

# Insurance Compliance Research: The Underestimated Challenge

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*What every insurer needs to know about the benefits, risk, and cost of research in the public domain*

## Insurance-Specific Regulatory Research: The Challenge Continues

The insurance industry's highly regulated environment demands ready access to current and applicable state and federal legislative and regulatory documents. In fact, insurance professionals know they need to have such a comprehensive and up-to-date set of these documents to ensure corporate compliance. However, when decisions are made to satisfy this compelling need through the use of public information sources, compliance staff are left with significant challenges in attempting to perform efficient, timely and complete research.

The complexity associated with meeting the challenges of the research required in this intensely regulated environment include understanding, tracking, evaluating, and implementing both existing and evolving regulatory requirements. The established state-based system of regulation, coupled with the federal regulatory framework, clearly creates a unique and sizable challenge for the U.S. insurance industry. Insurers have to identify, evaluate, test and implement policies, procedures and systems which meet the individual jurisdictional requirements for the applicable lines of business. Despite the significance of this challenge, many insurers still underestimate the challenges confronting organizations when public information resources are adequate to maintain compliance.

# Insurance Compliance Research

## The Reality of Regulatory Research

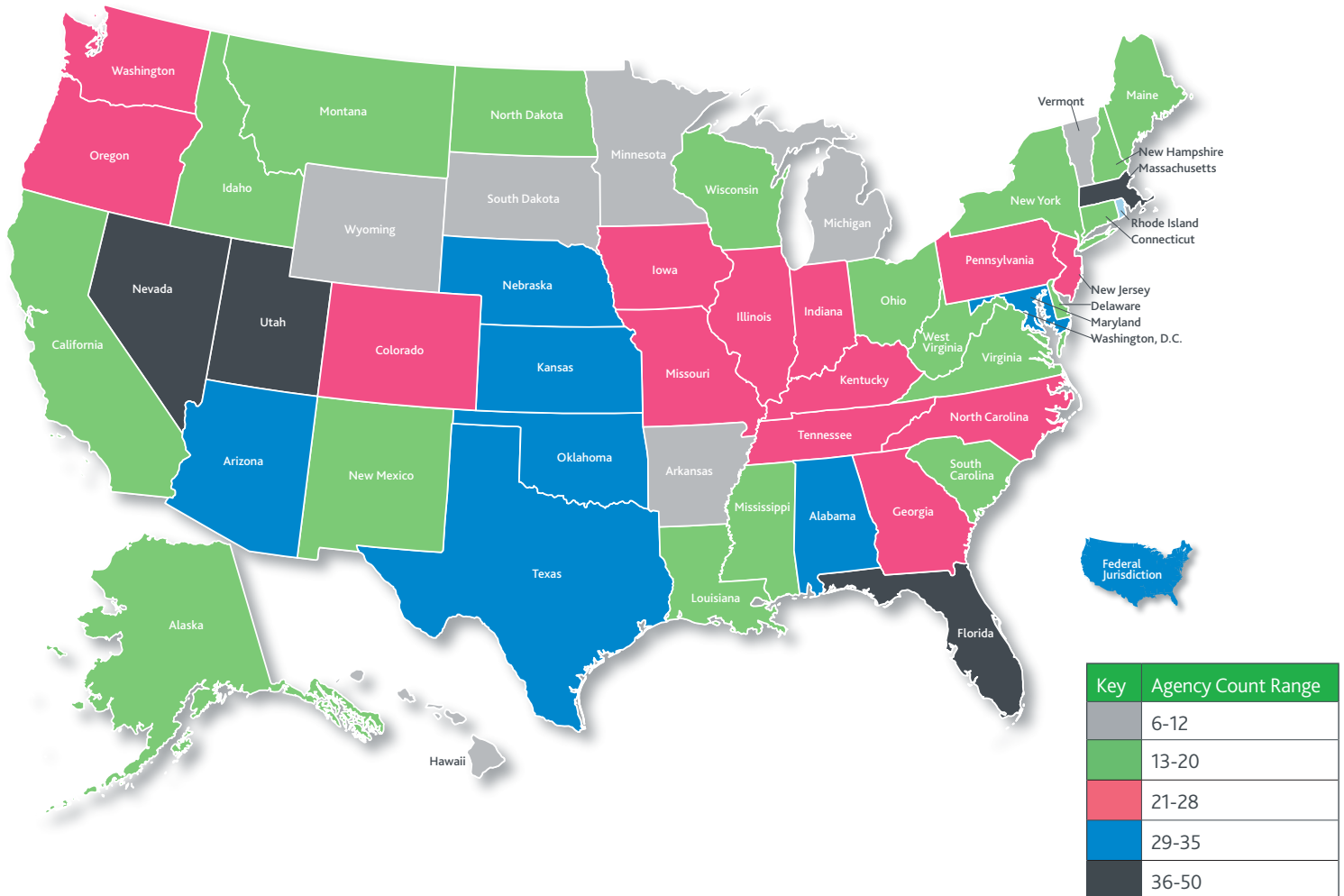
### A Closer Look at Regulatory and Advisory Materials

While the number and scope of agencies vary by jurisdiction, insurers need to identify and understand the diverse state and federal agencies that collectively regulate the insurance industry. These various commissions, departments, divisions, councils and bureaus include those listed below.

Workers' Compensation	Professional Regulation
Health Care	Labor
Transportation	Environmental Protection
Motor Vehicles	Commerce
Public Safety	Agriculture

On average, there are twenty such agencies or sub-agencies per state that directly affect insurers through their bulletins, promulgated rules, and agency-sponsored legislation—all of which compliance personnel must be able to identify and monitor. Compliance staff must also monitor key agencies at the federal level, such as Health and Human Services, the Federal Trade Commission and the Securities and Exchange Commission.

This illustration shows the variation in the number of agencies established in the 50 states and at the federal level. Approximately 1,100 state and federal agencies, departments, divisions, subagencies, and boards currently issue regulations and guidance documents directly affecting the insurance industry.



### Sources of Regulations & Advisory Materials: A Typical State

To understand the incredible complexity that compliance staffs face in performing regulatory research, we need look no further than the agency structure in Maryland. There are 53 state agencies *other than* the Maryland Insurance Administration, of which 16 issue insurance compliance-relevant regulations through 31 distinct divisions and sub-agencies. Each listed entity contributes uniquely to the regulated framework for insurers doing business in that state — a reality that is repeated, albeit with varying regulatory requirements, across all other jurisdictions.

State Agency	Example of Regulations the Pertain to the Insurance Industry
Automobile Insurance Fund	Filing a Notice of Claim
Comptroller of the Treasury/Miscellaneous Revenue	Abandoned Property Liability for Interest
Comptroller of the Treasury/Sales and Use Tax	Taxes on Professional, Personal, or Insurance Services
Dept. of Aging/Continuing Care Division	Insurance Requirements for Continuing Care at Home
Dept. of Agriculture	Minimum Insurance Limits for Pesticide Businesses
Dept. of Health and Mental Hygiene	Health Maintenance Organization Definitions
Dept. of Health & Mental Hygiene/Board of Morticians & Funeral Dir	Preneed Insurance Contract Requirements
Dept. of Health & Mental Hygiene/Health Care Commission	Determination of Certificate of Need for Health Care Facilities
Dept. of Health & Mental Hygiene/Health Svcs Cost Review Com	Health Service Rate Application and Approval Procedures
Dept. of Health and Mental Hygiene/Hospitals	Medical Professional Liability Closed Claims
Dept. of Health and Mental Hygiene/Medical Care Programs	Information From and Liability of Health Insurers
Dept. of Housing and Community Development	Multi-Family Housing Program Reinsurance, Coinsurance and Shared Insurance
Dept. of Housing and Community Dev/Homeownership Programs	Preferred Interest Rate Loan Program Property Insurance Requirement
Dept. of Human Resources/Child Support Enforcement Admin	Methods of Child Support Enforcement
Dept. of Human Resources/Community Services Administration	Adult Foster Care Requirements
Dept. of Labor, Licensing & Regulation/Com of Financial Regulation	Insurance Premium Finance Requirements
Dept. of Labor, Licensing & Regulation/Division of Labor & Industry	Notification Requirements of Boiler Insp. Employed by Insurers
Dept. of Environment Surface	Coal Mining Liability Insurance Requirements
Dept. of State Police	Process for Obtaining Motor Vehicle Accident Reports
Dept. of Transportation	Minimum Limits for Towing, Road Service & Vehicle Storage
Dept. of Trans/Motor Vehicle Administration	Minimum Automobile Insurance Limits
Dept. of Trans/Motor Vehicle Administration - Admin Procedures	Fee Schedule for Vehicle Titles and Salvage Certificates
Dept. of Trans/Motor Vehicle-Driver Licensing and Identification	Availability of Driver Licensing Records
Dept. of the Envr/Disposal of Controlled Hazardous Substances	Hazardous Waste Treatment Facility Owners Financial Req
Dept. of the Envr/Office of the Bureau of Mines	Deep Mining Liability Insurance Requirements
Dept. of the Envr/Oil Pollution and Tank Management	Underground Storage Tank Facilities Liability Ins Program
Office of the Attorney General/Consumer Protection Division	Arbitration Program
Office of the Attorney General/Division of Securities	Investment Advisor Requirements & Exemptions for Licensed Producers
Office of the State Treasurer	Coverage & Limits for Commercial Insurance Used in State Insurance Programs
Public Service Commission	Taxicab Financial Responsibility Requirements
Workers' Compensation Commission	Cancellation of Workers' Compensation Policies Average Weekly Wage

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### Sources of Statutory Law: A Typical State

With that snapshot of regulatory research challenges in a single state, it is important to understand that it is not any easier to stay current with all sources of statutory laws that affect insurers. More than 2,000 titles of state and federal law contain insurance-relevant content. California presents us with an opportunity to analyze some of its state codes below. That state has 23 distinct areas of law impacting insurer compliance in code titles *other than the Insurance Code*.

State Code	Examples of Statutory Insurer Content
Business & Professions Code	Insurer Claim Reporting Requirements
Civil Code	Uniform Electronics Transactions Act
Code of Civil Procedure	Statutes of Limitations
Corporations Code	Electronic Transmissions Requirements
Education Code	Employee Health Benefits
Family Code	Support Orders
Finance Code	Financial Information Privacy Requirements
Food & Agricultural Code	Actions for Damages
Government Code	Sovereign Immunity
Harbors & Navigation Code	Liability for Imputed Negligence
Health & Safety Code	Health Care Plans
Labor Code	Workers' Comp Requirements
Military & Veterans Code	Tolling in Civil Actions
Penal Code	Fraudulent Claims
Probate Code	Power of Attorney Requirements
Public Resources Code	Damages Assessable for Code Violations
Public Utilities Code	Minimum Liability Insurance Limits
Revenue & Taxation Code	Life Insurer Reporting of Property Transfers
Streets & Highways Code	Treble Damages Provisions
Unemployment Insurance Code	Disability Benefits Claims
Uniform Commercial Code	Transfer of Securities
Vehicle Code	Financial Responsibility Requirements
Welfare & Institutions Code	Partnership for Long Term Care

### Public Information Sources: Opportunities and Challenges

There is little doubt that the electronic age in which insurers operate today offers a tempting array of public websites. Internet access does allow insurance compliance personnel to tap into various public information sources hosted by the individual state and federal governments. These on-line sources certainly provide a great volume of information at low or no cost—making them highly attractive to compliance managers who may have budgetary concerns. However, as outlined below, while these sources do provide research options with minimal direct out-of-pocket costs, significant limitations affecting efficiency and completeness can quickly outweigh any presumed cost savings and leave insurance professionals with far less than what they need to maintain compliance.

### Taking a Closer Look at Public Information Sources for Regulatory Activity

- **Agency Websites.** Many agencies provide varying types of information on the web about their regulatory and consumer activities. However, far more than just a handful of agencies must be monitored by compliance staff to keep up with sourcing validation, tracking and compiling agency developments — potentially upwards of 1,100 web pages per day. So compliance staff must confront not only the challenge of volume, but also the dual challenges of quality and completeness. Compliance staff must know which agencies have acceptable, reliable, timely and directly useable content that will not expose their firm to compliance risk.
- **Email Alerts.** Sometimes compliance staff can supplement their proactive monitoring efforts with email alerts from agencies that provide them. This type of alert can notify recipients of new or amended bulletins and rules, and summaries of insurance-sponsored legislation. However, this service is extremely limited in its availability.
- **State Registers.** State register-type publications have historically been the veritable cornerstones of monitoring state regulatory activity. While these continue to be sources for independent regulatory research, compilation and monitoring, there are some limitations involved in using them, including:
  - **Publication schedules vary widely.** While 15 state registers are published at least once a week, most of the remaining states publish either biweekly or monthly with some states opting for a register format that permits checking of latest additions without a stand-alone compiled register. Three states do not publish traditional registers at all and another three are only available through annual paid subscriptions.
  - **Scope is inconsistent.** Some state registers are “Notice Only,” requiring the individual to contact the applicable agency directly for the actual regulation text.
  - **One state’s register continues to be “paper only,”** presenting the possibility of mail delays.
  - **The coverage offered by registers is not comprehensive,** as few registers publish advisory materials.

An effective program of monitoring regulatory activity using public sources needs to combine all three of these sources. For such a program to be successful, an insurance company would need to dedicate a significant number of staff, typically beyond the capacity of most insurers’ compliance departments.

### Taking a Closer Look at Public Information Sources for Legislative Activity

Moving to on to statutory research, state and federal legislative web sites are acknowledged as the primary public sources for information about insurance-relevant lawmaking activity. Using these sites to monitor the legislative process for bills through to enactment has its own set of challenges and limitations.

- **Volume.** The number of bills presented on an annual basis is high, with many potentially impacting more than one line of business. Keeping track of the bills introduced each session can be overwhelming, yet they should be monitored as bill text often changes during the legislative process to enactment.
- **Lack of Automated Update Services.** While some states offer an email alert update service and/or RSS feed that notifies subscribers of bills that match specific criteria, most state legislative web sites remain essentially passive sources of information. Bill-driven search functionality is generally adequate, but the staff researcher may have to re-enter search criteria with each visit to the page.
- **Complexity of the Content and Type of Activity.** Compliance staff must monitor and track bills not only at topic level, but also at the chapter and citation level, in order to truly ensure understanding of and compliance with the changes or new requirements. At any point in time in each year’s regular and special legislative sessions, these are subject to change, repeal, or additions.
- **Variations in the Timing of Legislative Activity.** The state legislatures publish introduced bills, as well as the final enacted text, according to different and inconsistent timeframes. Enacted interim text is sometimes available in advance of chaptered versions. However, access to the final versions on the states’ web sites is sometimes delayed, leaving compliance staff few choices other than contacting the states directly.

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### Why Using Web Sites is Not a Realistic Option

Publicly available sources can seem to be natural “first steps” for researchers—not in the least because they provide information at low or no cost on an individual jurisdictional basis. However, what becomes quickly clear is that the insurance requirements embedded in these web sites are inevitably too diverse, complex, and slow to access for insurance professionals’ use in an efficient and complete manner. Additionally, there is no consistent editorial quality control or content timeliness so researchers who rely on web sites for their statutory and regulatory information can open their companies to compliance risk. Even state sites can be dubious: rules indicated as “New” on some state websites can be up to six years old. Moreover, any research done could only be performed on a single jurisdiction basis at any one time, requiring additional compilation if required.

### The Economics of “Going Public”

While moving forward, or continuing with, independent research and monitoring of laws and regulations using public websites is an option, insurance companies face inefficiencies and personnel costs in using “free” public websites. Inefficiencies include the realization that compliance analysts, who are at least partially allocated to other priorities, can locate timely and complete information about insurance statutory and regulatory requirements using public websites. The following table demonstrates the estimated costs associated with this independent research using such sources.

Research Resource Calculator	
<b>Assumptions:</b>	
■ Personal auto and excess/umbrella lines of business	
■ Product development specifications research project	
■ Research analyst hourly rate of \$50.00	

Section 1 - Law		Section 2 - Regulations & Advisory Materials	
Research one title of law	2 hrs	Research one regulatory agency's documents	.5 hrs
Average number of titles	15	Average number of agencies	9
Total Hours for Laws Research	30 hrs	Total Hours for Regulations & Advisory Materials Research	4.5 hrs
Total Cost Per State	\$1,500	Total Cost Per State Agency	\$225

Total cost per state for complete research, including agency coverage	\$1,725
Total cost for research covering 5 jurisdictions	\$8,625
Total cost for research covering 25 jurisdictions	\$43,125
Total cost for research covering 53 jurisdictions	\$91,425

### The Research Challenge: A Time to Assess...A Time to Succeed

With the significant growth in public information resources, many insurance companies may continue to believe that compliance staff can successfully and efficiently perform research on statutory and regulatory requirements. Given the inherent complexity of the wide ranging sources of insurance industry content, reliance on publicly available sources alone injects substantial and unnecessary risks into the companies’ operations. Relying solely on state department of insurance and other agency web sites for regulatory research and legislative websites for statutory research will not deliver the content needed to maintain compliance in a complete and efficient manner.

Given the magnitude of the material to be researched and the fact that little consistency exists among states and agencies for the publishing of such content, producing the required research can be an overwhelming experience. It is important to not “underestimate” the work involved in achieving insurers’ research and monitoring requirements. Even single jurisdiction research can be incredibly complex with multiple agencies and sub-agencies publishing compliance-relevant regulations. Identifying the often complex structure of these agencies and the materials they publish can quickly consume professional scarce resources. On the other hand, failure to perform the requisite research can quickly result in unacceptable levels of exposure to noncompliance risks and increased costs.

Insurance professionals can, and should, leverage access to resources that combine content from all relevant sources, including state and federal web sites, into a single solution that reduces overall research time and costs. The lack of a centralized source that acquires, compiles, and delivers all this activity from legislatures and agencies, leaves individual companies with the responsibility and burden of monitoring multiple and varied sources to achieve the breadth and depth required for compliance.

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