

Opinion No. 45-4784

September 4, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. R. F. Apodaca Superintendent of Insurance State Corporation Commission
Santa Fe, New Mexico

{*129} Replying to your letter of the 30th, asking for an opinion on the following question:

"In view of the provisions of Section 60-704 we are submitting herewith a Collision Merit Rating Plan which purports to reduce the rates filed by the insurance company with this office. Also, you will find a copy of the statement of principles used with this Plan."

I have given careful consideration of the contents of the above mentioned articles. Briefly stated, the plan is: If a car owner has demonstrated by past experience that he is a very careful driver, immune to physical disabilities and characteristics which are responsible for most accidents, he may secure the advantage of the lower hazard rate.

It is my opinion that the following portion of Section 60-704 makes the rating plan permissible under our insurance laws:

"provided, however, that nothing in this section shall prohibit either the filing or use of {*130} rating plans which do not result in unfair discrimination as between risks of essentially the same hazard;"

By THOS. C. McCARTY,

Asst. Atty. General