

**DEPARTMENT OF INSURANCE****Legal Division, Office of the Commissioner**45 Fremont Street, 23rd Floor  
San Francisco, CA 94105Adam M. Cole  
General Counsel  
TEL: 415-538-4010  
FAX: 415-904-5889  
E-Mail: adam.cole@insurance.ca.gov  
www.insurance.ca.gov**VIA ELECTRONIC AND U.S. MAIL**

June 4, 2012

Mr. Mac Taylor  
Legislative Analyst  
925 L Street, Suite 1000  
Sacramento, CA 95814

RE: 2012 Automobile Insurance Discount Act (A.G. File No. 11-0013, Amdt. #1-S)

Dear Mr. Taylor:

The purpose of this letter is to assist you in developing your analysis of the 2012 Automobile Insurance Discount Act, which qualified for the November 2012 statewide ballot.

California automobile rating is unique in many ways. However, the nature of applying discounts and rate increases is not unique and reflects a basic principle of insurance ratemaking. This basic ratemaking principle is "zero-sum" in the following sense: Every automobile insurer must have an approved "rate plan" that establishes its average premium. When an insurer intends to maintain the same overall rate level, for every new discount provided to certain policyholders, there is a counterbalancing rate increase to the remaining policyholders. This process of increasing the rate for some while decreasing the rate for others ensures that the overall premium charged will balance across the insurer's entire population of insured persons. In California, this principle is codified in Title 10 of the California Code of Regulations, Section 2632.7(c). The California Court of Appeal also recognized this principle in *Foundation for Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4<sup>th</sup> 1354, 1367-69.

The 2012 Automobile Insurance Discount Act, as submitted on June 21, 2011, is subject to this principle. That is, if an insurer introduces a continuous coverage discount for some drivers it will require a counterbalancing rate increase for other drivers that do not qualify for the discount. This is because automobile insurance discounts and increases in the rate must offset one another so that each rating factor applied by an insurer is evenly balanced within the insurer's rating plan. This assumes that the insurer chooses to offer a continuous coverage discount.

Please let us know if you would like to meet to further discuss this issue.

Very truly yours,

A handwritten signature in black ink, appearing to read "Adam M. Cole", written over a horizontal line.

Adam M. Cole  
General Counsel

cc: Farra Bracht, Managing Principal Analyst, Legislative Analyst's Office