INSURANCE, DEPARTMENT OF: Rate schedules for automobiles, whether law requires filing for fleet insurance.

October 11, 1939.

Hon. Geo. H. Newbauer, Commissioner,
Department of Insurance,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of October 3rd which reads as follows:

"Subsection (s) of section 178 of the Indiana Insurance Law of 1935, pertaining to the filing of schedules of rates, rules and regulations with the Department of Insurance by insurers engaged in making certain classes of automobile insurance in the State of Indiana, permits deviations and percentage discounts from these schedules of rates, rules and regulations for the purpose of making insurance under fleet policies. Many insurers are engaged in the making of insurance under fleet policies and have devised more or less complicated plans designed for the equitable rating of fleet risks insured under such fleet policies. These plans, usually referred to as fleet and experience rating plans, have heretofore been filed with the Department of Insurance, together with schedules of rates, rules and regulations, the department assuming that the filing of fleet and experience rating plans was required under the provisions of this subsection (s) and the insurers not questioning the supposition of the department.

"The department is now requested by an insurer to determine whether this subsection (s) does in fact require the filing of such fleet and experience rating plans with the Department of Insurance.

"May we have your opinion upon this matter at your early convenience?"

It is my opinion that section 178 (s) does not require the filing of such fleet and experience rating plans with the Department of Insurance.

Briefly stated, such section provides that every insurer making certain kinds of automobile insurance shall file with your department, under the circumstances set out in the sub-
section, its schedule of rates, rules and regulations pertaining to the insurance it makes, which shall become the "regularly published" and "established" rates, rules and regulations of such insurer, and from which there shall be no deviation, "except as hereafter provided in this subsection (s)."

The section then follows with this language:

"Any such insurer shall be permitted to make deviations and percentage discounts from such regularly published schedule of rates, rules and regulations only for the purpose of making insurance under a fleet policy as hereinafter defined. Such deviations and/or percentage discounts made and allowed on such fleet policies shall be based on the underwriting experience of such fleet, and the insured, upon the hazard or hazards insured under such fleet policy."

From the second sentence of the foregoing quotation it is quite apparent that the writing of a fleet policy is intended to be made an individual matter, each policy to be based upon the underwriting experience of each fleet, each insured, and the hazard or hazards insured under each fleet policy. This being true, it would appear that rate plans are to be filed and "established" for the making of all the other forms of insurance, from which there shall be no deviation, except as to the making of insurance under fleet policies; that deviations permitted with reference to the making of insurance under fleet policies means deviations from the rate plans filed for the other forms of insurance.

To follow any other course with regard to fleet insurance would undoubtedly lead to involved or complicated results, hardly intended by the legislature, which furnishes additional reason for the opinion as already expressed.