Transport Topics

SPECIAL REPORT:
Trucking and Insurance

How Fleets Are Finding Balance Amid Rising Risk


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Challenging Conditions For Trucking Insurance

Trucking companies have long contended with major business challenges such as recruiting and retaining professional drivers and adjusting to regulatory changes, but lately, insurance has joined the list of significant headwinds for the industry.

This Transport Topics special report examines the factors that are reshaping trucking's insurance landscape and explores how fleets and insurers are navigating this difficult terrain.

Seth Clevenger
Managing Editor, Features

Insurance costs have been escalating in recent years, driven in large part by the growing frequency of multimillion-dollar judgments against motor carriers in cases involving truck crashes. With the threat of these massive payouts, some insurance providers have decided to exit the trucking market altogether. Meanwhile, the rising cost of liability insurance is becoming unsustainable for many trucking companies already operating on thin margins.

Motor carriers can help protect their businesses through a laser focus on safety and risk mitigation, but even the safest fleets are seeing expenses rise due to the litigious environment in which they operate.

And this year, safety in trucking took on an added dimension with the onset of the coronavirus pandemic, which has been a double-edged sword for risk management in the transportation industry.

Trucking and logistics companies scrambled to protect their workers and customers from the virus by issuing personal protective equipment and sanitation supplies to their employees while implementing social distancing measures.

At the same time, however, traffic dropped significantly during the early days of the pandemic as many people stayed in their homes and worked remotely, which temporarily alleviated highway congestion and reduced the frequency of crashes.

In the end, though, this silver lining of the pandemic has given fleets only a brief respite from the broader trend toward higher insurance costs and greater business risk.

The trucking industry will need a multipronged approach to mitigate rising insurance costs. On the policy side, tort reform has risen to a top-tier priority for American Trucking Associations as the plaintiffs bar increasingly targets motor carriers.

Meanwhile, many fleets continue to invest in technology to boost safety and mitigate risk. Driver-assist technologies such as collision-mitigation systems can reduce the frequency and severity of crashes. Telematics data collected by onboard systems can enable fleets to monitor driver performance so they can address safety problems before they lead to an incident. And onboard cameras are becoming commonplace in truck cabs, both to support driver coaching and to record evidence that could exonerate a driver in the event of a crash.

It's our hope that the information contained in this special report will help you navigate the changes to trucking's insurance market and better manage the risks facing your business.

grandriver — Getty Images

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Navigating Risk

Traffic Eases Amid Pandemic, But Trucking Insurance Costs Remain on Upward Trajectory

vitpho — Getty Images

Rising insurance costs have become a significant challenge for many motor carriers.

By Gary Frantz
Special to Transport Topics

Reduced highway traffic during the ongoing COVID-19 crisis has lowered the risk of crashes, but this silver lining of the pandemic has provided only a temporary reprieve for trucking companies that have seen escalating insurance costs in recent years.

When the coronavirus outbreak first took hold in North America, miles traveled by the general public on the nation's highways plummeted in the spring and early summer.

Much of the trucking industry saw miles drop, too, reducing exposure. For many fleets, slack demand during the early days of the pandemic meant more trucks parked against the fence, more drivers on furlough and fewer vehicles to insure.

Accident rates decreased as congestion declined, and truckers were able to reach their destinations with far fewer traffic-related delays.

While those conditions did temporarily reduce the risk of crashes, trucking insurance experts said the broader landscape for insurance and risk management in the commercial transportation industry has not changed permanently.

"We saw ... a definite decrease in April and May in reportable frequency of accidents due to [less] traffic on the road and not nearly as much congestion. But that has normalized into the fall," said Matt Payne, senior vice president and transportation team leader at Kansas City, Mo.-based insurance brokerage firm Lockton Cos.

Less traffic in congested "hot spots" known for higher accident rates has been a positive, said Greg Feary, president and managing partner of Scopelitis, a transportation law and insurance firm with about 5,000 transportation-related clients in the United States.

"In densely populated urban areas ... you could make an argument that COVID-19 has created a better delivery environment because it's easier to get in and out [of those areas]," Feary observed. "Everything from serious accidents [to] fender benders has been reduced."

Yet overall, Feary does not think that the pandemic has changed the trajectory of the insurance market very much, noting that it has been trending toward higher costs for some time due to a variety of issues not related to the coronavirus.

"It's kind of a blip in time," he said of the pandemic's effect on risk exposure for truck lines. Whereas in the consumer vehicle insurance markets, some carriers have provided rebates to motorists, that's not been the case in commercial trucking.

Greg Orr, president of Joplin, Mo.-based truckload carrier CFI, agreed with Feary and others that the pandemic created a short window where "we did see fewer cars on the roadways, which was helpful to truck drivers, who had to deal with less traffic and congestion — and fewer accidents."

Meanwhile, professional truck drivers received an outpouring of public recognition from a nation coping with a once-in-a-century pandemic. Orr cited "random acts of kindness" as people went out of their way to show their gratitude for truckers and the work they do. He's had drivers share stories of motorists approaching CFI drivers at rest areas, fuel islands and parking lots after making a delivery, and thanking them for keeping goods moving. One driver came back to his rig to find a bouquet of flowers and a card on the running board.

"That part has been inspiring," Orr said. "The pandemic has helped the reputation of the overall industry as many Americans are finally realizing the necessity of trucking to their daily lives."

The Rise of Nuclear Verdicts

Although the pandemic briefly eased traffic congestion and the risk of crashes in the short term, several longer lasting trends have been driving up insurance rates and premiums in the past several years.

One key factor contributing to trucking's increasingly challenging insurance market is the proliferation of "nuclear" verdicts — judgments of $10 million or higher awarded in cases involving truck crashes.

Nick Saeger, associate vice president for pricing and underwriting at Stevens Point, Wis.-based Sentry Insurance, said "social inflation" is contributing to the growth of these high-dollar awards as plaintiffs' attorneys seek to play on the jurors' emotions to drive the verdict, regardless of the facts.

In practice, plaintiffs' attorneys are trying to reach the "reptilian" part of the jurors' brains, which instinctively wants to protect family and community from danger — and do so through their verdict. The strategy does not necessarily focus on fault or facts. Its calling card is fear and revulsion, and convincing juries to hand down verdicts intended to punish the defendant trucking firm and send a message to the industry.

> "Trucking has become [the] profit center for a lot of plaintiff attorneys."
>
> *— Doug Marcello, Marcello & Kivisto*

At the same time, plaintiffs' attorneys are more aggressively targeting the trucking industry.

"They are getting out of mass tort [and] into personal auto [and truck] claims," where they hope to get awards faster, Saeger said.

As part of this trend, attorneys are conducting deep research into trucking company history, operations, practices, procedures and documentation, seeking evidence to support claims of institutional negligence or bad practices that could allegedly contribute to poor safety and cause accidents.

Litigation financing is another key trend, Saeger said. In some cases, a plaintiff's attorneys may not have the financial resources to pursue what can be lengthy litigation all the way to the finish line, which could be years away. But investors, such as hedge funds, seeing the prospect of a financial windfall, will finance the attorney's expenses on the case in return for a cut of a settlement or verdict award.

"We know that this is happening," Saeger said.

Trucking defense attorney Doug Marcello, a partner at Carlisle, Pa.-based Marcello & Kivisto, has seen firsthand the dramatic rise in aggressive law firms promoting themselves as specialists in trucking liability litigators.

With medical malpractice reforms lessening the prospect of big paydays in that arena, "trucking has become [the] profit center for a lot of plaintiff attorneys," said Marcello, who, along with his law partner, also has a commercial driver license. "They live by the mantra, 'Hit a truck, get a check.' They look at an 18-wheeler as a rolling ATM machine."

Reducing Risk Amid a Pandemic

While the pandemic did not necessarily create any liabilities thus far that would fall under commercial truck policies, issues related to the coronavirus presented other risk management challenges.

Front and center was obtaining and providing personal protective gear to employees, protecting employees' health by regularly cleaning and sanitizing trucks and facilities, managing social distancing, and dealing with shippers who no longer wanted drivers walking the dock or performing inside deliveries, chatting with traffic managers and exchanging paper documents. Any COVID-related health claims related to on-the-job activities were more likely to be covered under worker's compensation policies.

For Pittsburgh-based less-than-truckload carrier Pitt Ohio, being proactive, diligent, and consistent in responding to the pandemic, and focusing on employee safety, has paid dividends, said Jim Fields, the company's chief operating officer.

At the outset, the company acquired and distributed personal protective equipment to all employees. That was a significant challenge due to short supply, exacerbated by the need for N95 masks to be distributed to hospitals and health care facilities first.

Pitt Ohio mixed and distributed its own hand sanitizer. It also purchased high-volume commercial paint sprayers, using them to regularly disinfect large dock areas, workspaces and trucks. High-efficiency particulate air filters were installed in office heating and air-conditioner systems. Employees' temperatures were measured before entry at each facility. Trucks were sanitized on the lot, and the day's bills placed in the cab in advance so drivers could go directly to their trucks without stopping in the office. Most importantly, processes were immediately modified to prevent contact between employees and with customers to maintain social distancing.

"It was critical to keep our workforce healthy in order to service our customers," Fields said.

As a result, Pitt Ohio has experienced nine positive COVID-19 cases among its more than 3,000 employees, the company said.

"And all of those were contact-traced back to family members who worked at some level in health care," Fields said.

Pitt Ohio has had zero interruptions due to COVID-19 and has not had to suspend operations or close any terminals.

With respect to the pandemic and its impact on commercial truck insurance costs, Fields echoed the experience of others, noting that the pandemic didn't really affect Pitt Ohio's premiums or rates.

The company has formed a "captive" shared-risk insurance plan whose members are all Pitt Ohio subsidiaries, and ultimately can retain some of the business risks through that structure.

Pitt Ohio is ranked No. 45 on the Transport Topics Top 100 list of the largest for-hire carriers in North America.

A Difficult Climate For Trucking Insurance

Given the rise in nuclear verdicts and other factors, it's been a tough couple of years for insurance companies, so much so that there are fewer providers today willing to write policies for trucking companies — yet another factor in higher premiums as the pool of capacity has shrunk.

While pricing this decade has increased, "the trucking insurance market has not seen a profit in quite some time," said Chris Homewood, senior vice president and head of commercial auto for New York City-based Hudson Insurance Group. All in, he estimates over the past 10 years, the industry has been paying out between $1.03 to $1.12 per dollar of revenue taken in. That's not a sustainable business model, he said.

With the total cost and severity of claims on the rise, "we will continue to see less [insurance] capacity, less coverage available," Homewood said.

That which is available will cost more.

"It is more challenging for [trucking companies] to build out their liability limits ... where they would want to purchase $100 million in limits, they can only get [quotes on] $40 million. So capacity is declining."

And truckers are being placed in a position of having to buy less coverage for more money.

Homewood added that as fleets adopt more onboard safety technology to proactively alert and assist drivers in avoiding or minimizing crashes, that will help stem the tide of increases. He cited in particular the value of in-cab camera technology, the data it provides, and its supporting software and driver training and behavior management tools.

Cameras and their data enable companies to proactively coach and "educate drivers to change habits," correcting behaviors before they lead to accidents, Homewood said.

Importantly, in accident liability cases where the trucker is alleged to be at fault, such systems provide irrefutable video evidence that can validate the driver's innocence and confirm that fault lies with the other party, all of which helps reduce claims expense for truck lines and their insurance carriers.

Risk and its attendant costs, he said,

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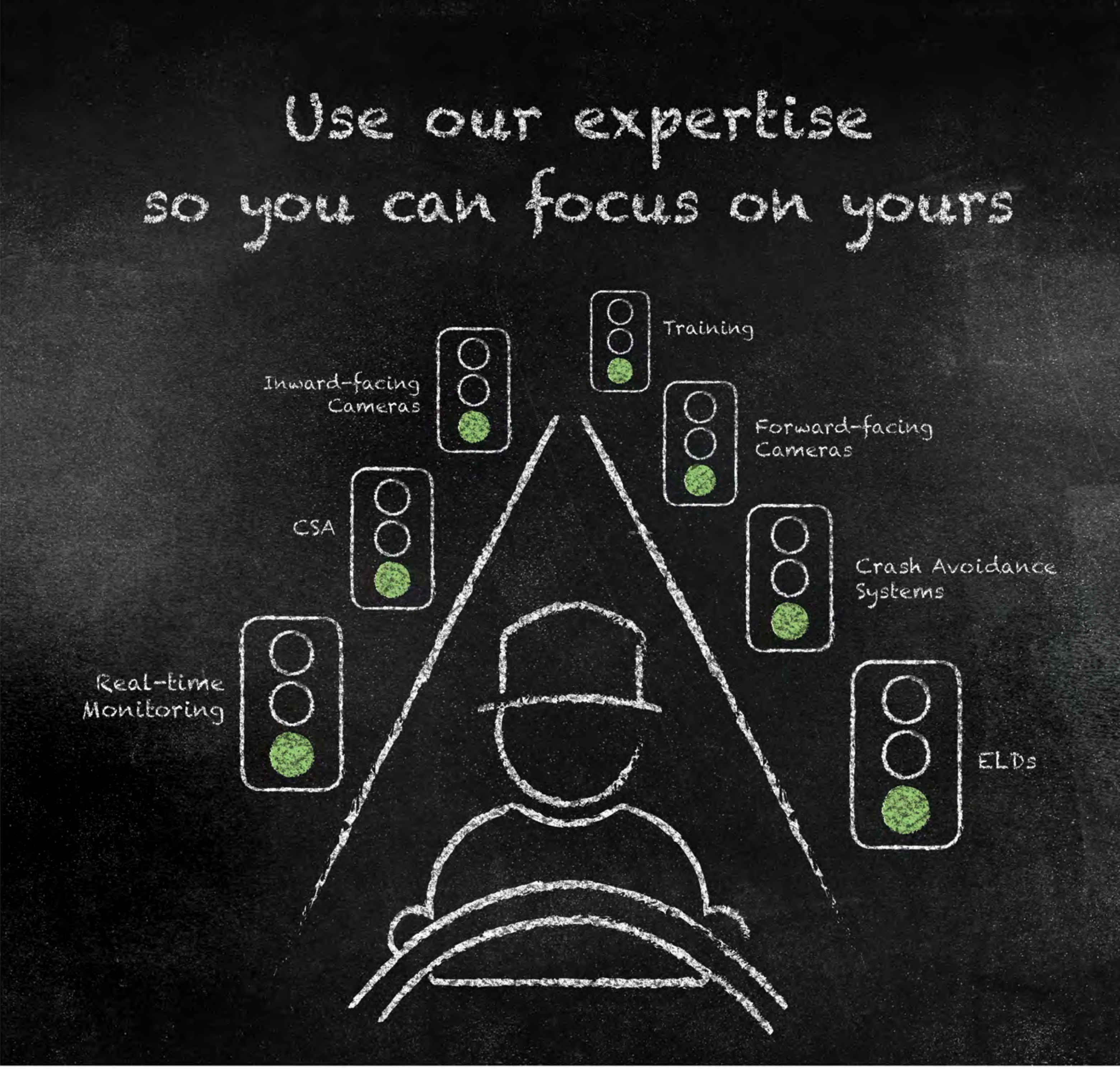
Trucking companies have been distributing personal protective equipment to help prevent their workers from contracting COVID-19.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Price shouldn't be the driving factor in choosing an insurer

IN AN ERA of ever-increasing jury awards, creative theories of negligence against motor carriers tested by the plaintiff's counsel and the effect these have on the availability of coverage make choosing the right insurer critical. This is particularly true for motor carriers who assume risk through self-insured retention (SIR) and purchase limits of liability coverage in excess of the minimums required to operate. While price of coverage is important, motor carriers should also consider factors such as the insurer's expertise in loss control, knowledge of safety technology, diligence in claims handling and creativity in coverage structuring.

When motor carriers graduate to loss-sensitive insurance policies that involve an SIR, accountability for safety and loss control becomes aligned with their insurer. As such, it is important to choose an insurer affiliated with a loss control organization that has deep understanding of effective strategies. Doing so will improve the chances that a motor carrier can contain the losses for which they are accountable within their SIR, as well as those that could expose their excess coverage, improving the likelihood that pricing remains reasonable.

> "Price is one piece of the equation, but other aspects of the total cost of risk management also need to be considered."

The same can be true regarding crash avoidance and safety-oriented technology. Partnering with an insurer that not only understands the effectiveness of the multitude of technologies marketed to motor carriers, but also knows how to use this information to control losses, can be a value-added service. It is ideal to have a partner that can share insights on the many technologies marketed and appreciate the investment made by motor carriers.

Furthermore, trusting that there is alignment in how claims are adjudicated with your insurer is important, particularly in cases that have markers for being severe. When you choose a third-party administrator for handling claims, it is important that there is an arm's length on evaluation of claims from the motor carrier, otherwise it is too easy to allow emotions to enter into the process. Emotional responses commonly lead to delayed handling or obfuscation of facts that might lead to quicker resolution. Generally, the more time a claim is allowed to fester or lie unattended, the larger the ultimate settlement value may be. Choosing an insurer that is affiliated with a top-notch claims handler can establish a strong collaborative partnership with respect to claims handling and help contain the ultimate payouts on losses.

Pictured above, Chris Homewood, SVP, Head of Commercial Auto.

Lastly, it is important to consider the degree to which an insurer can help solve your coverage challenges. Relative to a few years ago, excess limits are difficult to find in today's market, while minimum limits are fairly common when compared to building out excess of $5M or more. Partnering with an insurer that can offer higher limits, or a combination of higher limits with motor carrier participation, can prove to be extremely valuable. It is also important to choose an insurer that can cover the full scope of a motor carrier's driver base, including independent contractors. Oftentimes, claims associated with an owner/operator's personal time are folded into the motor carrier's coverage, which places the motor carrier at risk for payment. Thus, having the same insurer cover both company drivers and independent contractors can help bring peace of mind to those managing the claims handling process.

The trucking insurance market has been particularly challenged within the last 10 years, placing pressure on pricing and availability of limits. Price is one piece of the equation, but other aspects of the total cost of risk management need to be considered. That is why partnering with an insurer that has superior understanding of loss control technologies, is an expert in transportation claims handling and has the flexibility to solve motor carrier insurance limits needs will help optimize the total cost of risk management for motor carriers.

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Despite uncertain times, keep investing in safety

The trucking industry has proven its resilience by delivering much-needed goods during both good times and those that were especially challenging. While recent times fall into that latter category for many motor carriers, there are some positive signs for the industry. After continuously answering the call throughout natural disasters and, most recently, a worldwide pandemic, the industry is enjoying a degree of much-deserved appreciation. But how do we perpetuate this going forward?

One of the more promising regulatory developments has been the new Hours of Service regulations that became effective on September 29, 2020. Billed as giving the driver more flexibity, this final rule came about through a cooperative effort by government and industry to improve safety and drivers' quality of rest. There are four major provisions:

Short-haul Exception

This expands the short-haul exception from 100 to 150 air-miles and gives those drivers a 14-hour work shift. In our ever-increasing online retail economy, this provision takes on increasing importance. Note that a driver's shift must start and end in the same location, and they must have at least 10 hours off between shifts.

Adverse Driving Conditions Exception

This change expands the driver's duty day (not actual driving time) during adverse conditions by an additional two hours. It will also allow up to 13 hours of driving within a 16-hour duty day.

30-minute Break Requirement

Drivers are now required to take a 30-minute break after eight hours of driving time, rather than on-duty time. This provision also allows an on-duty/non-driving period to suffice as the required break. Just keep in mind the 30 minutes must be consecutive.

Sleeper Berth Provision

This change to the sleeper berth provision allows the driver greater flexibility in meeting the 10-hour off-duty requirement by splitting the period into two—one period comprised of at least seven hours and one that is at least two hours. Neither of these periods will count against the 14-hour driving window.

While these changes may not please everyone, they do represent a positive step forward. During the early days of these changes, it is especially important to watch your drivers and make certain they, along with your operations staff, fully understand the new rules.

Other Areas of Opportunity

As we have seen over the years, technology has become an important tool in the safety of drivers and motor carriers. A recent study conducted by the Insurance Institute for Highway Safety found trucks equipped with collision warning systems saw a 44% decrease in rear-end crashes, and those with automatic emergency braking reduced rear-end crashes by 41%.[1] Thus, implementing these systems can save a significant amount of money, since rear-end crashes are some of the most devastating and costly types of accidents.

In addition, in-cab camera systems are proving invaluable to the driver improvement and claims management process. Drivers have also become more accepting of the technology, as they find cameras can help them develop better habits and provide exoneration when facts may be disputed.

While the uncertainties of COVID-19 may lead many to delay investing in new technology, that may be an unwise and, ultimately, costly decision. Now is actually the time to continue to invest in those technologies that have a proven return on investment.

Different organizations may react in various ways during challenging times, but it is those that persevere with the goal of coming out on the other side stronger and safer that will continue to flourish and lead the industry towards better times ahead.

[1] "Study shows front crash prevention works for large trucks too." The Insurance Institute for Highway Safety (IIHS) and Highway Loss Data Institute (HLDI) Newsletter, 3 Sept. 2020.

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Startup Harnesses Data, Telematics In New Insurance Model for Fleets

By Gary Frantz
Special to Transport Topics

Chuck Wallace, a co-founder of Esurance, saw commercial truck insurance as a struggling market, hidebound by past practice and ripe for innovation.

The insurance tech revolution he had helped kick off some 20 years ago with Esurance for home and auto owners had left trucking by the side of the road.

That led to a meeting with Reid Spitz, a principal at venture capital firm 8VC.

Seeing an opportunity to reinvent the trucking insurance market, they partnered with 8VC and other investors to form High Definition Vehicle Insurance. Launched in 2018, HDVI focuses on small and midsize trucking fleets.

"We wrap all we do around data and telematics, third-party next-generation hardware, our own software and services, combined with an integrated insurance product that rewards fleets for becoming safer," explained Wallace, who is HDVI's CEO.

The program provides "a set of initiatives for the fleet to help them improve more aspects of their operation," such as safety, hiring and training practices and procedures, data management and control, and regulatory compliance, among other areas.

"As [fleets] prove themselves responsive to coaching and implementing recommendations to become safer, they can earn a better rate through the course of the policy," Wallace said, adding, "you can't just put a camera in a truck and see safety improvements. You need monitoring and analyzing [the data] combined with [proactive, ongoing] coaching as well."

Spitz, HDVI's head of operations, said commercial truck liability insurance has been a "hardening market" for many years, influenced by factors such as a labor shortage that has forced fleets to hire younger, less experienced drivers. Other challenges include high driver turnover, distracted driving (by both civilian motorists and truckers), traffic congestion, more stringent regulations on hiring practices and an increasingly aggressive plaintiffs bar. All have placed pressure on fleet safety performance, risk exposure, policy coverage limits, premiums and claims costs.

The innovation in the HDVI model,


Andrew Collings Photography

Wallace (left) and Spitz formed High Definition Vehicle Insurance in 2018.

Wallace said, comes from "our holistic approach integrating technology and data with insurance."

"We have much better insight into what fleets are doing day in and day out," he said. "We help them become safer and more efficient. It's a completely integrated approach that creates advantage over traditional insurance companies."

Fleets need better tools and insurance practices focused not on reacting, but preventing incidents from occurring in the first place, said Jake Medwell, a founding partner at 8VC.

Managing Risk

Continued from page A6

"all boils down to loss exposure and the history of the truck line."

Underwriters will put together the best policies with the best rates for "those motor carriers who demonstrate a strong culture of safety and accountability, particularly those who have skin in the game with self-insurance retention."

Nevertheless, Homewood said Hudson still sees opportunity in the market. Last month, the company launched new commercial truck coverage for independent contractors, such as owner-operators running their own trucks. The coverage, offered exclusively through retail brokers in select states, includes occupational accident, contingent liability, truck physical damage and workers' compensation, as well as nontrucking liability.

What else can fleets do to rein in insurance costs, reduce claims and mitigate rising premiums?

"Focus on owning the risk you can manage," said Dan Cook, principal and practice leader at True North Cos., one of the three largest insurance brokers for trucking companies. "Motor carriers who manage risk as a key operational activity ... do better than motor carriers who hand off some of that responsibility to the insurance company."

Cook recommended that fleets collect and monitor data on their operations and establish key performance indicators for safety.

Ultimately, motor carriers can reduce risk and better manage their insurance costs by building a culture of safety and accountability across the entire company, from the CEO and fleet managers to the drivers, dispatchers, dock workers and technicians, he said.

Nuclear Verdicts Against Truckers Are Increasing, ATRI Study Finds

By Eric Miller
Senior Reporter

In the past five years there were nearly 300 court cases resulting in jury verdicts of more than $1 million against trucking fleets, according to analysis by the American Transportation Research Institute.

The 80-page report, "Understanding the Impact of Nuclear Verdicts on the Trucking Industry," was the result of comprehensive research into large and so-called "nuclear verdicts'' from 2006-2019.

The study, published in June, confirmed what many truckers are seeing anecdotally: Large verdicts against motor carriers are increasing dramatically both in number and size.

Of 600 cases analyzed by ATRI, only four involved verdicts over $1 million in 2006. However, at their peak in 2013, more than 70 cases had verdicts over $1 million. There were 71 cases of the 600 analyzed that were $10 million or higher — ATRI's definition of a nuclear verdict.

"This issue has had a stifling impact on motor carriers and industry stakeholders — well beyond those involved in a truck crash," said Rob Moseley, founding partner with Moseley Marcinak Law Group of Greenville, S.C. "ATRI's research on litigation provides important guidance on leveling the playing field between truckers and trial lawyers, both in and outside of the courtroom."

ATRI surveyed and interviewed dozens of defense and plaintiff attorneys as well as insurance and motor carrier experts, and generated a qualitative analysis for why the litigation landscape has changed, recommendations for modifying pretrial preparations, litigation strategies and mediation approaches, and how large verdict awards impact both safety and insurance.

ATRI concluded that two primary factors impact the size of a verdict: crashes and litigation.

Crash factors include important aspects of the crash, such as injuries sustained, number of cars involved and the number of deaths involved, the study said. Litigation factors include the presence of expert witnesses, for example.

"Five particular factors brought against a defendant yielded 100% verdicts in favor of the plaintiff. These issues included hours-of-service or log book violations, lack of a clean driving history, driving under the influence of controlled substances, fleeing the scene of the crash and health-related issues."


Avosb — Getty Images

ATRI's data analysis also confirmed that the type of injury, number and type of parties involved, and even vehicle types, have a statistically significant impact on verdicts. For example, when children were involved in a crash, verdict sizes increased more than 1,600%, regardless of fault.

The largest nuclear verdict cited against a trucking company came from a truck-involved crash in Alabama in 2016. A driver for a scrap metal company was charged with five counts of criminally negligent homicide after falling asleep at the wheel, crossing a two-lane highway and causing a crash that killed five people, including two children.

"While some aspects of the case were settled out of court, the deaths of a grandmother and two of her grandchildren were settled in a Georgia court, where the motor carrier was located," the study said. "The driver, and by extension, the motor carrier, was found liable and ordered to pay $280 million."

Spinal cord injuries more than doubled average jury awards, raising them to slightly less than $3.5 million. In rear-end crashes, the plaintiffs win 89% of cases. Rear-end crashes that occur in work zones generate the highest award among rear-end crashes, with an average award of $7.25 million. Crashes involving "spins and rolls" were by far the most expensive crash type, with average awards of nearly $15 million.

ATRI also concluded that while all fleets now pay more, insurance premiums clearly are tied to safety records.

"One respondent specified that 'low-risk' motor carriers are experiencing 8% to 10% increases in insurance costs, while new ventures and average-to-marginal carriers are experiencing a 35% to 40% annual increase — a trend that has occurred for three consecutive years," the study said. "Based on ATRI's operational cost data, small fleets and owner-operators pay out-of-pocket considerably more on a per-unit basis than larger fleets."

"This study documents a frequency in excessive awards that, while not surprising, tells us that the trial system has gotten completely off track," said Clay Porter, partner at the law firm of Porter Rennie Woodard Kendall, based in Cincinnati. "Foundational changes are needed in the way we determine non-economic and punitive damages."

Rates Will Increase, But What Else Could 2021 Bring for Truck Insurance?

It's no secret that trucking is a low-margin business. Even the most successful trucking companies earn only 10 cents on the dollar, which is why many carriers are having such a difficult time managing the astronomical increases in insurance costs over the last decade.

Jennifer Wieroniey
Executive Director,
National Accounting & Finance Council
American Trucking Associations

Year-over-year, carriers are having to pay more money for less coverage. These cost increases have forced many fleets, particularly smaller, less resourced ones, to make the difficult business decision to close their doors. At some point, loads are only so profitable and only so many efficiency gains can be made elsewhere in the business to account for higher insurance rates.

While business for many carriers has been more resilient than originally feared, as the recession drags on and other business expenses continue to rise, we are likely to see more carriers forced out of business or shopping for buyers because they can no longer afford the requisite insurance. As carriers consolidate or leave the market entirely, capacity is likely to tighten. If the COVID-induced recession ends in early 2021 and freight volumes rebound across all sectors, capacity will tighten further. Once capacity tightens enough that carriers have pricing leverage, motor carriers may want to consider implementing an insurance surcharge on their loads.

Just as the fuel surcharge was created in the 1970s to offset dramatic price fluctuations caused by an oil embargo placed on the United States by Arab members of OPEC, an insurance surcharge could help offset the dramatic increases in insurance costs over which individual carriers have little control.

Insurance premium increases, like fuel costs in the 1970s, are likened to a rising tide, where both safe and risky carriers have seen dramatic price increases due to insurer attempts to recoup years of losses. In the last decade, legal expenses have grown exponentially for insurers. The costs to defend carriers in vehicular accidents, the size of jury verdicts and even the number of small settlements have grown so much that insurers need double-digit — sometimes triple-digit — rate increases year-over-year to cover their expenses.

Just as breaking out fuel costs in the 1970s showed the true cost that certain members of OPEC inflicted on truckers at the pump, an insurance surcharge would show the true cost of the plaintiffs bar. Carriers can take certain steps to save on their insurance, analogous to shopping around your fuel to save on the margins. Yes, it can make a difference, but if there's an embargo — or an avalanche of litigation — you are still going to be paying more.

Shippers, and the consumers who will eventually bear the cost, should know exactly how much of their increased freight cost is attributable to unconscionable jury verdicts and aggressive plaintiffs attorneys. An insurance surcharge is a practical solution to improve transparency in pricing and reduce financial hardship for carriers.

Aside from having shippers share the burden of cost increases, what else can be done to prevent insurance-induced carrier bankruptcies? If even carriers with the best safety technology and sparkling clean claims histories are seeing increases, what can be done to incentivize more carriers to invest in telematics and driver coaching? A one-stop shop for insurance, telematics and safety coaching would be immensely valuable for many fleets.

In the near future, more insurers could start to closely integrate safety technology into their suite of services offered to customers. One new tech startup recently received $16 million in its first round of funding to introduce an insurance product for small motor carriers that includes software, telematics and live support alongside liability coverage in the insurance premiums charged. More innovation like this would prove valuable in an industry that is swimming in underutilized telematics data. Additionally, the smaller carriers that have been less able to invest in expensive telematics equipment and also have been less able to absorb the higher insurance costs could benefit greatly from more one-stop shops in risk mitigation.

Absent innovation in freight pricing and an increase in more tech-forward insurance products, carriers can still take certain steps to slow their rising costs. A joint working group of attorneys, insurers and motor carriers from the National Accounting & Finance Council and American Trucking Associations' Insurance Task Force will be releasing an in-depth guide, "Finding Affordable Insurance for a Trucking Business in the Hard Insurance Market" on Nov. 18 at NAFC's Virtual Annual Conference. Carriers can prepare for renewal by getting their safety and loss documentation in order early, developing a risk-retention strategy and presenting the best possible case to underwriters. The guide will discuss the practical steps carriers of all sizes can take to achieve the best possible renewal outcome.

Business success in trucking is defined by a few more cents earned on the dollar than the year prior. While taking the steps in ATA's "Finding Affordable Insurance" guide can't guarantee dramatic savings, it is likely to move the needle enough to make 2021 a better year than 2020 for most carriers.

For more information about NAFC or the "Finding Affordable Insurance" guide, please email NAFC@trucking.org.

Lytx Inc.

Many fleets have adopted onboard cameras to support driver coaching and provide liability protection in the event of a crash.

Fleets Install Onboard Cameras To Help Control Insurance Costs

By Hilary Daninhirsch
Special to Transport Topics

Many trucking companies have installed cameras in their vehicles as a way to coach drivers and avoid protracted litigation, but onboard video also can help address rising insurance costs in the transportation industry.

Most insurance companies, for their part, are in favor of their trucking clients deploying video telematics. Theoretically, the existence of onboard cameras should lower premiums, particularly if the recorded event in question exonerates the driver. But whether that actually translates into discounted insurance premiums is another question. In the long run, such insurance breaks will likely occur as insurance companies analyze the data and determine if fleets are utilizing the technology to effectively train drivers.

Meanwhile, nuclear verdicts and expensive settlements in trucking litigation have skyrocketed — a key factor driving up insurance costs.

"These types of settlements are driving our trucking companies out of business, driving insurance rates to levels we've never seen in the last decade," said Jim Angel, vice president of video intelligence solutions at Trimble, which offers an onboard camera system primarily for Class 8 fleets.

Onboard video, however, can provide fleets with liability protection, suppliers said.

"More often than not, the truck driver is exonerated," said Jason Palmer, chief operating officer at video-based safety firm SmartDrive, which was acquired by Omnitracs in

October. "It's really there to protect the driver, and even if they are at fault, they'd want to know about it right away."

Passenger car drivers are principally at fault in 70% to 75% of fatal car-truck crashes, according to a 2013 report by American Trucking Associations.

"If you take advantage of the odds of truck drivers only being at fault a small minority of the time, then having the right tools is absolutely key," Angel said.

He said this can translate to lower insurance deductibles because companies are able to win the majority of litigation battles and not pay out as many false claims as they had in the past.

Onboard cameras have become much more common in trucks, almost an expectation. If a collision between a truck and passenger vehicle results in litigation, fleets that have not implemented video systems then have to defend that decision, Palmer said.

"Paying for claims and damages that are the fault of the trucker is not really the issue. No one is trying to dodge legitimate liability, but we're trying to isolate that legitimate liability as compared to frivolous litigations, claims that have no foundation, and the camera certainly helps us to do that," added Bob Fuller, agency president of AssuredPartners/Fleet Risk Management, an insurance company focused on the transportation industry.

Two years ago, KKW Trucking, headquartered in Pomona, Calif., installed forward-facing cameras in its 400-truck fleet, primarily because of the litigious environment in the trucking industry.

"We wanted to capture what really occurred. From our perspective, we're going to mitigate liability in many cases completely where we captured an accurate account of an event that was not absolutely 100% our fault, and the other piece is, if we did have some fault, we want to be able to have an accurate account of what occurred and be able to address it as quickly and as cost efficiently as possible," said Brandon Krueger, senior director of IT and fleet services.

"While our insurance company was happy for us to have it because they recognized the potential help for liability circumstances, it really never produced a premium discount or subsidy of any kind for us," he added.

Still, Krueger said the cameras already have helped mitigate claims.

"We feel it has been worth the investment," he said. "In most cases, it has proven that we were not at fault."

Lytx, another supplier of onboard cameras and video-based safety systems, has been working with insurance companies for a decade, said Eliot Feldstein, senior vice president for corporate development.

"They have realized early on that once they write a liability policy for a trucking company, it's in their economic interest to make sure the trucking companies have the lowest collisions and the best performance they can," Feldstein said.

> "In most cases, it has proven that we were not at fault."
>
> *— Brandon Krueger, KKW Trucking*

In his experience, insurance companies will generally give discounts on premiums to those fleets that have installed Lytx systems.

"A safer fleet with a better track record gets better insurance pricing. They're a better risk when they go out and look for insurance, and we are able to formalize that with a variety of insurance companies," Feldstein said.

He added that some insurers will even subsidize the cost of his company's system, shouldering the load because they know that video evidence can be very impactful. And it's not just about price, but having insight to deliver services better, along with helping to adjudicate and settle claims more quickly. But fleets have to utilize the data they obtain from a telematics system in a meaningful way in order for everyone to reap the benefits.

The ability to address unsafe driving behaviors is undoubtedly important for all parties. Not only are drivers involved in collisions being exonerated more often than not, but it creates opportunities for coaching; this is what insurance companies want to see.

"It makes drivers more conscientious of driving skills when they realize the potential for what they're doing to be recorded. It can be a great training tool if it is implemented properly," Fuller said.

"The telematics will allow an intervention on an unsafe behavior much earlier, which translates into lower insurance costs and a more efficient operation," he added.

Many companies proactively integrate the data into formal safety programs.

"We have a SmartDrive-managed service team of highly trained driving analysts that objectively review and score driving events, which are incorporated into a driving performance profile," Palmer said. "This is an essential component of the SmartDrive safety program that typically results in 50% to 70% reduction in collisions, which is a significant portion of cost savings."

Todd Reiser, vice president at risk management firm Lockton Cos., said insurance providers want to know that the client is utilizing the data to train drivers.

"That the camera footage and data is being reviewed and utilized and being part of the training process on an ongoing basis is the most important thing insurance companies want to see," he said.

KKW's Krueger agreed.

"If you're seeing these events you wouldn't otherwise see that create coachable events — you're coaching against risky behavior — that will theoretically result in lower events per miles driven, and it's that claims experience the insurance company is looking for and what they're basing their premiums on," he said.

Video intelligence is almost always viewed favorably by the insurance carrier, with some insurance companies even subsidizing or supplementing the cost of deploying the technology. There are usually expectations with shared cost programs, with performance indicators that they have to meet.

Adopting video telematics may not drive down the cost of insurance at the outset, but is likely to happen after the system has been in place, and the insurance companies see that the fleets are utilizing the data to coach drivers.

"Most are going to wait for the reduction in claims that we believe will follow implementation of the cameras to show up in the loss history for the carrier. If we see improvement in the loss history, that will drive down cost of insurance," Fuller said.