

## **WHAT EVERY PERSON NEEDS TO KNOW ABOUT AUTO INSURANCE**

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Have you ever read your auto insurance policy? If not, you are not alone. If you have read it, do you understand what you have purchased? If you don't, you are not alone either.

Most people who own motor vehicles purchase insurance to cover the vehicle either through an agent or, in more recent years, directly from insurance carriers via the internet. Unfortunately, many agents and insurance representatives do a poor job of explaining to their customers the meaning of certain policy provisions. In addition, agents and insurance company representatives often fail to adequately advise customers of the type of insurance they actually need to protect themselves in the event of an accident.

Individuals have different insurance needs based upon their age, marital status, financial status and a host of other factors. A 20 year old single male with no dependents and few assets has different insurance needs than a 42 year old married father of two who owns a home. The purpose of this article is to give you a general summary of key insurance policy provisions and recommendations to you in terms of the type of coverage you need to protect you, your family and your family's assets in the event of an accident. Therefore, as to any individual's insurance needs, care must be taken to properly analyze each person's situation. Specific questions regarding insurance needs can be directed to the undersigned free of charge.

Insurance law is an extremely complex area. Each state has its own rules that pertain to minimum insurance requirements and how policies are interpreted. Often times, different states have different interpretations of the very same policy language. The focus of this article will be insurance as interpreted by Wisconsin law. This particular article is not meant to be an exclusive summary of every facet of insurance law in Wisconsin. Questions concerning particular policies and their provisions can be directed to the undersigned.

So let's take a brief look at what you should know as a motorist concerning your insurance policy as well as your insurance needs.

## **Wisconsin Requires That Owner/Operators Of Motor Vehicles Prove Financial Responsibility.**

Wisconsin law does not require you to purchase insurance for your car. What Wisconsin law does require is that you show financial responsibility in the event that you are involved in an accident. How does someone show financial responsibility? There are various methods. You can file a bond with the Department of Motor Vehicles. You can deposit cash with the Department of Motor Vehicles to show financial responsibility or you can purchase insurance. Purchasing automobile insurance is the most often used method of showing financial responsibility in Wisconsin. Wisconsin, unlike many states, does not require most individuals to provide proof of insurance to obtain a driver's license or to register a vehicle. This explains why so many in Wisconsin are able to drive without any insurance. What is even more amazing is the frequency in which uninsured drivers are involved in accidents. Below, we will discuss how to protect yourself from the uninsured driver.

### **What Is An Insurance Policy?**

An insurance policy can be defined very simply as a written agreement between you and your insurance carrier. In return for your paying a premium, an insurance carrier agrees to provide the coverages and protections set forth in the policy. Policies also contain a number of exclusions and definitions. These exclusions and definitions can be very difficult to understand. Moreover, there are various state statutes and legal opinions that also impact your insurance policy regardless of the actual language. Insurance companies themselves often provide inadequate information to the policy holder concerning what is or is not covered. If your insurance company denies coverage, they are obligated to provide you with an explanation in writing. Under such a circumstance, it may be appropriate to contact legal counsel to determine whether or not the insurance company's interpretation of the policy is correct.

### **What Are The Types Of Coverages Provided In Your Policy?**

There are numerous coverages contained within your policy. Let me briefly outline the important coverage provisions and explain to you what they mean.

## **Liability Coverage**

Liability coverage protects you in the event you are negligent in the operation of your motor vehicle and that negligence results in bodily injury or property damage to others for which you are legally obligated to pay. Under Wisconsin law, insurance carriers are not allowed to issue liability policies with less than \$25,000 in bodily injury limits. Property damage limits are typically separate from bodily injury limits. Property damage limits can be less than \$25,000.

### **What Protection Do You Get When You Purchase A Liability Policy?**

In the event you are involved in an accident that results in bodily injury or property damage to another person, and that person alleges the accident was your fault, your policy creates a number of obligations on the part of your insurance company. The insurance carrier is required to hire a lawyer at their expense to defend you in any civil action brought against you. The carrier is also required to pay any and all costs the attorney may incur in defending any lawsuit brought against you such as hiring experts, conducting depositions, other investigative work, etc. The insurance carrier is also obligated to pay any settlement that may be reached with the third person up to the policy limits. If the case actually goes to trial, the insurance carrier is obligated to pay the attorney fees to prepare and try the case. The insurance carrier is also obligated to pay the jury verdict up to the policy limits. If after the jury verdict there is an appeal, the insurance carrier is also obligated to pay the attorney fees necessary to handle the appeal.

### **What Happens If The Settlement Reached Or Jury Verdict Is More Than The Policy Limits?**

Under this circumstance, you are personally liable for the remaining balance. Under Wisconsin law, that injured party can pursue any and all of your assets to satisfy that verdict or settlement. This would include your home (with the exception of the first \$40,000 in equity), stock, pensions, bank accounts, retirement plans, land, trusts, etc. All of these assets are subject to attachment in varying degrees. In addition, the injured party has the ability to garnish your wages. Obviously, such a situation can have significant consequences to you, your family and your future.

**What Individuals Have The Right To Bring A Claim Against You In The Event You Cause An Accident While Operating Your Motor Vehicle?**

If while operating your motor vehicle you strike another motor vehicle operator, pedestrian, bicyclist or personal property, those individuals and/or the owner of that property have the right to make a claim against you. In addition, if that injured individual is married, that individual's spouse has the right to make a claim against you and your insurance policy based upon the impact the injury has had upon the marriage. In addition, if that injured individual has minor children, the minor children have the ability to make a claim against you for the impact the injury has had upon the parent/child relationship.

**Does A Passenger In Your Car Have The Right To Bring A Claim Against Your Insurance Company As A Result Of An Accident That Is Your Fault?**

Yes. If you are operating your motor vehicle and cause an accident that is your fault, your passenger has the right to bring a claim against your insurance company for damages. This is true even if the injured passenger is your spouse, child, girlfriend, boyfriend, etc. Under Wisconsin law, insurance carriers cannot exclude coverage for claims made against you by your spouse or family members.

**What Types Of Damages Can The Injured Party Recover Against You?**

When you cause an accident that results in injury to a third person or your passenger, there are a number of items of compensation the injured party can collect from your insurance company and, potentially, you. These damages would include medical expenses, wage loss, and any past and future pain and suffering. In addition, if it is shown that the individual will require medical care into the future, you and your insurance company could be potentially responsible for that as well. Moreover, if the individual was to sustain a loss of future earnings or reduced earning capacity, your insurance company and yourself are potentially liable for that item of damage also.

Under Wisconsin law, if as a result of an accident you cause the death of another person, including your passenger, there are certain caps that limit the amount of compensation the surviving family members can receive. Under Wisconsin law, if you cause an accident that

results in the death of another individual, and that individual is an adult, their surviving family members can only recover a maximum of \$350,000 for the death of that individual. That cap number does not apply to future wage loss, medical expenses, funeral expenses, and/or pain and suffering the deceased may have endured prior to death. In other words, the deceased family is entitled to \$350,000 maximum for the death plus any future wage loss, medical expenses, funeral expenses, etc.

If as a result of your negligence, a minor child is killed, Wisconsin law caps the damages recoverable for the death of that child at \$500,000. Again, the cap for the death of a minor child does not include medical expenses, funeral expenses, etc. In other words, family members can collect the cap amount plus the amount of the medical bills, funeral expenses, etc.

You should be aware that Wisconsin does not cap any figures for pain and suffering. Thus, individuals who endure pain and suffering prior to their death can receive whatever amount of money a jury awards for that item of damage. Similarly, individuals who are not killed in an accident, but sustain injury, need not concern themselves with any cap under Wisconsin law for pain and suffering. In serious accident cases, the amount of damages awarded for pain and suffering by juries can be substantial.

### **If You Injure Someone And They Have Health Insurance, Why Are You Liable For Their Medical Bills?**

Under Wisconsin law, if you injure someone in an accident, including your passenger, and that individual incurs medical expenses that are covered by health insurance, that does not mean you are not responsible for the medical bills. Under Wisconsin law, there is a legal doctrine known as subrogation. Under the doctrine of subrogation, health insurers have the right to recover the amount of any medical bills they have paid on behalf of a party injured in an accident from the at fault party and their insurance company. The fact an individual has health insurance that covered the medical bills is not admissible before a jury and is not a factor that can be considered in reducing the injured party's damages. The same theory applies to wage loss if the injured party's wage loss was covered by a disability plan.

## **How Do You Know How Much Liability Coverage You Have?**

Each policy issued in Wisconsin contains a page known as a Declarations Page. This page is typically at the front of the policy. This page usually identifies the coverages available and limits. If after reading the Declarations Page, you are still unclear as to what your limits are, you should contact your insurance agent. If you are still confused, contact the undersigned.

### **Your Declarations Page Indicates The Liability Limits Are 100,000/300,000 – What Does This Mean?**

Many policies have what is known as a “split limit.” If your policy states there is a split limit, for example, 100,000/300,000, this means that your liability limits are \$100,000 per person and \$300,000 per accident. In lay person’s terms, this means that if you are involved in a motorcycle accident and you injure one individual, including your passenger, the policy limits available to protect you are \$100,000. Under a \$100,000/\$300,000 policy, the most any one injured person can collect is \$100,000. If that individual’s damages are worth more than \$100,000, you would be personally responsible. Under a \$100,000/\$300,000 policy, the most the insurer will pay in damages where multiple parties are injured is \$300,000.

By way of example, let’s assume you have a \$100,000/\$300,000 policy and two people are injured. If person A has damages equal to \$80,000 and person B has damages equal to \$60,000, your insurance policy will fully compensate both as each individual is collecting less than \$100,000 and the total payout is less than \$300,000.

Now, let’s assume a different scenario where as a result of your negligence, three individuals are injured, your passenger and two occupants of a motor vehicle. Let’s further assume that your passenger has damages equaling \$150,000 and the two occupants have serious claims equaling \$175,000 each. Under that circumstance, your insurance carrier would pay \$100,000 each to the three injured victims. Payment of the \$300,000 exhausts the per accident limit under the policy. You would be personally responsible for the remainder.

### **Your Insurance Policy Limits Are \$250,000, What Does That Mean?**

Some insurance policies contain a single limit of liability. Assume your policy contains a single limit of \$250,000. Here, the limit of \$250,000 is the most your carrier will pay regardless

of how many claims are made. If you injure one person in a motor vehicle accident and their claim is worth \$250,000, they will get \$250,000 from your insurance company. If more than one person is injured, the limit the carrier will pay for those claims is \$250,000 in total. Each injured party does not receive a separate \$250,000 limit.

### **What If You Injure Someone While Driving Your Motor Vehicle Under The Influence Of Alcohol, Are You Covered?**

Alcohol and driving are a bad mix. Injuring someone in an accident where you are at fault while under the influence of alcohol creates serious liability issues in addition to criminal issues. Your liability policy will cover you in the event you harm someone, a third person, passenger, etc. for certain items and damages. These items of damage would include pain and suffering, past and future medical expense, past and future wage loss and any claims that individual's spouse or family members may have against you.

Nevertheless, accidents where alcohol is involved also raise the possibility of a claim for punitive damages being made against you. Punitive damages are damages designed to punish certain conduct. Punitive damages are often sought and often awarded in drunk driving cases where injury results to others. The amount of punitive damages awarded by juries can be substantial especially for those with a history of multiple drunk driving convictions. It is the rare insurance policy that covers punitive damages. Most every policy issued in Wisconsin specifically excludes punitive damages from coverage. Therefore, if you cause an accident resulting in injury to others where alcohol is a factor, your liability policy will most likely not cover any award for punitive damages. You would be personally responsible. Punitive damages for drunk driving are not dischargeable in bankruptcy.

### **Can Health Insurers Deny Coverage For Your Medical Expenses If You Injure Yourself In An Accident While Under The Influence Of Alcohol?**

You should also know that some health insurers are now issuing health plans that exclude coverage for medical expenses where the injured party was intoxicated at the time of the accident. With these types of policies, if you are operating your vehicle while intoxicated and are involved in an accident where you are injured, these types of plans arguably permit the insurance company to deny coverage for your medical bills. Obviously, this can be catastrophic.

Whether or not these provisions are allowed by law is still subject to debate. Such provisions have been allowed to stand in federal court in some cases pursuant to health insurance plans that are governed by federal law. Health insurers who are controlled by state law may have a more difficult time with such a provision, however, you should take care to review your health insurance plan to see if such a provision exists.

**What If You Loan Your Car To A Friend And He Or She Is Involved In An Accident, Are You Covered Under Your Policy And Are They Covered Under Your Policy?**

Any person operating your car with your permission is also covered under your liability policy. In addition, if that individual also has a liability insurance policy, that policy provides coverage to that individual as well. Under Wisconsin law, if you loan your car to another individual and they cause an accident which results in injury to a third person, you are not personally responsible for that injury claim except under very unusual circumstances. The claim could only be made against your insurance company, not you.

**What Liability Limit Should You Purchase?**

The liability limit you should purchase is dependent upon a number of factors, those factors include your age, your assets, your income, and certainly your ability to afford insurance. As I stated earlier, a single individual with no dependents, no assets who is not a homeowner, does not necessarily require the same amount of liability coverage as someone with dependents, substantial assets, etc. I feel strongly, however, that even young individuals with few assets should think hard about operating a motorcycle with anything less than \$250,000 in limits.

In my judgment, there is no individual who is employed, owns a home or other assets, who should have less than \$1,000,000 in liability coverage. I am amazed at how many home owners operate automobiles, motorcycles, etc., with \$50,000, \$100,000 or \$250,000 in coverage. Individuals with substantial assets but low liability policy limits are at risk of losing those assets in the event of a serious accident.

