Act 28 would insure that average claims would not exceed the liability limits until 2027. The paper stated that Wisconsin's bodily injury claim severity has been rising at roughly the same pace as its health care costs, i.e., about 5 to 6 percent a year. Applying that annual rate of change, to the current average injury claim cost of \$17,700, the paper concluded that "it will take many years – possibly not until 2027 (10 years after the given 2017 date) – before the average injury claim cost of \$17,700 reaches the new minimum per-person limit of \$50,000."

Applying those same figures and methodology to the minimum mandatory limits set in 2011 Wis. Act 14, it appears that the average injury claim in Wisconsin will exceed Act 14's minimum per-person limit of \$25,000 sometime between 2016 and 2018. Assuming the median personal injury claim is approximately the same as the mean (average), Wisconsin should expect the personal injury coverage limits set in 2011 Act 14 to be inadequate to cover the damages in about ½ of all personal injury accidents in Wisconsin within 5 to 7 years.

Year by Which Average Personal Injury Claims may be expected to exceed \$25,000 Minimum Mandatory Insurance Limit for Single Coverage in Wisconsin						
Calculation at 5% Annual Increase				Calculation at 6% Annual Increase		
Year	Expected Average PI Claim	Minimum Expected Increase in Claims	Annual Increase	Expected Average PI Claim	Maximum Expected Increase in Claims	Annual Increase
2010	\$ 17,700.00	5%	\$ 885.00	\$ 17,700.00	6%	\$ 1,062.00
2011	\$ 18,585.00	5%	\$ 929.25	\$ 18,762.00	6%	\$ 1,125.72
2012	\$ 19,514.25	5%	\$ 975.71	\$ 19,887.72	6%	\$ 1,193.26
2013	\$ 20,489.96	5%	\$ 1,024.50	\$ 21,080.98	6%	\$ 1,264.86
2014	\$ 21,514.46	5%	\$ 1,075.72	\$ 22,345.84	6%	\$ 1,340.75
2015	\$ 22,590.18	5%	\$ 1,129.51	\$ 23,686.59	6%	\$ 1,421.20
2016	\$ 23,719.69	5%	\$ 1,185.98	\$ 25,107.79	6%	\$ 1,506.47
2017	\$ 24,905.68	5%	\$ 1,245.28	\$ 26,614.26	6%	\$ 1,596.86
2018	\$ 26,150.96			\$ 28,211.11		

Summary of, and preliminary comparison with, existing or proposed federal regulation: There are no existing or proposed federal regulations on this issue.

Comparison with Rules in the Following States:

Michigan: Owners of passenger vehicles, vans, and light trucks must purchase Michigan no-fault insurance before registering their vehicle. Michigan Law requires the following minimum liability amounts by type: "\$20,000.00 because of bodily injury to or death of 1 person in any 1 accident and, subject to said limit for 1 person, \$40,000.00 because of bodily injury to or death of 2 or more persons in any 1 accident, and \$10,000.00 because of injury to or destruction of property of others in any 1 accident."

Mich. Comp. Laws § 257.520(b)(2) (2011). These limits do not appear to be adjusted by index.

Minnesota: The Minnesota No-Fault Act, Minn. Stat. § 65B.48 (2010), requires owners of registered motor vehicles to maintain no-fault insurance. Vehicle owners must be insured to the following minimum liability amounts by type: “not less than \$30,000 because of bodily injury to one person in any one accident and, subject to said limit for one person, of not less than \$60,000 because of injury to two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, of not less than \$10,000 because of such injury to or destruction of property of others in any one accident.” Minn. Stat. § 69B.49 subd. 3(1) (2010). These limits do not appear to be adjusted by index.

Illinois: All motor vehicles operated in Illinois must be covered by liability insurance. Vehicle owners are required to provide insurance information at the time of registration renewal. Illinois requires drivers to carry bodily injury or death liability limits of \$20,000 for single-person and \$40,000 for multiple-persons, as well as property damage liability limits of \$15,000 and uninsured motorist coverage. 625 Ill. Comp. Stat. 5/7-203 (2011). These limits do not appear to be adjusted by index.

Iowa: Iowa does not mandate that drivers or vehicle owners carry insurance. A driver who causes personal injury or damage exceeding \$1,000 to another party must prove his or her financial responsibility or be subject to license suspension. Drivers can prove financial responsibility by showing that they were covered by automobile liability insurance at the time of the accident. An insurance policy is not an effective proof of financial responsibility unless it meets the following minimum liability amounts: \$20,000 for bodily injury or death to one person, \$40,000 for bodily injury or death to two or more persons, and \$15,000 for property damage. Iowa Code § 321A.5 subd. 3 (2011). These limits do not appear to be adjusted by index.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: No factual data was analyzed in this rule making. The proposed rule revises the mandatory minimum liability limits to agree with new statutory limits, and removes the indexing adjustment system repealed by 2011 Wis. Act 14.

Analysis and supporting documentation used to determine effect on small businesses: The Department anticipates that this regulatory change will have a fiscal effect on small business.

Anticipated costs incurred by private sector: The Department anticipates that this regulatory change, which is compelled by statutory changes, will have a fiscal effect on private sector revenues and liabilities. Revenues to insurance companies can be expected to fall if drivers purchase less liability coverage. Conversely, the liability of drivers who carry only the minimum required insurance and who are involved in motor vehicle accidents can be expected to rise, because it will be more likely that the insurance coverage will be inadequate to cover damages caused by the accident. To the extent that medical bills and collision repair bills exceed insurance coverage, the impact of these

changes may be felt by providers of medical services and auto repair services.

Agency contact person and place where comments are to be submitted and deadline for submission: This proposed rule brings an existing rule into conformity with a statute that has been recently changed or enacted and is therefore being promulgated without a hearing, pursuant to s. 227.16(2)(b), Stats. The public record on this proposed rule making will be held open for 30 days from the date of this order to permit the submission of comments. Any such comments should be submitted to Jane Dederich, Accident Records Unit Supervisor, Division of Motor Vehicles, Room 804, P. O. Box 7983, Madison, WI 53707-7983, or by calling (608) 264-7236. You may also contact Ms. Dederich via e-mail at: dotuninsuredmotorist@dot.wi.gov.

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website:

<http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>

TEXT OF PROPOSED RULE

SECTION 1. Trans 100.02(11m), (12m), and (13m) are amended to read:

Trans 100.02(11m) “Multiple injury minimum coverage” means ~~\$100,000 until the department publishes adjusted liability limit amounts as required by s. 344.11, Stats., and means the most recently published adjusted liability amount for multiple injuries after that date~~\$50,000.

(12m) “Property damage minimum coverage” means ~~\$15,000 until the department publishes adjusted liability limit amounts as required by s. 344.11, Stats., and means the most recently published adjusted liability amount for property damage after that date~~\$10,000.

(13m) “Single injury minimum coverage” means ~~\$50,000 until the department publishes adjusted liability limit amounts as required by s. 344.11, Stats., and means the most recently published adjusted liability amount for a single person injured in an accident after that date~~\$25,000.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on November 1, 2011.

Signed at Madison, Wisconsin, this ____ day of
_____, 2011.

Mark Gottlieb, P.E.
Secretary
Wisconsin Department of Transportation