

UP TO SPEED

Winter 2014 • Automobile Insurance and Collision Industry Report



Nelson Levine
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INSURANCE DEVELOPMENTS

WIDESPREAD USE OF PREDICTIVE ANALYTICS IN PROPERTY AND CASUALTY INSURANCE ACCORDING TO SURVEY RESULTS

Earnix's and ISO's "2013 Insurance Predictive Modeling Survey" reveals widespread use of predictive analytics in the property and casualty insurance industry. As many as 82% of the North American insurance professionals surveyed indicated that they use predictive modeling in one or more product lines. Only 18% of the 269 respondents said their companies did not use predictive analytics in any line of business. Based on the survey results, Earnix and ISO report that larger insurance companies are more likely to use predictive modeling than smaller ones. The survey demonstrates that the most common uses of predictive modeling are in pricing and underwriting with predictive analytics being used to a lesser extent for marketing, claims and reserving. It was also noted that companies used predictive analytics the most for personal auto lines of business. *Insurance Journal* (November 7, 2013).

The source of this information is available at:

<http://www.insurancejournal.com/news/national/2013/11/07/310601.htm>

SURVEY HIGHLIGHTS LOW ADOPTION AND UNDERSTANDING OF PAY-AS-YOU-DRIVE INSURANCE

An [insuranceQuotes.com](http://www.insurancequotes.com) survey found that 58% of consumers have never heard of pay-as-you-drive insurance programs. Of those familiar with the program, 37% said they would never sign up while 35% said they would only for a discount of 25% or more. Over half of the consumers surveyed did not understand what information was tracked through the program. The four major metrics most programs follow include speed, time of day, miles and braking. The privacy of the information tracked remains a legitimate concern for consumers who do not want their personal information shared. Some consumers may also be hesitant to let their insurers track their movements if the insurer's program is using GPS to do so.

The source of this information is available at:

<http://www.insurancequotes.com/auto/pay-as-you-drive-insurance>

DIRECT AUTO INSURANCE COMPANY LAUNCHES SELF-SERVICE INSURANCE KIOSKS

Direct Auto Insurance Co. will offer self-serve kiosks in retail locations such as grocery stores, car dealerships, malls and title loan companies. These kiosks will allow the insurer to expand its physical retail footprint without opening new offices. *Insurance Journal* (November 8, 2013).

The source of this information is available at:

<http://www.insurancejournal.com/news/national/2013/11/08/310740.htm>

STATE FARM SURVEY FINDS NUMBER OF DRIVERS DISTRACTED BY PHONE USAGE INCREASING

State Farm released its annual report on distracted driving which found that the percentage of drivers who use the Internet on their phone while driving has nearly doubled over the past five years. The number rose from 13% in 2009 to 24% in 2013. The survey also shows an increase in the use of hands-free cell phones while driving. *Yahoo Finance* (November 12, 2013); *Collision Week* (November 14, 2013) (subscription required).

The source of this information is available at:

<http://finance.yahoo.com/news/survey-says-mature-drivers-catching-130000520.html>

<http://www.collisionweek.com/cw/news/2013/1114-sf.asp>

PROGRESSIVE TO USE TELEMATICS TO HELP UNDERWRITE AUTONOMOUS CARS

Automakers, including General Motors Co. and Daimler AG, are starting to roll out new technology that allows their vehicles to take over the operation of the car's steering wheel. As autonomous vehicles become more prevalent, they could challenge auto insurers' business models. Progressive Corp. plans to utilize telematics technology to help its underwriters design policies for these new vehicles. Progressive's telematics service, Snapshot, allows its insureds to install a device in their vehicles to monitor driving habits to calculate insurance discounts. Progressive believes that its Snapshot technology will help the company better adapt as automated cars take the road. *Claims Journal* (November 15, 2013); *Insurance Journal* (November 15, 2013).

The source of this information is available at:

<http://www.claimsjournal.com/news/national/2013/11/15/240075.htm>
<http://www.insurancejournal.com/news/national/2013/11/15/311356.htm>

DIRECT AUTO WRITERS CONTINUE TO GAIN MARKET SHARE

According to Moody's 2013 Q3 financial review, U.S. property and casualty insurers continue to have market share gains as a result of lower expense structures and ability to offer more competitive rates. In Q3, net income for insurers increased 11% year over year as a result of lower catastrophe losses and better underwriting margins. AIG was the only insurer to reach \$1 billion in net income, while Liberty Mutual had the most net written premiums at \$9.36 billion. Net premiums increased by 4%, which was likely the result of rising rates. *Insurance Networking News* (November 19, 2013); *Moody's Press Release* (November 18, 2013).

The source of this information is available at:

<http://www.insurancenetworking.com/news/Direct-auto-writers-continue-market-share-gains-33409-1.html>
https://www.moody.com/research/Moodys-US-PC-insurers-show-strong-Q3-earnings-on-lower--PR_287020

DIRECT AUTO ANNOUNCES NEW MOBILE CAPABILITIES FOR CUSTOMERS

Direct Auto Insurance announced several new mobile device capabilities that it says can assist customers in monitoring their driving habits, which will help save money on auto insurance and make insurance premium payments easier. The DirectDrive mobile app grades users based on responsible and safe driving and allows users to track their driving habits. The app uses a smartphone's sensors to measure driving behaviors. In addition, there is a new text message payment option allowing customers to pay their insurance bill using a one-touch, secure payment system on their mobile phones. Users also can utilize the app to obtain insurance quotes and find the nearest Direct Auto location. *Insurance Networking News* (November 26, 2013); *CNBC* (November 25, 2013).

The source of this information is available at:

<http://www.insurancenetworking.com/news/Direct-auto-releases-mobile-app-capabilities-33456-1.html>

CELENT RELEASES REPORT ON INSURANCE TELEMATICS

Research and consulting firm Celent issued a report regarding insurance telematics, titled "Innovation in Focus: The Great Telematics Experiment." According to the report, experts are still debating whether consumers will choose to purchase pay-as-you-drive policies. One group of experts believe in the "null hypothesis," which holds that current policies are adequate and that telematics programs appeal to just a small percentage of drivers. The other group believes in the "self-selection hypothesis," which holds that good drivers will flock to cheaper telematics-based programs and see their premiums lowered. In contrast, bad drivers not eligible for discounts from telematics programs will stick with classic policies, which will become less profitable because they will include more bad drivers. According to Celent, if the "self-selection" model prevails, key performance indicators such as increasing numbers of poor drivers, decreasing numbers of good drivers and the need to increase premiums will demonstrate this. *Insurance Networking News* (November 25, 2013).

The source of this information is available at:

<http://www.insurancenetworking.com/news/The-Evolution-of-Insurance-Telematics-33444-1.html?zkPrintable=true>

INSURANCE REGULATION + LITIGATION



OHIO SUPREME COURT OVERTURNS CLASS CERTIFICATION IN STATE FARM WINDSHIELD REPAIR SUIT

The Ohio Supreme Court rejected a lower court's ruling that certified a class of policyholders who alleged that State Farm denied full payment on their windshield damage claims. The policyholders alleged that State Farm steered policyholders towards repair instead of replacement of their windshields. The Ohio Supreme Court denied class certification because the declaratory relief at issue was incidental to individualized claims for monetary damages. Additionally individual questions predominated over questions common to the proposed class. *glassBYTES.com* (November 6, 2013).

The source of this information is available at:

<http://www.glassbytes.com/2013/11/ohio-supreme-court-rejects-class-certification-in-repair-based-lawsuit/>

SENATE JUDICIARY COMMITTEE HOLDS HEARING ON AUTO SAFETY RULEMAKING

The Senate Judiciary Subcommittee on Oversight, Federal Rights and Agency Action held a hearing to discuss the shortcomings of the National Highway Traffic Safety Administration (NHTSA) as a rulemaking agency. During the hearing, some attendees argued that NHTSA has failed to do what it was originally designed to do. Clarence M. Ditlow,

Executive Director at the Center of Auto Safety in Washington, DC, expressed concern about the lack of initiative the NHTSA has been taking, saying, "Failure to issue effective rules result in large recalls that cost the auto industry lost profits and the public lost lives." Cary Coglianese, an Edward B. Shils Professor of Law at the University of Pennsylvania defended NHTSA, saying, "Despite widespread acceptance by virtually every major scholar of administrative law, the claim that the NHTSA has retreated from rulemaking and shifted instead to recalls does not bear the weight of scrutiny." Full testimony from the hearing can be found at takingthehill.com. *CollisionWeek* (November 26, 2013) (subscription required).

The source of this information is available at:

<http://www.collisionweek.com/cw/news/2013/1126-asa.asp>

PENNSYLVANIA PROPOSES HALT TO CREDIT-RELATED PREMIUM DECISIONS

The Pennsylvania General Assembly has sought a proposal to mandate that insurers cannot deny, cancel, or refuse to renew or raise the premium of personal insurance based on an insured's credit history. Personal insurance, as indicated in this initiative, includes property and casualty insurance to be used primarily for personal, family or household purposes. *HB 1887* (December 9, 2013).

The source of this information is available at:

http://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?year=2013&ind=0&body=H&type=B&bn=1887

NEW CONSUMER STUDY IGNORES BENEFITS OF INSURANCE SCORING

Insurers have a long established and highly regulated practice of utilizing credit-based insurance scores to help set insurance rates. This process allows insurers to determine fair premiums for consumers that are related to their risk of loss. However, the latest report issued by the Consumer Federation of America (CFA) ignores the fact that responsible people of all incomes benefit through lower rates from insurance scoring and that many governmental and private studies have supported its value to the market. The Property Casualty Insurers Association of America (PCI) believes far more drivers would be likely to see rate increases if the practice was banned. Although PCI recognizes that there are some people who prefer banning the practice, it believes it is unfair to deny a majority of consumers a lower insurance rate and force them to subsidize those who represent a higher risk. *PCI News Release* (December 11, 2013).

The source of this information is available at:

<http://www.pciaa.net/LegTrack/web/NAIIPublications.nsf/lookupwebcontent/3BC5AF3BE88C904686257C3E0070523?opendocument>

NEW PENNSYLVANIA LAW ELIMINATES MINIMUM DEDUCTIBLE, ALLOWS ELECTRONIC DELIVERY OF PROOF OF INSURANCE

Governor Tom Corbett has signed into law Act 132 of 2013, which eliminates the minimum \$100 deductible in auto collision policies. Additionally, the new law permits, with the consent of the insurer and the insured, electronic delivery of proof of insurance. The law goes into effect on February 21, 2013. *ABC27 WHTM* (December 16, 2013); *Pennsylvania General Assembly*.



The source of this information is available at:

<http://www.abc27.com/story/24234467/insurance-e-card-bill-headed-to-governors-desk>
http://www.legis.state.pa.us/cfdocs/billInfo/bill_history.cfm?year=2013&ind=0&body=S&type=B&bn=1040

MARYLAND PROPOSES NEW RULES ON PERSONAL LINES RENEWALS

The Maryland Insurance Administration has proposed new rules regarding an insurer's "Notice of Amount of Renewal and Expiring Policy Premiums" for all personal insurance policies as well as insurance issued under the Maryland Property Insurance Availability Act. The proposal seeks to establish a rule pertaining to notice and content requirements set forth in Maryland's Insurance Code Section 27-607. Under the new proposal, an insurer would be required to send written notice to the insured and the agent or broker of the policy at least 45 days prior to the policy renewal date. The proposed rule also allows for electronic delivery of the notice. Additionally, the notice may be sent with the renewal policy and must be clear and specific, state the dollar amount(s) of the policy's expiring premium and state the dollar amount of the renewal premium. The Insurance Administration provides for the submission of comments by interested parties. *Maryland Register* (December 27, 2013).

The source of this information is available at:

<http://www.dsd.state.md.us/MDRegister/4026/Assembled.htm>

REPAIR

ALLIANCE OF AUTOMOTIVE SERVICE PROFESSIONALS OF NEW JERSEY ANNUAL MEETING HIGHLIGHTS CONCERNS FACING THE AUTO BODY INDUSTRY

Several presentations at the Annual Meeting of the Alliance of Automotive Service Professionals of New Jersey focused on the unique issues facing the auto body repair industry. Aaron Schulenberg of the Society of Collision Repair Specialists presented various industry metrics over the past decade, including size, demographic, performance and the issues affecting them. He also spoke about the proliferation of parts procurement programs infiltrating the industry. *CollisionWeek* (November 4, 2013) (subscription required).

The source of this information is available at:
www.collisionweek.com/cw/news/2013/1104-nj.asp



TOYOTA AND MITCHELL PARTNER TO PROVIDE NEW ESTIMATING FEATURES

Toyota Motor Sales, U.S.A., Inc. recently announced a new partnership with Mitchell International, Inc. The two companies have partnered to deliver recommended repair procedures to the repair and insurance industries when writing collision estimates for Toyota vehicles. The procedures will include recommendations on parts that should be replaced rather than reused along with supporting information detailing the non-reusable parts. Toyota and Mitchell believe this information will reduce the time required to write collision estimates by eliminating the need to reference multiple sources when repairing Toyota vehicles. The companies hope this will decrease cycle time and reduce the number

of supplemental estimates. The new features will be part of Mitchell's new mobile/online estimating system, which is slated to be released later this year. *Fender Bender* (November 4, 2013); *CollisionWeek* (November 5, 2013) (subscription required).

The source of this information is available at:
<http://www.fenderbender.com/FenderBender/November-2013/Toyota-Mitchell-Partner-to-Develop-New-Estimating-Tool/>
<http://www.collisionweek.com/cw/news/2013/1105-toyo.asp>

FORD CHOOSES ASSURED PERFORMANCE TO ADMINISTER BODY SHOP PROGRAM

Assured Performance will administer Ford Motor Company's national body shop certification program. Participating Lincoln and Ford dealers as well as independently-owned collision repair facilities will be required to meet specific standards and repair capabilities in order to become part of the network. Ford's program will focus on ensuring that participating shops have the proper tools, equipment, training and facilities to repair vehicles according to original equipment manufacturer specifications. *CollisionWeek* (November 8, 2013) (subscription required); *BodyShop Business* (November 11, 2013).

The source of this information is available at:
<http://www.collisionweek.com/cw/news/2013/1108-apn.asp>
http://www.bodyshopbusiness.com/Article/120614/ford_selects_assured_performance_for_national_body_shop_program.aspx?categoryId=2440

ALABAMA SHOPS END PARTICIPATION IN STATE FARM SELECT SERVICE PROGRAM

Eighteen Birmingham, Alabama shops ended their contract with State Farm in May 2012 by voluntarily terminating their participation in the Select Service program. Since that time, some shops are reporting a 5% decline in gross sales, but a higher profit margin on each repair. The Alabama Automotive Repair Industry Society of Excellence also reports that some smaller shops, which do less than \$1 million in gross sales, are experiencing problems since dropping from the State Farm program. *BodyShop Business* (November 19, 2013).

The source of this information is available at:

<http://www.bodyshopbusiness.com/issue/article.aspx?contentid=121027>

MICHIGAN AUTO BODY TRADE ASSOCIATION VOTES TO STOP PARTSTRADER AND END USE OF MOST FAVORED NATION CLAUSES

The Board of Directors of the Automotive Service Association of Michigan (ASA-Michigan) voted to actively pursue efforts to stop two insurer practices that it views as anti-competitive: State Farm's requirement that the PartsTrader program be utilized by shops in its Select Service program and the use of most favored nation clauses in contracts. With respect to most favored nation clauses, the ASA-Michigan believes that they are anti-competitive. They also put both consumers and shops at a disadvantage by guaranteeing that a customer will receive prices that are as favorable as those provided to other buyers. ASA-Michigan's President Ray Fisher stated, "ASA-Michigan condemns any mandates made by an insurance company that impact the freedom of choice by a licensed automotive repair facility when servicing their customer." *BodyShop Business* (November 20, 2013); *CollisionWeek* (November 21, 2013) (subscription required).

The source of this information is available at:

http://www.bodyshopbusiness.com/Article/121116/asamichigan_board_votes_to_stop_partstrader_and_mfn_clauses_in_state.aspx?categoryId=2367

www.collisionweek.com/cw/news/2013/1121-mich.asp



MISCELLANEOUS

MITCHELL LOOKS BACK AT 2013 TRENDS, FORWARD TO 2014 PREDICTIONS

Two reports from Mitchell emphasize the arrival and impact of falling used car values. Mitchell theorizes that in 2014, total loss claims will increase due to a decrease in used car values, ease of financing new vehicles and an increase in the number of lease returns. Other predictions include the harnessing of big data by insurers and an increase in auto body labor rates. Insurers may move to harness big data to drive predictive technologies and data modeling. An increase in auto body labor rates may result from a recovering economy and an increase in healthcare and business operating costs. Mitchell's Q4 2013 *Industry Trends Report*, shows the beginning trend of decreasing used car values, highlighting that, while the availability of alternate parts has kept some of the cost down, labor costs have increased. *Mitchell* (November 4, 2013); *CollisionWeek* (November 5, 2013) (subscription required); *Mitchell* (December 11, 2013); *CollisionWeek* (December 12, 2013) (subscription required).

The source of this information is available at:

<http://www.collisionweek.com/cw/news/2013/1105-itr.asp>

<http://www.mitchell.com/media-center/press-releases/2013/mitchell-releases-itr-q4-2013-report-corp.asp>

<http://www.mitchell.com/media-center/press-releases/2013/mitchell-releases-insurance-industry-predictions.asp>

<http://www.collisionweek.com/cw/news/2013/1212-mitc.asp>



GOVERNMENT EXPEDITES RESEARCH ON NEW SAFETY SYSTEMS FOR CARS

Federal transportation officials are planning to fast track research on safety systems that automatically prevent drunk driving or driving without seatbelts fastened. According to the NHTSA, technological advances such as collision avoidance, driver alcohol detection systems and seatbelt interlocks hold the potential to significantly decreasing traffic fatalities. The agency is examining whether it should change safety standards to allow automakers to use the devices to satisfy current government safety requirements. Safety officials say they are responding to 2012 traffic fatality data, which shows the first increase in highway fatalities since 2005. *Claims Journal* (November 15, 2013); *Claims Journal* (November 19, 2013).

The source of this information is available at:

<http://www.claimsjournal.com/news/national/2013/11/15/240094.htm>

<http://www.claimsjournal.com/news/national/2013/11/19/240166.htm>

IS IT SAFE TO USE GOOGLE GLASS HEADGEAR WHILE DRIVING?

Google's new Glass headgear is currently available only to developers and early adopters. With anticipation of a wider release expected this year, there are already safety questions regarding its use by drivers. Legislators in New Jersey, Delaware and West Virginia have introduced bills to prohibit driving while wearing Google Glass. Critics say the device's design causes a potential blind spot to peripheral vision and can be distracting for drivers. *CIO* (November 20, 2013).

The source of this information is available at:

http://www.cio.com/article/743396/How_Safe_is_Google_Glass_for_Driving_?page=1&taxonomyId=3138



U.S. SENATOR ASKS AUTOMAKERS ABOUT HACKER PREVENTION

Following a report by experts who say that they have identified ways to hack into cars, Senator Edward Markey of Massachusetts sent a letter to 20 of the world's largest car makers asking for information on how they secure their vehicles from potentially dangerous cyber attacks. The letter also asked about measures to ensure the privacy of information collected by automakers. Concerns that hackers could attack cars have grown in recent years as vehicles have become more integrated with wireless technology. One industry association, the Auto Alliance, says their members incorporate security solutions into a vehicle's design and that auto control systems are isolated from communications-based functions. *Reuters* (December 3, 2013).

The source of this information is available at:

<http://www.reuters.com/article/2013/12/03/us-hacking-cars-markey-idUSBRE9B213620131203>

FORD DESIGNS FUSION HYBRID VEHICLE TO TEST AND DEVELOP NEW TECHNOLOGIES

Ford revealed a new Fusion Hybrid vehicle, which will be used to research progress on automated driving as well as other new technologies. The Fusion Hybrid will test sensing systems and driver-assist technologies. Ford intends to develop new technologies with its supplier partners to have these features used in the company's cars. Ford vehicles already have technology that allows them to park themselves, detect dangerous driving conditions, comprehend a driver's voice commands and help with emergency braking. The Fusion Hybrid builds on more than a decade of the company's automated driving research. State Farm and the University of Michigan's research teams have been a part of the research project. *Ford Press Release* (December 12, 2013); *CollisionWeek* (December 16, 2013) (subscription required).

The source of this information is available at:

<http://corporate.ford.com/news-center/press-releases-detail/pr-20131212-ford-reveals-automated-fusion-hybrid-research-car>
<http://www.collisionweek.com/cw/news/2013/1216-ford.asp>

FORD TO SHOWCASE MILITARY-GRADE ALUMINUM AT AUTO SHOW INTRODUCING ALUMINUM F-150

Seeking to stay ahead of any accusations that aluminum is unsuitable for automotive applications, Ford is seeking to show off the strength and versatility of military-grade aluminum from Alcoa at the North American International Auto Show. Ford will formally announce its new F-150 pickup truck, which underwent a massive redesign for the 2014 model year. The biggest change will be the use of aluminum, instead of steel, body panels. This will reduce the vehicle weight by approximately 700 pounds, which in turn will lead to greatly increased fuel economy. *USA Today* (December 31, 2013).

The source of this information is available at:

<http://www.usatoday.com/story/driveon/2013/12/26/ford-f-150-aluminum/4203935/>

ABOUT NELSON LEVINE

At Nelson Levine, our attorneys not only understand the business of insurance, they are dedicated to it. Nelson Levine focuses exclusively on serving the legal needs of the insurance industry. Our attorneys provide clients in the U.S. and abroad with the full spectrum of insurance law solutions. From class action litigation, compliance, regulatory, surplus lines and reinsurance to extracontractual litigation, property and casualty, and subrogation engagements, our firm provides innovative advice and counsel to clients' legal and regulatory challenges, enabling them to focus on the bottom line.

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