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AN ACT

relating to the marketing and sale of certain license plates by a private vendor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 504.851, Transportation Code, is amended by amending Subsections (a), (b), (c), (e), (f), (g), and (h) and adding Subsections (g-1) and (k)-(m) to read as follows:

(a) The ~~[commission may authorize the]~~ department shall ~~[to]~~ enter into a contract with the private vendor whose proposal is most advantageous to the state, as determined from competitive sealed proposals that satisfy the requirements of this section, for the marketing and sale of:

(1) personalized ~~[prestige]~~ license plates authorized by Section 504.101; or

(2) with the agreement of the private vendor, other specialty ~~[specialized]~~ license plates authorized by this subchapter.

(b) Instead of the fees established by Section 504.101(c), ~~[if the commission authorizes the department to contract with a private vendor under Subsection (a)(1) for the marketing and sale of personalized prestige license plates,]~~ the commission by rule shall establish fees for the issuance or renewal of personalized ~~[prestige]~~ license plates that are marketed and sold by the private vendor. Fees must be reasonable and not less than the greater of:

1 (1) the amounts necessary to allow the department to
2 recover all reasonable costs to the department associated with the
3 evaluation of the competitive sealed proposals received by the
4 department and with the implementation and enforcement of the
5 contract, including direct, indirect, and administrative costs; or

6 (2) the amount established by Section 504.101(c).

7 (c) The [~~If the commission authorizes the department to~~
8 ~~contract with a private vendor under Subsection (a)(2) for the~~
9 ~~marketing and sale of other specialized license plates authorized~~
10 ~~by this subchapter, including specialized license plates that may~~
11 ~~be personalized, the]~~ commission by rule shall establish the fees
12 for the issuance or renewal of souvenir license plates, specialty
13 ~~[specialized]~~ license plates, or souvenir or specialty license
14 plates that are personalized that are marketed and sold by the
15 private vendor. Fees must be reasonable and not less than the
16 amounts necessary to allow the department to recover all reasonable
17 costs to the department associated with the evaluation of the
18 competitive sealed proposals received by the department and with
19 the implementation and enforcement of the contract, including
20 direct, indirect, and administrative costs. A fee established
21 under this subsection is in addition to:

22 (1) the registration fee and any optional registration
23 fee prescribed by this chapter for the vehicle for which specialty
24 ~~[the specialized]~~ license plates are issued;

25 (2) any additional fee prescribed by this subchapter
26 for the issuance of specialty ~~[the specialized]~~ license plates for
27 that vehicle; and

1 (3) any additional fee prescribed by this subchapter
2 for the issuance of personalized license plates for that vehicle.

3 (e) The portion of a [A] contract with a private vendor
4 regarding the marketing and sale of personalized license plates
5 ~~[under Subsection (a)(1)]~~ is payable only from amounts derived from
6 the collection of the fee established under Subsection (b). The
7 portion of a [A] contract with a private vendor regarding the
8 marketing and sale of souvenir license plates, specialty license
9 plates, or souvenir or specialty license plates that are
10 personalized under Section 504.102 ~~[under Subsection (a)(2)]~~ is
11 payable only from amounts derived from the collection of the fee
12 established under Subsection (c).

13 (f) The department may approve ~~[create]~~ new design and color
14 combinations for personalized ~~[prestige]~~ license plates that are
15 marketed and ~~[or]~~ sold by a private vendor under a contract entered
16 into with the private vendor ~~[under Subsection (a)(1)]~~. Each
17 approved license plate design and color combination remains the
18 property of the department.

19 (g) The department may approve ~~[create]~~ new design and color
20 combinations for specialty ~~[specialized]~~ license plates authorized
21 by this chapter, including specialty ~~[specialized]~~ license plates
22 that may be personalized, that are marketed and ~~[or]~~ sold by a
23 private vendor under a contract entered into with the private
24 vendor ~~[under Subsection (a)(2)]~~. Each approved license plate
25 design and color combination remains the property of the
26 department. Except as otherwise provided by this chapter, this
27 ~~[This]~~ subsection does not authorize:

1 (1) the department to approve a design or color
2 combination for a specialty [~~specialized~~] license plate that is
3 inconsistent with the design or color combination specified for the
4 license plate by the section of this chapter [~~subchapter~~] that
5 authorizes the issuance of the specialty [~~specialized~~] license
6 plate; or

7 (2) the private vendor to market and [~~or~~] sell a
8 specialty [~~specialized~~] license plate with a design or color
9 combination that is inconsistent with the design or color
10 combination specified by that section.

11 (g-1) The department may not:

12 (1) publish a proposed design or color combination for
13 a specialty license plate for public comment in the Texas Register
14 or otherwise, except on the department's website for a period not to
15 exceed 10 days; or

16 (2) restrict the background color, color
17 combinations, or color alphanumeric license plate numbers of a
18 specialty license plate, except as determined by the Department of
19 Public Safety as necessary for law enforcement purposes.

20 (h) Subject to the limitations provided by Subsections (g)
21 and (g-1) [~~In connection with a license plate that is marketed or~~
22 ~~sold by a private vendor under contract~~], the department may cancel
23 a license plate or require the discontinuation of a license plate
24 design or color combination that is marketed and sold by a private
25 vendor under contract at any time if the department determines that
26 the cancellation or discontinuation is in the best interest of this
27 state or the motoring public.

1 (k) The department shall certify to the comptroller the
2 estimate, with a detailed explanation of the basis on which the
3 estimate is calculated, of all reasonable costs to the department
4 associated with the evaluation of competitive sealed proposals
5 received by the department under this section and associated with
6 the implementation and enforcement of a contract entered into under
7 this section, including direct, indirect, and administrative costs
8 for the issuance or renewal of personalized license plates or
9 specialty license plates.

10 (l) A contract entered into with the private vendor shall
11 provide for the department to recover all costs incurred by the
12 department in implementing this section. Under the contract, the
13 department may require the private vendor to reimburse the
14 department in advance for:

15 (1) not more than one-half of the department's
16 anticipated costs in connection with the contract; and

17 (2) the department's anticipated costs in connection
18 with the introduction of a new specialty license plate.

19 (m) To the extent that specialty license plate fees
20 collected under this section are in excess of the minimum amount
21 required under Subsection (b) or (c), the excess amount shall be
22 deposited to the credit of the general revenue fund.

23 SECTION 2. Subchapter J, Chapter 504, Transportation Code,
24 is amended by adding Section 504.852 to read as follows:

25 Sec. 504.852. CONTRACT LIMITATIONS. (a) In a contract
26 under Section 504.851, the department may not:

27 (1) unreasonably disapprove or limit any aspect of a

1 private vendor's marketing and sales plan;

2 (2) unreasonably interfere with the selection,
3 assignment, or management by the private vendor of the private
4 vendor's employees, agents, or subcontractors; or

5 (3) require a private vendor to market and sell
6 souvenir license plates, specialty license plates, or souvenir or
7 specialty license plates personalized under Section 504.102.

8 (b) If a private vendor contracts to market and sell
9 souvenir license plates, specialty license plates, or souvenir or
10 specialty license plates personalized under Section 504.102, the
11 initial term of the contract shall be for at least five years from
12 the effective date of the contract. The contract may provide, with
13 the agreement of the department and the private vendor, a second
14 term at least equal in length to the initial term of the contract.

15 (c) Notwithstanding Subsection (b), a private vendor may
16 not market and sell souvenir license plates, specialty license
17 plates, or souvenir or specialty license plates personalized under
18 Section 504.102 that compete directly for sales with another
19 specialty license plate issued under this chapter unless the
20 department and the sponsoring agency or organization of the other
21 license plate approve.

22 SECTION 3. A contract awarded by the Texas Department of
23 Transportation to a private vendor under the provisions of Section
24 504.851, Transportation Code, is not valid to the extent that the
25 contract does not comply with the changes in law made by this Act.

26 SECTION 4. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2005.

David Dewhurst

President of the Senate

Tom Craddick

Speaker of the House

I certify that H.B. No. 2894 was passed by the House on May 11, 2005, by the following vote: Yeas 140, Nays 2, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2894 on May 27, 2005, by the following vote: Yeas 131, Nays 7, 2 present, not voting.

Robert Harney

Chief Clerk of the House

I certify that H.B. No. 2894 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 31, Nays 0.

Pete Spaw

Secretary of the Senate

APPROVED:

17 JUNE '05

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2:10 PM O'CLOCK

Roger Williams
Secretary of State