AUTO INSURANCE REPORT

The Authority on Insuring Personal and Commercial Vehicles

Vol. 24#17/1121 **Jan. 23, 2017**

INSIDE

THE GRAPEVINE

U.S., EU Negotiators Reach Agreement on Regulation

Trade negotiators for the United States and European Community have to come to an agreement on insurance regulation that could, in theory, prevent Europe's more challenging capital, reporting and governance standards from being applied to U.S. insurers active in the EU.

The central issue is that Europe's regulators have not certified U.S. capital rules as equivalent to Europe's. Solvency II, the EU's new capital standards, became effective on Jan. 1. U.S. insurers and regulators argue that while different, U.S. capital standards are more than adequate and the equal of European standards. But until European regulators agree, EU regulators were prepared to demand that insurers with U.S.-

Please see GRAPEVINE on Page 8

Colorado Offers High Hopes, But Low Odds for Auto Tort Reform

Colorado auto insurers are pressing a four-pronged legislative agenda to stem rising liability costs even as physical damage costs remain under pressure. The agenda will address bad faith, so-called phantom damages, prejudgment interest and offsets in uninsured and underinsured motorist settlements.

While insurers can't really control rising losses due to factors such as the increase in miles driven and pricey repairs for high-tech car parts, they believe legislation and court decisions have exacerbated the trends in Colorado, where the 76.1% liability loss ratio in 2015 was the highest in more than a decade and significantly higher than the 67.4% national average. It's still a long way from the 86% and 87% liability loss ratios of the early 2000s that prompted lawmakers to scrap the state's no-fault system, but insurers hope lawmakers will take notice.

Colorado has a Democratic governor, and Democrats

Please see COLORADO on Page 3

Auto Safety Sensors Create Windshield Replacement Problems

When automakers starting building cars with "advanced driver assistance systems" (ADAS), it marked the beginning of a profound shift toward safer vehicles. But as often happens with new vehicle innovations, there are unintended consequences which usually cost money. It happened with airbags, which were initially so destructive to vehicle interiors that some cars were declared total losses solely due to the airbag deployment. It took a few years before design changes mitigated the problem.

The newest unplanned cost increase is coming in the replacement of damaged automobile windshields. No, the price of glass is not increasing. And the cost of replacing glass has actually fallen over time due to process improvements. But many of the ADAS sensors in new cars are built

Please see SENSORS on Page 2

SENSORS *Continued from Page 1*

into rearview mirrors and look out through the windshield. When the glass is replaced, the sensors usually lose their calibration. When you're relying on those sensors to help steer a semi-autonomous car, that's a big problem.

As a result, cars with ADAS looking through the windshield need to have their calibration checked after a replacement, and recalibration is often necessary. This adds, at minimum, $250 and sometimes more than $2,000 to the replacement cost.

Until recently, recalibration of the sensors required a trip to the auto dealer, which means most of the windshields were being replaced at the higher dealer cost relative to third-party auto glass operators. Glass repair businesses, most notably glass giant **Safelite**, quickly recognized the threat to their business and have been rapidly developing the ability to calibrate sensors in the field or in their own work spaces to ensure that glass specialists can retain the share of auto glass replacements that they have worked so hard to wrest from dealerships over the years.

The clock is ticking on the auto glass business as a growing number of cars have ADAS sensors that need to be recalibrated after a windshield replacement. According to Safelite, less than 10% of cars on the road today have the kind of ADAS sensors that need recalibration after windshield replacement. But within a decade Safelite projects that will rise to more than 50% of cars on the road, and by 2030 it will be 90% of cars.

The Bosch/Safelite mobile recalibration unit

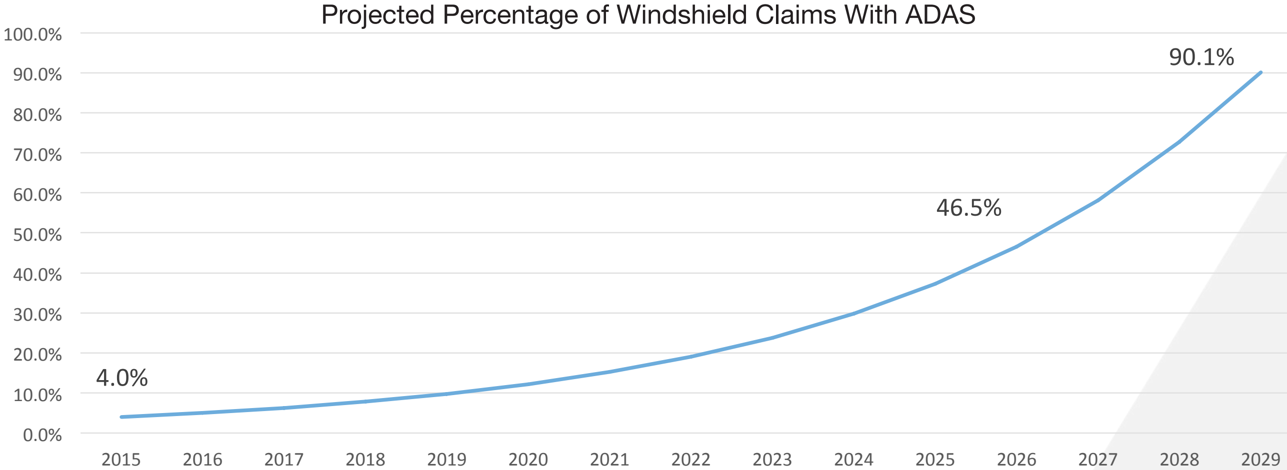
Working with auto technology company **Bosch,** Safelite has developed its own testing and calibration system. In the past year, Safelite has deployed the devices in about 100 markets, with about 70% of the nation covered geographically and about half of vehicles. Safelite aims to cover over 95% of the calibration needs by year end. Safelite is charging $250 for each calibration, though some cars need two calibrations, increasing the price.

Beyond the cost, calibration significantly changes the customer experience on glass replacement. Many insurers report that their most satisfied customer is one who had a mobile

Please see SENSORS on Page 3

Without Design Change, Percentage of Cars Requiring Sensor Recalibration After Windshield Repair Will Grow Rapidly

Projected Percentage of Windshield Claims With ADAS



Source: Safelite Group

***SENSORS** Continued from Page 2*

glass replacement. The technician comes to the customer's home or place of work, replaces the windshield in less than an hour, and leaves the car in pristine condition, often with little or no out-of-pocket cost. In the best case, calibration just adds more time to the replacement if the vehicle has a "static" calibration that simply requires resetting the system while the car is stationary. In the worst-case scenario from a customer standpoint, the car requires a "dynamic" calibration in which the car must be driven around, sometimes for 20 minutes, to reset the sensors. (Some of the cars requiring dynamic calibration include Honda and Ford.) This intrusion substantially changes the customer experience in a mobile windshield repair.

One last thing to consider: Should the repair person make a mistake in calibration there will be trouble. Even if the repair person does everything perfectly, there is a chance that following an accident the recalibration could be brought into question.

One thing that could change the trajectory of this issue is in automotive design change. Though we have heard of no plans to do so, it is possible that car makers could move the sensors from inside the windshield to another place, mitigating the glass problem. This won't happen soon, if at all, but it remains possible.

For insurers, the future impact of ADAS on auto glass seems clear: costs are going to rise by at least $250 for a rapidly growing percentage of vehicles. Repair time is going to rise, and the experience of a mobile repair is going to change. There will be risk in recalibrating cars. It seems imperative for insurers to be working, right now before ADAS becomes a bigger part of the vehicle population, to better understand how their claims organizations and partners are preparing for the coming challenge. Fortunately, this is a future problem that can be addressed now. But waiting even another day to make sure procedures are sound would seem foolish. AIR

Focus: COLORADO

Continued from Page 1

have a three-seat majority in the House, increasing the challenge of a push for tort reform. Republicans maintained their one-seat majority in the state Senate after the November election.

Through the auto liability tort reform agenda, "we can attempt to fix the litigation abuse," said **Carole Walker**, executive director of the **Rocky Mountain Insurance Information Association**.

Walker says the adverse court decisions and legislation combined with a growing population, more drivers on the road, widespread use of marijuana and record catastrophe losses, primarily from hail, have created a perfect storm for rising auto insurance rates.

The top 10 auto insurance groups raised rates 5.4% last year after an average increase of 7.3% in 2015, according to **SNL Financial's** Rate-Watch. Colorado regulators note that insurers frequently take significantly less than indicated rate increases. Although rate changes vary greatly for individuals, it's not uncommon for insurers with indications of 12% to increase rates just 5%, said **Stephanie Paswaters**, director of property and casualty rates and forms in the **Colorado Division of Insurance**. Insurers tell us taking the full indications would cost them customers in a large, competitive market.

Colorado is the 18th-largest personal auto insurance market with $3.64 billion in written premium in 2015, up 9.1% from 2014. Only **Georgia** saw a larger increase in statewide premium that year. Colorado's boost in premium reflected both increasing rates and policy volume as more than 100,000 people moved into the state in 2015, making it the second-fastest growing state in the nation.

Accompanying that growth is a dramatic influx in advertising for personal injury lawyers on television, radio and billboards.

Looking at the four quarters ended June 30,

Please see COLORADO on Page 5

Colorado
Personal Auto Insurers

Groups Ranked by Total 2015 Direct Premium Written (000)

Group Name	2015 Premium	Mkt share 2015	Loss Ratio 2015	2014 Premium	Mkt share 2014	Loss Ratio 2014	2013 Premium	Mkt share 2013	Loss Ratio 2013
State Farm Mutual	$741,391	20.4%	77.6%	$668,158	20.1%	91.9%	$590,190	19.2%	76.1%
Allstate Corp.	$351,688	9.7%	71.3%	$303,283	9.1%	81.5%	$264,549	8.6%	58.7%
Progressive Corp.	$332,225	9.1%	64.6%	$337,317	10.1%	78.6%	$322,806	10.5%	71.4%
USAA Insurance Group	$328,921	9.1%	91.3%	$301,601	9.1%	95.2%	$279,500	9.1%	71.5%
Berkshire Hathaway/Geico	$323,843	8.9%	77.3%	$287,103	8.6%	83.7%	$253,683	8.2%	77.0%
Farmers Insurance Group	$312,247	8.6%	77.4%	$306,408	9.2%	76.5%	$326,717	10.6%	69.9%
American Family Insurance Group	$287,819	7.9%	74.5%	$276,504	8.3%	79.0%	$272,824	8.9%	81.7%
Liberty Mutual	$212,666	5.9%	67.3%	$179,408	5.4%	77.9%	$156,924	5.1%	66.5%
Nationwide Mutual Group	$80,375	2.2%	77.9%	$70,539	2.1%	87.5%	$64,445	2.1%	71.0%
Travelers Companies	$75,233	2.1%	68.3%	$57,294	1.7%	71.6%	$44,355	1.4%	58.8%
Hartford Financial Services	$62,575	1.7%	70.6%	$66,188	2.0%	76.5%	$68,503	2.2%	66.0%
Loya Insurance Group	$47,717	1.3%	74.6%	$41,724	1.3%	71.2%	$34,880	1.1%	60.3%
MetLife Inc.	$40,981	1.1%	75.8%	$39,036	1.2%	84.4%	$37,310	1.2%	75.4%
Sentry Insurance Mutual	$38,200	1.1%	57.9%	$37,365	1.1%	68.1%	$41,452	1.4%	69.2%
CSAA Insurance Exchange (NorCal)	$28,813	0.8%	82.5%	$23,759	0.7%	94.8%	$21,395	0.7%	78.1%
Country Financial	$28,443	0.8%	76.6%	$26,848	0.8%	84.1%	$25,923	0.8%	70.2%
Colorado Farm Bureau Mutual Ins Co.	$28,154	0.8%	71.7%	$26,784	0.8%	64.5%	$24,656	0.8%	72.3%
American National Insurance	$26,109	0.7%	68.4%	$24,387	0.7%	80.8%	$23,263	0.8%	75.6%
Shelter Mutual Insurance Co.	$25,702	0.7%	91.1%	$25,210	0.8%	74.1%	$25,829	0.8%	71.5%
Auto-Owners Insurance Co.	$23,722	0.7%	79.6%	$20,914	0.6%	80.0%	$18,809	0.6%	79.9%
Safeway Financial Holding Co.	$22,749	0.6%	76.5%	$19,472	0.6%	77.2%	$5,259	0.2%	73.6%
Amica Mutual Insurance Co.	$20,797	0.6%	87.7%	$18,702	0.6%	75.7%	$17,029	0.6%	70.2%
Kemper Corp.	$19,045	0.5%	72.8%	$19,921	0.6%	76.7%	$20,342	0.7%	66.6%
Western National Insurance Group	$17,207	0.5%	72.9%	$9,107	0.3%	79.1%	$4,971	0.2%	74.3%
QBE Insurance Group Ltd.	$14,121	0.4%	63.2%	$13,613	0.4%	51.9%	$12,920	0.4%	62.2%
Chubb Ltd.	$13,848	0.4%	52.9%	$11,842	0.4%	62.0%	$10,334	0.3%	49.2%
Ameriprise Financial Inc.	$13,382	0.4%	83.8%	$12,242	0.4%	128.4%	$10,619	0.4%	82.5%
State Auto Insurance Companies	$13,229	0.4%	91.7%	$14,474	0.4%	101.7%	$13,445	0.4%	88.9%
IAT Insurance Group	$10,090	0.3%	65.4%	$6,926	0.2%	57.9%	$4,558	0.2%	52.0%
Kingsway Financial Services	$10,027	0.3%	63.6%	$11,033	0.3%	69.5%	$11,225	0.4%	80.3%
California Casualty Indemnity Exchange	$9,765	0.3%	86.2%	$9,235	0.3%	80.4%	$8,844	0.3%	64.5%
Horace Mann Educators Corp.	$8,938	0.3%	93.2%	$8,267	0.3%	86.4%	$7,889	0.3%	55.3%
Acuity Mutual	$7,029	0.2%	81.4%	$4,980	0.2%	108.7%	$3,331	0.1%	70.1%
Secura Insurance Mutual	$6,713	0.2%	71.2%	$6,199	0.2%	91.3%	$4,015	0.1%	85.0%
Integon National Group	$5,135	0.1%	63.9%	$5,182	0.2%	52.0%	$5,930	0.2%	65.0%
Markel Corp.	$4,319	0.1%	35.8%	$3,932	0.1%	65.9%	$3,700	0.1%	55.7%
American International Group	$4,038	0.1%	59.8%	$3,945	0.1%	19.9%	$3,507	0.1%	31.5%
General Electric Co.	$3,913	0.1%	79.8%	$4,371	0.1%	123.8%	$3,609	0.1%	110.3%
Statewide Totals	$3,634,851		75.4%	$3,331,475		83.1%	$3,076,901		71.9%

Source: SNL Financial, by permission, and the *Auto Insurance Report* database.
Loss ratio = incurred losses/direct premium earned and does not include dividends or loss adjustment expense.

State Market Focus: COLORADO

Continued from Page 3

2016, Colorado bodily injury severity increased 16.6%, while frequency decreased 1.4%, according to **ISO/PCI** Fast Track data provided by the **Insurance Information Institute**. Property damage severity rose 7.4% while frequency increased 1.5%.

The push for legislative remedies to address rising costs became more urgent after the **Colorado Supreme Court** issued a decision in *Calderon vs. American Family* in November, reversing two lower courts.

Calderon was injured in an accident with an uninsured driver. **American Family** paid the $5,000 in medical payments coverage, but disputed the extent of damage in his claim for uninsured motorist benefits, for which he had coverage limits of $300,000. When Calderon won $68,339 in a breach of contract suit against American Family, the judge reduced the judgment by the $5,000 the insurer already paid.

Colorado law states that "the amount of coverage available…shall not be reduced by a setoff from any other coverage," including medical payments coverage. The lower courts agreed with American Family that the setoff prohibition applied to amounts that would reduce the coverage limit of the policy, in this case $300,000. But the Supreme Court accepted Calderon's interpretation that the law bars setoffs from the amount of coverage available under the claim, in this case the $68,339.

Unless the House and Senate pass legislation clarifying the statute, that will remain the law of the land.

The other issues insurers hope to address through legislation are:

• Phantom damages. In November 2010, the Colorado Supreme Court ruled in *Volunteers of America v. Gardenswartz* that an injured party is entitled to recover the amount health care providers *billed* for medical services, rather than the amount they were *paid*. In fact, the jury cannot even hear that the amount paid was less than the amount billed. Tort reform advocates, including

Please see COLORADO on Page 6

Colorado
Auto Insurance Profit Margins
Ten-Year Summary, Percent of Direct Premiums Earned

Line of Business	2014 Total Profit	2013 Total Profit	2012 Total Profit	2011 Total Profit	2010 Total Profit	2009 Total Profit	2008 Total Profit	2007 Total Profit	2006 Total Profit	2005 Total Profit	Avg Total Profit
Personal Auto Liab	0.1	-1.0	2.6	4.4	10.1	8.8	7.2	13.0	13.9	12.1	7.1
Personal Auto Phys	-17.9	2.6	2.7	2.6	6.1	-3.5	9.1	10.0	19.0	18.2	4.9
Personal Auto Total	-7.1	0.4	2.6	3.6	8.6	3.9	8.0	11.8	16.1	14.8	6.3
Comm. Auto Liab	3.4	13.6	14.0	13.3	23.8	15.2	21.5	20.5	21.1	20.9	16.7
Comm. Auto Phys	-18.7	1.2	-0.5	4.3	3.3	-2.4	10.2	10.7	17.1	16.4	4.2
Comm. Auto Total	-2.6	10.3	10.4	10.8	18.3	10.5	18.3	17.8	20.0	19.5	13.3
Total All Lines*	-0.3	3.0	1.4	8.6	8.2	-2.6	8.8	15.3	19.1	19.3	8.1

*Auto; Home, Farm & Commercial Multiperil; Fire; Allied; Inland Marine; Med Malpractice; Other Liability; Workers Comp; All Other

Note: Profit calculations are by *Auto Insurance Report* using data from the National Association of Insurance Commissioners. Calculations are estimates, some based on national averages.

State Market Focus: COLORADO

Continued from Page 5

some insurance defense lawyers, contend that this opens the door to fraud, because a verdict can be based on overly inflated medical bills, even if there was never any reasonable chance the billed amount would be paid. Critics previously focused on trying to influence a change in the law through the courts, through the use of amicus briefs, but now they are turning their attention to the legislature.

• Bad faith. In 2008, the legislature passed a law that allowed first-party claimants whose claim has been "unreasonably" delayed or denied to sue for two times the covered benefit plus attorney fees and costs. The situation worsened with a 2012 decision, *Larson v. Allstate*, which essentially expanded the law to allow third-party claimants, such as auto-repair shops, to sue the insurer.

The 2013 Appeals Court decision in *Hansen v. American Family* raised the stakes further when it found that the insurance company's determination that the claim was "fairly debatable" was not a valid defense for delaying a claim as it was under common law and awarded double damages calculated based on the total covered benefit, not just the additional amount established at trial. Insurers will ask seek legislation limiting property and casualty claims to those filed by an insured so that third-parties do not have standing to sue in place of the policyholder.

Please see COLORADO on Page 7

Colorado Commercial Auto Insurers

Groups Ranked by Total 2015 Direct Premium Written (000)

Group Name	2015 Premium	Mkt share 2015	Loss Ratio 2015	2014 Premium	Mkt share 2014	Loss Ratio 2014	2013 Premium	Mkt share 2013	Loss Ratio 2013
Progressive Corp.	$46,296	9.6%	63.0%	$39,035	8.8%	80.6%	$32,718	8.2%	65.0%
Travelers Companies Inc.	$44,093	9.1%	56.0%	$41,111	9.3%	53.3%	$43,602	10.9%	46.0%
Old Republic International Corp.	$29,244	6.1%	66.0%	$26,409	6.0%	58.8%	$22,811	5.7%	67.2%
Liberty Mutual	$27,568	5.7%	68.3%	$28,187	6.4%	50.7%	$26,467	6.6%	42.8%
Nationwide Mutual Group	$25,663	5.3%	67.5%	$22,812	5.1%	72.0%	$20,580	5.2%	56.2%
Zurich Insurance Group	$25,645	5.3%	66.4%	$24,900	5.6%	72.8%	$25,555	6.4%	32.5%
Auto-Owners Insurance Co.	$20,006	4.1%	92.3%	$18,147	4.1%	87.5%	$15,177	3.8%	80.3%
Berkshire Hathaway Inc.	$14,639	3.0%	38.9%	$14,404	3.3%	51.1%	$9,230	2.3%	25.7%
American International Group	$13,870	2.9%	95.9%	$14,180	3.2%	106.8%	$13,998	3.5%	124.0%
W. R. Berkley Corp.	$12,841	2.7%	85.8%	$10,371	2.3%	53.9%	$9,036	2.3%	49.8%
Tokio Marine Group	$12,298	2.5%	47.5%	$11,123	2.5%	93.6%	$9,676	2.4%	37.5%
Cincinnati Financial Corp.	$11,914	2.5%	88.3%	$10,337	2.3%	108.3%	$7,670	1.9%	59.8%
Hartford Financial Services	$11,754	2.4%	71.0%	$10,165	2.3%	41.2%	$11,394	2.9%	48.2%
Employers Mutual Casualty Co.	$11,601	2.4%	55.0%	$12,134	2.7%	59.8%	$10,195	2.5%	55.1%
Chubb Ltd.	$10,908	2.3%	52.9%	$10,207	2.3%	31.5%	$3,838	1.0%	92.1%
United Fire Group Inc.	$10,689	2.2%	67.8%	$9,243	2.1%	64.6%	$8,336	2.1%	34.5%
American Family Insurance Group	$9,425	2.0%	69.9%	$8,609	1.9%	111.5%	$7,984	2.0%	64.0%
Farmers Insurance Group	$9,231	1.9%	54.3%	$8,837	2.0%	77.0%	$8,671	2.2%	73.9%
Statewide Totals	$483,447		68.3%	$443,797		75.0%	$399,187		57.8%

Source: SNL Financial, by permission, and the *Auto Insurance Report* database.
Loss ratio = incurred losses/direct premium earned and does not include dividends or loss adjustment expense.

State Market Focus: COLORADO

Continued from Page 6

• Pre-judgment interest. Colorado mandates 9% interest on lawsuit awards. Insurers would like lawmakers to tie the interest rate to a floating index to better reflect the current economic environment.

At the risk of being a downer, the way we see it, insurers who think these changes will pass both houses of the Legislature are either exceptionally optimistic, extraordinarily naïve, or enthusiastically partaking in the state's legal marijuana.

On the other hand, when you consider how many more issues hobble insurers efforts to reduce claims costs, the agenda looks rather modest. (For a deeper dive, see AIR 12/14/15.)

Though the legislative focus is in auto liability, insurers in Colorado also face challenges when it comes to physical damage costs. Insurers nationwide have experienced rising PD frequency because of an increase in accidents and rising severity because of more expensive repairs.

This hits Colorado hard for several reasons, and hail is a big one. A July 2016 hailstorm in Colorado Springs caused an estimated $352.8 million in insured losses, including 51,300 car insurance claims adding up to more than $164.6 million, according to the Rocky Mountain Insurance Information Association. It ranked as the state's fourth-most expensive hailstorm.

Colorado insurers experienced the second-highest volume of hail loss claims from 2013 to 2015, according to the **National Insurance Crime Bureau**. (**Texas** was first.) Nationally, about a third of hail claims are covered by auto insurance policies.

At the same time, Colorado's auto repair shops have not kept up with its population growth, leading to longer repair times and higher rental costs. In Colorado, the length of a rental in the third quarter of last year was 12.9 days,

Please see COLORADO on Page 8

Colorado Snapshot

Regulator: Insurance Commissioner Marguerite Salazar
Rate regulation: file and use
Size of personal auto market: $3.64 billion (2015 DPW) Rank: 18th

Average policy expenditure: $778 (2013)
Rank: 23rd
Auto Insurance Report PAIN Index rank: 33rd (2013)
Property Insurance Report HURT Index rank: 21st (2013)

Auto registrations: 1.8 million (2015)
Truck registrations: 3 million (2015)
Vehicle miles traveled (VMT): 48.99 billion (2014)
Traffic fatalities: 1 per 100 million VMT; U.S.: 1.08 (2014)

Vehicle thefts: 234.8 per 100,000 residents; Region: 251.1 per 100,000 residents (2014)

Liability defense: modified comparative fault, 50% bar

Minimum Insurance Requirements:
BI: $25,000/$50,000 • PD: $15,000

Safety Laws
Cellphone ban for drivers under 18
All driver texting ban
Relatively weak graduated licensing
Secondary safety belt law for front seat
Motorcycle helmets required for riders under 18

Demographics
Population: 5.5 million (2016 est.)
Change 2010-2016: +10.2%, U.S.: +4.7%
Median household income (avg. 2010-2015): $60,629; U.S.: $53,889
Population density: 48.5 per square mile; U.S: 87.4 per square mile (2010)

Sources: SNL Securities, NAIC, U.S. Dept. of Transportation, PCIAA, NAMIC, U.S. Census Bureau, IIHS, FBI

GRAPEVINE

Continued from Page 1

based parents be in full compliance with Solvency II requirements. To ensure European capital standards would apply,, EU regulators were also preventing U.S.-based reinsurance companies from doing business without having domiciled EU subsidiaries.

The new agreement aims to address these issues, though the final product never mentions regulatory equivalency. Both sides agreed U.S.-based insurance groups will be supervised by U.S. regulators and EU-based groups will be supervised by EU regulators. Furthermore, U.S. insurance groups will not have to meet the EU capital, reporting or governance standards. In essence, this creates regulatory equivalency without confronting it head on.

The agreement also gives the U.S. five years to change its regulation of European reinsurers to level the playing field in the United States.

Last week, the **National Association of Mutual Insurance Companies** and the **Property and Casualty Insurers Association of America** both offered conditional satisfaction with the agreement, citing clear progress but also pointing out ambiguities in the language that could lead to trouble down the road. Observers said the agreement felt rushed and left much unresolved.

Within the United States, there is also disagreement over the role of the **Federal Insurance Office**. Should it supersede state regulators in the arena of international regulation? What role should the **National Association of Insurance Commissioners** play? The arrival of the Trump Administration adds complexity. If campaign rhetoric is to be believed, it seems unlikely international capital standards will be embraced.

The agreement puts in place a joint committee to implement the agreement, though the committee appears poorly defined. Congress has 90 days from Jan. 13th to take action on the agreement under Dodd-Frank. AIR

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Auto Insurance Report, © 2017, published weekly, 48 times a year, by Risk Information Inc., 33765 Magellan Isle, Dana Point, CA 92629. It is a violation of federal law to photocopy or reproduce any part of this publication without first obtaining permission from the Publisher. ISSN: 1084-2950

Subscription Rates: $1,127 per year in U.S. and Canada. Elsewhere $1,167 per year.

Focus: COLORADO

Continued from Page 7

up from 12.2 days for the same quarter a year earlier, according to **Enterprise Rent-a-Car** data published by **Mitchell International**. The national average was 11.9 days.

An increase in the body shop labor rate early last year is also raising costs. One insurer estimated that the labor rate increase has resulted in an average $100 increase on every claim.

One of the big open questions in Colorado, as in a growing number of other states, is what impact the legalization of marijuana has on traffic safety. While traffic fatalities involving drivers with marijuana in their system have risen in the wake of legalization, there is no hard evidence that marijuana use caused the accident. And there is no scientific evidence showing that drivers become impaired when they have a certain level of marijuana in their system.

Insurers and regulators suspect that marijuana is contributing to rising frequency but they don't have evidence to support it, and insurers aren't citing it in rate filings. AIR