

1-1 By: Phillips (Senate Sponsor - Deuell) H.B. No. 2894
1-2 (In the Senate - Received from the House May 12, 2005;
1-3 May 13, 2005, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 23, 2005, reported
1-5 adversely, with favorable Committee Substitute by the following
1-6 vote: Yeas 5, Nays 0; May 23, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2894 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the marketing and sale of certain license plates by a
1-11 private vendor.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 504.851, Transportation Code, is amended
1-14 by amending Subsections (a), (b), (c), (e), (f), (g), and (h) and
1-15 adding Subsections (g-1) and (k)-(m) to read as follows:

1-16 (a) The ~~[commission may authorize the]~~ department shall
1-17 ~~[to]~~ enter into a contract with the private vendor whose proposal is
1-18 most advantageous to the state, as determined from competitive
1-19 sealed proposals that satisfy the requirements of this section, for
1-20 the marketing and sale of:

1-21 (1) personalized ~~[prestige]~~ license plates authorized
1-22 by Section 504.101; or

1-23 (2) with the agreement of the private vendor, other
1-24 specialty ~~[specialized]~~ license plates authorized by this
1-25 subchapter.

1-26 (b) Instead of the fees established by Section 504.101(c),
1-27 ~~[if the commission authorizes the department to contract with a~~
1-28 ~~private vendor under Subsection (a)(1) for the marketing and sale~~
1-29 ~~of personalized prestige license plates,]~~ the commission by rule
1-30 shall establish fees for the issuance or renewal of personalized
1-31 ~~[prestige]~~ license plates that are marketed and sold by the private
1-32 vendor. Fees must be reasonable and not less than the greater of:

1-33 (1) the amounts necessary to allow the department to
1-34 recover all reasonable costs to the department associated with the
1-35 evaluation of the competitive sealed proposals received by the
1-36 department and with the implementation and enforcement of the
1-37 contract, including direct, indirect, and administrative costs; or

1-38 (2) the amount established by Section 504.101(c).

1-39 (c) ~~The [If the commission authorizes the department to~~
1-40 ~~contract with a private vendor under Subsection (a)(2) for the~~
1-41 ~~marketing and sale of other specialized license plates authorized~~
1-42 ~~by this subchapter, including specialized license plates that may~~
1-43 ~~be personalized, the]~~ commission by rule shall establish the fees
1-44 for the issuance or renewal of souvenir license plates, specialty
1-45 [specialized] license plates, or souvenir or specialty license
1-46 plates that are personalized that are marketed and sold by the
1-47 private vendor. Fees must be reasonable and not less than the
1-48 amounts necessary to allow the department to recover all reasonable
1-49 costs to the department associated with the evaluation of the
1-50 competitive sealed proposals received by the department and with
1-51 the implementation and enforcement of the contract, including
1-52 direct, indirect, and administrative costs. A fee established
1-53 under this subsection is in addition to:

1-54 (1) the registration fee and any optional registration
1-55 fee prescribed by this chapter for the vehicle for which specialty
1-56 ~~[the specialized]~~ license plates are issued;

1-57 (2) any additional fee prescribed by this subchapter
1-58 for the issuance of specialty ~~[the specialized]~~ license plates for
1-59 that vehicle; and

1-60 (3) any additional fee prescribed by this subchapter
1-61 for the issuance of personalized license plates for that vehicle.

1-62 (e) The portion of a [A] contract with a private vendor
1-63 regarding the marketing and sale of personalized license plates

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

2-9 (f) The department may approve ~~[create]~~ new design and color
2-10 combinations for personalized ~~[prestige]~~ license plates that are
2-11 marketed and ~~[or]~~ sold by a private vendor under a contract entered
2-12 into with the private vendor ~~[under Subsection (a)(1)]~~. Each
2-13 approved license plate design and color combination remains the
2-14 property of the department.

2-15 (g) The department may approve ~~[create]~~ new design and color
2-16 combinations for specialty ~~[specialized]~~ license plates authorized
2-17 by this chapter, including specialty ~~[specialized]~~ license plates
2-18 that may be personalized, that are marketed and ~~[or]~~ sold by a
2-19 private vendor under a contract entered into with the private
2-20 vendor ~~[under Subsection (a)(2)]~~. Each approved license plate
2-21 design and color combination remains the property of the
2-22 department. Except as otherwise provided by this chapter, this
2-23 [This] subsection does not authorize:

2-24 (1) the department to approve a design or color
2-25 combination for a specialty ~~[specialized]~~ license plate that is
2-26 inconsistent with the design or color combination specified for the
2-27 license plate by the section of this chapter ~~[subchapter]~~ that
2-28 authorizes the issuance of the specialty ~~[specialized]~~ license
2-29 plate; or

2-30 (2) the private vendor to market and ~~[or]~~ sell a
2-31 specialty ~~[specialized]~~ license plate with a design or color
2-32 combination that is inconsistent with the design or color
2-33 combination specified by that section.

2-34 (g-1) The department may not:
2-35 (1) publish a proposed design or color combination for
2-36 a specialty license plate for public comment in the Texas Register
2-37 or otherwise, except on the department's website for a period not to
2-38 exceed 10 days; or

2-39 (2) restrict the background color, color
2-40 combinations, or color alphanumeric license plate numbers of a
2-41 specialty license plate, except as determined by the Department of
2-42 Public Safety as necessary for law enforcement purposes.

2-43 (h) Subject to the limitations provided by Subsections (g)
2-44 and (g-1) [In connection with a license plate that is marketed or
2-45 sold by a private vendor under contract], the department may cancel
2-46 a license plate or require the discontinuation of a license plate
2-47 design or color combination that is marketed and sold by a private
2-48 vendor under contract at any time if the department determines that
2-49 the cancellation or discontinuation is in the best interest of this
2-50 state or the motoring public.

2-51 (k) The department shall certify to the comptroller the
2-52 estimate, with a detailed explanation of the basis on which the
2-53 estimate is calculated, of all reasonable costs to the department
2-54 associated with the evaluation of competitive sealed proposals
2-55 received by the department under this section and associated with
2-56 the implementation and enforcement of a contract entered into under
2-57 this section, including direct, indirect, and administrative costs
2-58 for the issuance or renewal of personalized license plates or
2-59 specialty license plates.

2-60 (1) A contract entered into with the private vendor shall
2-61 provide for the department to recover all costs incurred by the
2-62 department in implementing this section. Under the contract, the
2-63 department may require the private vendor to reimburse the
2-64 department in advance for:

2-65 (1) not more than one-half of the department's
2-66 anticipated costs in connection with the contract; and

2-67 (2) the department's anticipated costs in connection
2-68 with the introduction of a new specialty license plate.

2-69 (m) To the extent that specialty license plate fees

3-1 collected under this section are in excess of the minimum amount
3-2 required under Subsection (b) or (c), the excess amount shall be
3-3 deposited to the credit of the general revenue fund.

3-4 SECTION 2. Subchapter J, Chapter 504, Transportation Code,
3-5 is amended by adding Section 504.852 to read as follows:

3-6 Sec. 504.852. CONTRACT LIMITATIONS. (a) In a contract
3-7 under Section 504.851, the department may not:

3-8 (1) unreasonably disapprove or limit any aspect of a
3-9 private vendor's marketing and sales plan;

3-10 (2) unreasonably interfere with the selection,
3-11 assignment, or management by the private vendor of the private
3-12 vendor's employees, agents, or subcontractors; or

3-13 (3) require a private vendor to market and sell
3-14 souvenir license plates, specialty license plates, or souvenir or
3-15 specialty license plates personalized under Section 504.102.

3-16 (b) If a private vendor contracts to market and sell
3-17 souvenir license plates, specialty license plates, or souvenir or
3-18 specialty license plates personalized under Section 504.102, the
3-19 initial term of the contract shall be for at least five years from
3-20 the effective date of the contract. The contract may provide, with
3-21 the agreement of the department and the private vendor, a second
3-22 term at least equal in length to the initial term of the contract.

3-23 (c) Notwithstanding Subsection (b), a private vendor may
3-24 not market and sell souvenir license plates, specialty license
3-25 plates, or souvenir or specialty license plates personalized under
3-26 Section 504.102 that compete directly for sales with another
3-27 specialty license plate issued under this chapter unless the
3-28 department and the sponsoring agency or organization of the other
3-29 license plate approve.

3-30 SECTION 3. A contract awarded by the Texas Department of
3-31 Transportation to a private vendor under the provisions of Section
3-32 504.851, Transportation Code, is not valid to the extent that the
3-33 contract does not comply with the changes in law made by this Act.

3-34 SECTION 4. This Act takes effect immediately if it receives
3-35 a vote of two-thirds of all the members elected to each house, as
3-36 provided by Section 39, Article III, Texas Constitution. If this
3-37 Act does not receive the vote necessary for immediate effect, this
3-38 Act takes effect September 1, 2005.

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