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Insurers Not Pleased with New California Aftermarket Parts Regulations

Insurance associations hint at possible legal action against the Department of Insurance.

The Association of California Insurance Companies (ACIC), a subsidiary of the Property Casualty Insurers Association of America (PCI), said in a statement on Wednesday that the new aftermarket parts regulations approved in California "essentially require insurers to pay whatever auto repair shops demand" and that insurers "no longer have the ability to negotiate the most effective, less costly repair."

The new regulations, originally released by the California Department of Insurance (CDI) in June 2012, received final approval from the Office of Administrative Law (OAL) and are to go into effect on January 30. Insurers will be required to comply on and after March 30, 2013.

In an interview with Online Auto Insurance News (OAIN), Armand Feliciano, ACIC vice president, hinted at possible legal action against the CDI saying that PCI and ACIC are "exploring options" and "If action is taken, it will at least partly center on whether or not the regulators have the power to implement such rules."

Challenging state regulators in court is not a new concept for insurance associations. In 2006, the ACIC was part of a lawsuit filed against the California Department of Insurance over a newly enacted regulation dealing with premium calculations. The ACIC asked the court to declare the regulations illegal and to grant a preliminary injunction to prevent the CDI from enforcing the regulations.

Under the new aftermarket parts regulations, insurer estimates for auto repairs must not "deviate from

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Interview Rick Tuuri, VP of Industry Relations for Audatex

Tuuri discusses the factors that have driven average repair costs and claims volume down since the recession and when they may return to 2008 levels.

In December, Audatex published the latest edition of its industry magazine *Audatex Directions*. In that issue, Rick Tuuri, VP of Industry Relations for Audatex, presented an article that explains why average repair costs and repairable claims volume have simultaneously declined since the recession, and when they may return to historical levels. We invited Rick to discuss the article and explain what he has discovered through his examination of Audatex claims data.

"According to Audatex data, the industry's overall average repair cost began to decline when the recession hit in 2008. That decline continued for several quarters before reversing in 2009. Since that time, the overall average repair cost, or gross appraisal value (GAV), has been on the rise, but it has still not reached those pre-recession levels. Yet, the average cost to repair a vehicle of comparable age has continued to rise throughout the entire time.

According to Tuuri, the explanation can be found in the changing makeup of the nation's vehicle fleet.

"When 2008 came along we saw a drop in the average GAV (gross appraisal value) for several quarters, then in 2009 we saw that cycle back up again, still not back up to 2008 levels, but that trend is continuing. So we wondered why," Tuuri said. "The one factor that really caught our attention is the age of the vehicle."

"According to JD Power, we now have the oldest vehicles on the road

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California

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the standards, costs, and/ or guidelines provided by the [estimating software]" and any insurer adjusted estimate must be either "an edited copy of the claimant's repair shop estimate" or a supplemental estimate that would "identify specific adjustment made to each item and cost."

"The new rules also require insurers that encourage the use of aftermarket parts to provide written warranties on parts that the insurers did not manufacture," said Feliciano. "The enabling legislation that authorizes these regulations required manufacturers to warrant the aftermarket parts, not insurers."

In addition, the regulations would require any insurer that specifies aftermarket parts to cease using any aftermarket part if the insurer has knowledge that the part is not equal to the OEM part and pay for the costs associated with removing and replacing the part with one that is equivalent.

Feliciano said the new regulations give auto body repair shops "a distinct advantage in preparing scope of work estimates, which could drive up repair costs."

Feliciano told OAIN that, "Auto repairers have resorted to legislation via the regulatory process. We feel that some of these regulations that have been put into place are outside of what the CDI has the authority to do."

Former president of the ACIC, Sam Sorich, discussed the new regulations in his law blog this week and explained some of the insurance industry's concerns. Sorich is now an attorney with the law firm Barger & Wolen LLP in Sacramento.

"Insurers argued that the department lacked the authority to impose auto body repair shop regulations on insurers," Sorich wrote. "Insurer representatives also contended that the regulatory provision that an insurer must warrant a non-OEM part is inconsistent with a Business & Professions Code statute which explains that non-OEM parts warranties are provided by the manufacturer or distributor of the parts. Insurers pointed out that the amendments would be harmful to the public because the amendments' restriction on the use of non-OEM parts will lessen competition in repair parts and will lead to higher repair costs.

ACIC did not respond to a request for comment by press time. ❧

Interview

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in American history, eleven and a half or twelve years old. The average repairable vehicle is now six and a half years old, when it was five and a half. So the average repairable vehicle is now one year older now than it was before [the recession].

Yet, Tuuri explains, when Audatex looked at the data over time, and compared estimates on repairable vehicles of similar age categories (three year olds, five year olds, etc.), they found that the average three year old vehicle today costs more to repair than the average three year old vehicle a few years ago. And, the same was true for every age block they examined. Repair costs continue to rise on vehicles of comparable ages.

"What you see is, for each one of those vehicle age blocks, the cost to repair the vehicle has actually increased. So you ask yourself, how could every one of those age blocks go up in average GAV, when the [overall] average has come down?"

"The answer is very simple, but not necessarily intuitive. And that is, there are now more older cars on the road than there were before, and older cars cost less to repair than newer vehicles," Tuuri explained. "We're now repairing more older cars than ever before, there are now more older cars in the mix."

Declining claims volume

According to Tuuri, the decline in claims volume since the recession is a direct result of the new car sales drought that occurred in recent years. While that may seem like a simple explanation, Tuuri makes an interesting observation in his article.

"We know from Audatex data that in 2008, prior to the auto sales slump, a full 89.8 percent of all repairable estimates were written on vehicles that were 10 model years old or newer," Tuuri writes. "Even with the rising average age of repairable vehicles through 2011, 85.1 percent of all repairable estimates in 2011 were still contained in the group of vehicles 10 years old or newer."

What this means, according to Tuuri, is that we can calculate the maximum number vehicles new enough to be repaired (rather than totaled) by simply counting all the new light vehicle sales for the prior ten years. "In other words," Tuuri writes in his article, "without the effects of catastrophe losses, repairable estimate volumes must decline if there are simply less cars in the country to insure and repair." Because of the lack of auto sales following the recession, there are now 17.8 million less vehicles on the road (10 years old or newer) than there were in 2007. ❧

(Editor's Note: See the complete interview and article on the CollisionWeek website.)

Driving Rises Slightly in October

East coast storm Sandy dampens overall gains made in most of the country.

Nationwide driving rose 0.3 percent in October, a gain that may have been much stronger if it had not been for Hurricane Sandy.

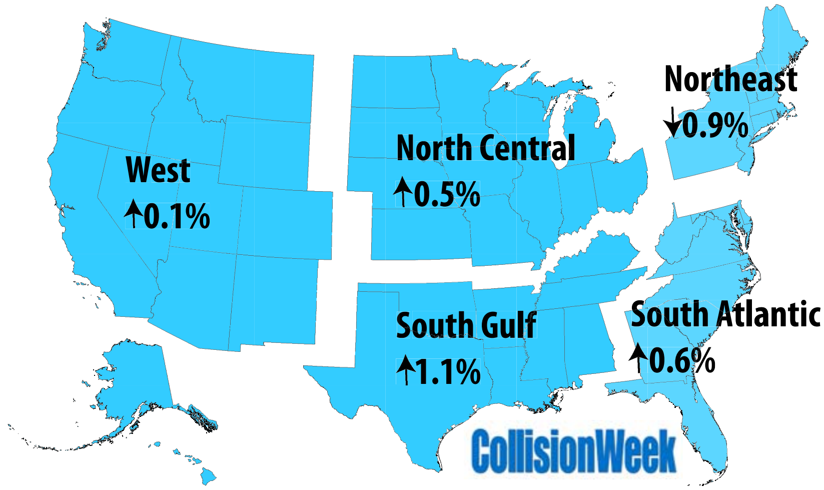
According to the most recent data released by the Federal Highway Administration (FHWA), drivers nationwide logged 251.5 billion vehicle miles in October, up 0.3 percent (0.9 billion vehicle miles) compared to last October.

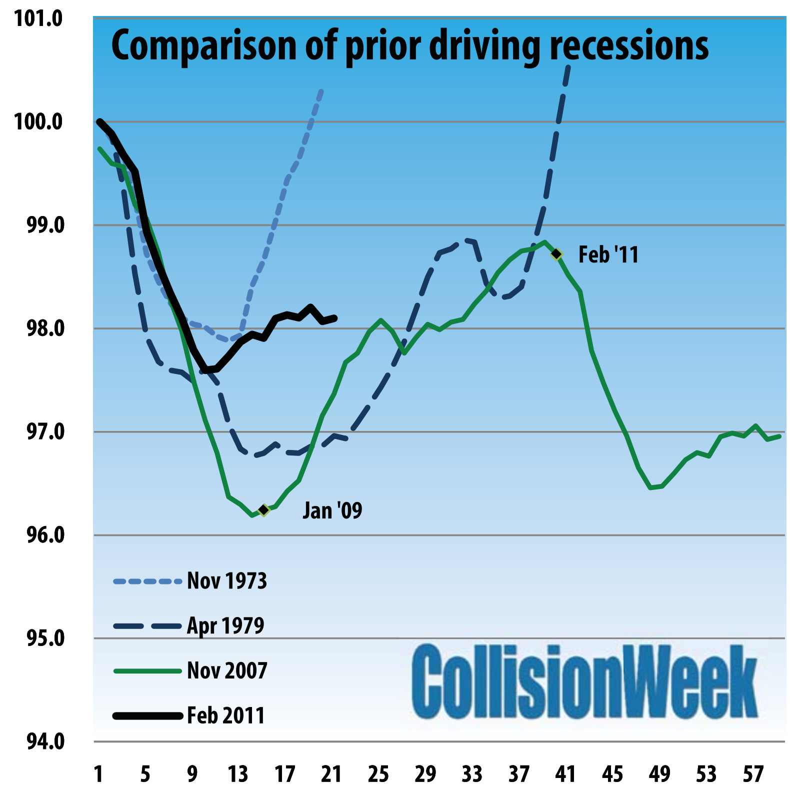
Cumulative travel for 2012 to date is now 0.6 percent above 2011 levels, unchanged from last month, with a total of 2464.5 billion vehicle miles.

Looking at our chart comparing the prior recession recovery periods of 1973 and 1979, the current major driving recession is still more than three percent (3.04%) below the Nov 2007 driving peak. When looking at the decline since Feb 2011 as its own recession (within a recession), the latest numbers show this decline is still 1.90 percent below the February 2011 mark.

All but one region of the country experienced driving increases in October with the largest gain in the South Gulf, up 1.1 percent. The other three gaining regions experienced only minor increases. The Northeast was the only region to decline, down 0.9 percent, but the decline is likely attributable Hurricane Sandy. In the Northeast, the final three business days of the month were impacted by the storm which made landfall in New Jersey on Monday, October 29.

We will likely see driving declines in the Northeast extend through November as long lasting power outages and gasoline shortages affected the region for weeks after the storm.





On the state level, 22 states and the District of Colombia experienced driving declines, but again, 10 of those fell in the region from Virginia to Maine. In other regions, the majority of states saw increased driving.

In the most populated states, New York fell 1.8 percent compared to last year while Pennsylvania declined 0.4 percent. In the South Atlantic, Florida rose 2.3 percent and Georgia increased 2.0 percent. Illinois gained 1.1 percent in October and Texas jumped 3.0 percent. California, which fell 1.4 percent in September, dropped just 0.2 percent in October.

According to the U.S. Energy Information Administration, the national average gasoline price peaked at $3.84 per gallon in September, easing to $3.75 in October. The October driving increase was made in spite of higher gasoline prices. A year earlier, in October 2011, gasoline prices were just $3.45 per gallon. ❧

Business Last Week

Acquisitions & Openings

Seidner's Collision Centers opened their 13th location in Loma Linda, California on January 7 after an extensive remodel. The facility was previously known as Loma Linda Auto Body.

Seidner's, with locations in San Gabriel Valley and the Inland Empire, is a family owned organization with over 48 years of experience. ❧

American Family Insurance completed its acquisition of the Permanent General Companies and other subsidiaries of the PGC Holdings Corp. on Dec. 31.

The $239 million acquisition from owner Capital Z Partners holds several advantages for American Family.

Permanent General mostly sells non-standard auto insurance direct to the consumer market through its subsidiaries, Permanent General and The General. The company sells its products in 25 states through the Internet, call centers, and in some states independent agents who specialize in non-standard coverage, and partner retail store alliances. Permanent General reported direct written premium of $270 million at the end of 2011.

American Family operates in 19 states: Arizona, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington and Wisconsin.

Permanent General conducts business in 25 states: Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, New York, Nevada, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington and Wisconsin. The company plans to expand into Utah and West Virginia this year. ❧

Safelite Group announced on Friday that the company reached an agreement to acquire Boston-based Giant Glass, effective December 31, 2012.

Owned and operated by Dennis Drinkwater and Lance Cramer since 1978, Giant Glass includes 54 employees; 30 mobile vans; and five locations in the Boston area: Lawrence, North Andover, Peabody, Weymouth, and Worcester.

Safelite Group is a subsidiary of Belron, the world's largest retail vehicle glass repair and replacement company. Belron operates in 34 countries. ❧

Network Affiliations

BODYPROS Collision Repair, a group of Des Moines, Iowa-based collision repair centers has joined the 1Collision Network. The 1Collision Network is a Midwest chain of independently owned collision repair businesses.

According to the networks' websites, BODYPROS includes four locations working together and joined by a through a 24-hour phone assistance hotline. The 1Collision network has 14 member locations. ❧

Fix Auto USA announced the addition of two locations in Washington State to its network.

With the additions of Fix Auto Gig Harbor, previously Denny's Harbor Auto Body, and Fix Auto Puyallup, previously Denny's Valley Auto Body, the network now has eight locations in Washington and 14 locations in the Pacific Northwest. ❧

CARSTAR announced the opening of a satellite facility for Utzig CARSTAR Collision Service - Milton in Milton, Wisconsin.

Owned by Al Utzig, the new facility on Greenman Street in Milton, will serve as a satellite facility to handle repairs for vehicle owners in that community. All repairs will be handled at the Utzig CARSTAR Collision Service facility in Janesville at Utzig CARSTAR Collision Service. Utzig also owns a satellite location- Utzig CARSTAR Collision Service in Evansville, WI.

CARSTAR encompasses more than 400 locations in 31 states and 10 Canadian provinces. ❧

Visit the CollisionWeek website for a complete, daily update of the important news affecting the collision repair industry.

The website is updated each business day by 10:30 a.m. EST.

CollisionWeek
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