

By: Phillips

H.B. No. 2894

A BILL TO BE ENTITLED

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), and (c) and (e) through (j) and adding Subsections (a-1) through (a-4) and (j) 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; and [~~or~~]

(2) if the private vendor agrees, other specialized license plates authorized by this subchapter.

(a-1) In the contract under this section, the department may not:

(A) impose on the private vendor a requirement for a security or other deposit or a minimum sales volume prior to the manufacture of a specialized license plate; or

(B) unreasonably disapprove or limit any aspect of the private vendor's marketing and sales plan or unreasonably interfere with the selection, assignment, or management by the

1 private vendor of its employees, agents, or subcontractors.

2 (a-2) In the contract under this section, the private vendor
3 may agree, but the department may not require, that the private
4 vendor will undertake the marketing and sale of souvenir license
5 plates, specialty license plates, or souvenir or specialty license
6 plates personalized under Section 504.102. If the private vendor
7 contracts to market and sell such license plates, the initial term
8 of the contract shall be for at least five years from the contract's
9 effective date, and the contract shall contain, at the option of
10 either the department or the private vendor, a second term, which
11 shall have a length at least equal to that of the contract's initial
12 term. If the private vendor contracts to market and sell such
13 license plates and revenues from the sale are intended to benefit a
14 sponsoring agency or organization, the sponsoring agency or
15 organization must approve the terms of the contract applicable to
16 the agency or organization before execution of the contract.

17 (a-3) Notwithstanding Subsection (a-2), the private vendor
18 may not market or sell souvenir license plates, specialty license
19 plates, or souvenir or specialty license plates personalized under
20 Section 504.102 that compete for sales with another specialty
21 license plate issued under this chapter unless the department and
22 the sponsoring agency or organization of the other specialty
23 license plate agree that the private vendor may so compete.

24 (a-4) Notwithstanding other provisions of this chapter, the
25 commission by rule shall establish the fees for the issuance or
26 renewal of souvenir license plates, specialty license plates, or
27 souvenir or specialty license plates that are personalized under

1 Section 504.102 that are marketed and sold by the private vendor
2 under a contract entered into under this section.

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

10 (1) the amounts necessary to allow the department to
11 recover all reasonable costs to the department associated with the
12 evaluation of the competitive sealed proposals received by the
13 department and with the implementation and enforcement of the
14 contract, including direct, indirect, and administrative costs; or

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

16 (c) The ~~[If the commission authorizes the department to~~
17 ~~contract with a private vendor under Subsection (a)(2) for the~~
18 ~~marketing and sale of other specialized license plates authorized~~
19 ~~by this subchapter, including specialized license plates that may~~
20 ~~be personalized, the]~~ commission by rule shall establish the fees
21 for the issuance or renewal of specialized license plates that are
22 marketed and sold by the private vendor. Fees must be reasonable
23 and not less than the amounts necessary to allow the department to
24 recover all reasonable costs to the department associated with the
25 evaluation of the competitive sealed proposals received by the
26 department and with the implementation and enforcement of the
27 contract, including direct, indirect, and administrative costs. A

1 fee established under this subsection is in addition to:

2 (1) the registration fee and any optional registration
3 fee prescribed by this chapter for the vehicle for which the
4 specialized license plates are issued;

5 (2) any additional fee prescribed by this subchapter
6 for the issuance of the specialized license plates for that
7 vehicle; and

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

10 (e) That portion of the [A] contract with the [a] private
11 vendor relating to the marketing and sale of personalized license
12 plates [under Subsection (a)(1)] is payable only from amounts
13 derived from the collection of the fee established under Subsection
14 (b). That portion of the [A] contract with the [a] private vendor
15 relating to the marketing and sale of other specialized license
16 plates [under Subsection (a)(2)] is payable only from amounts
17 derived from the collection of the fee established under Subsection
18 (c).

19 (f) The department may create new design and color
20 combinations for personalized [~~prestige~~] license plates that are
21 marketed and [~~or~~] sold by the [~~a~~] private vendor under the [~~a~~]
22 contract entered into with the private vendor [~~under Subsection~~
23 ~~(a)(1)]~~. Each approved license plate design and color combination
24 remains the property of the department.

25 (g) The department may create new design and color
26 combinations for specialized license plates authorized by this
27 chapter, including specialized license plates that may be

1 personalized, that are marketed and ~~[or]~~ sold by the ~~[a]~~ private
2 vendor under the ~~[a]~~ contract entered into with the private vendor
3 ~~[under Subsection (a)(2)]~~. Each approved license plate design and
4 color combination remains the property of the department. Except
5 as otherwise provided by this chapter, this ~~[This]~~ subsection does
6 not authorize:

7 (1) the department to approve a design or color
8 combination for a specialized license plate that is inconsistent
9 with the design or color combination specified for the license
10 plate by the section of this chapter ~~[subchapter]~~ that authorizes
11 the issuance of the specialized license plate; ~~[or]~~

12 (2) the private vendor to market or sell a specialized
13 license plate with a design or color combination that is
14 inconsistent with the design or color combination specified by that
15 section; or

16 (3) the department to:

17 (A) publish a proposed design or color
18 combination for a specialized license plate for public comment in
19 the Texas Register or otherwise, except on the department's website
20 for a period not to exceed 10 days; or

21 (B) restrict the background color, color
22 combinations, or color alphanumeric license plate numbers of a
23 specialized license plate except as necessary for law enforcement
24 purposes as determined by the Department of Public Safety.

25 (h) In connection with a license plate that is marketed and
26 ~~[or]~~ sold by the ~~[a]~~ private vendor under the contract entered into
27 under this section, the department may cancel a license plate or

1 require the discontinuation of a license plate design or color
2 combination at any time if the department determines that the
3 cancellation or discontinuation is in the best interest of this
4 state or the motoring public.

5 (i) A contract entered into by the department with the [a]
6 private vendor under this section:

7 (1) must comply with any law generally applicable to a
8 contract for services entered into by the department;

9 (2) must require the private vendor to render at least
10 quarterly to the department periodic accounts that accurately
11 detail all material transactions, including information reasonably
12 required by the department to support fees that are collected by the
13 vendor, and to regularly remit all money payable to the department
14 under the contract; and

15 (3) may allow or require the private vendor to
16 establish an electronic infrastructure coordinated and compatible
17 with the department's registration system, by which motor vehicle
18 owners may electronically send and receive applications, other
19 documents, or required payments, and that, when secure access is
20 necessary, can be electronically validated by the department.

21 (j) The department shall certify to the comptroller its
22 estimate, together with a detailed explanation of the basis on
23 which the estimate is calculated, of all reasonable costs to the
24 department associated with the evaluation of competitive sealed
25 proposals received by the department under this section and
26 associated with the implementation and enforcement of the contract
27 entered into under this section, including direct, indirect, and

1 administrative costs for the issuance or renewal of personalized
2 license plates or specialized license plates that are marketed and
3 sold by the private vendor.

4 SECTION 2. In enacting this Act, it is the intent of the
5 legislature that the Texas Department of Transportation
6 aggressively pursue the implementation of a continuing program for
7 the marketing and sale to the public of personalized license plates
8 and other specialized license plates through the contracted
9 services of a private vendor. It is further the intent of the
10 legislature that, in developing the rules, procedures, and
11 contractual requirements necessary to implement and maintain the
12 marketing and sales program described in this Act, the department
13 shall maximize the efficiency of the program, the opportunities for
14 timely marketing and sales of a wide variety of personalized and
15 specialized license plates to satisfy public interest and demand,
16 and revenues to the state.

17 SECTION 3. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect on the 91st day after the last day of the
22 legislative session.