

SUBJECT: Allowing private marketing of personalized and specialty license plates

COMMITTEE: Transportation — committee substitute recommended

VOTE: 5 ayes — Krusee, Edwards, Garza, Hamric, Harper-Brown

0 nays

4 absent — Phillips, Hill, Laney, Mercer

WITNESSES: For — Gary Bruner, Power Industries

Against — None

On — Jerry Dike, Texas Department of Transportation

BACKGROUND: The Texas Department of Transportation (TXDOT) establishes and issues personalized prestige and other specialized license plates under Transportation Code, ch. 502, subch. F. It currently offers specialty license plates, almost all of which also may be personalized, featuring universities and colleges, military and veterans themes, non-profit and other organizations, sports teams, and miscellaneous designations, in addition to personalized standard plates.

DIGEST: CSHB 3292 would add sec. 502.2515 to the Transportation Code to allow the Texas Transportation Commission to authorize TXDOT to contract with a private vendor for the marketing and sale of personalized prestige and other specialized license plates. If the commission authorized TXDOT to enter into such a contract, the commission would be required to establish reasonable fees for the plates offered for sale by the private vendor. The fee would be in addition to the registration fee and other fees prescribed by statute and could be increased or decreased at any time by the commission. The amount charged for the license plate could not be less than the amount in effect on January 1, 2003. Revenue from this fee would be the only source from which a contract between TXDOT and a private vendor could be paid.

The bill would authorize TXDOT to create new design and color combinations for personalized prestige and specialized license plates marketed by the private vendor. The plate designs would be TXDOT property. However, TXDOT would not be authorized to approve, and the private vendor could not sell, a design or color combination inconsistent with that specified for the plate in the statute authorizing its issuance. Further, TXDOT could cancel or discontinue a license plate design or color combination at any time if it deemed such action in the best interest of the state or the motoring public. The commission could authorize TXDOT to pay a licensing fee to use a trademark in connection with the marketing and sale of a license plate.

A contract with a private vendor would have to comply with laws generally applicable to TXDOT contracts and require the vendor to submit quarterly accounts of its transactions to TXDOT. It also would require the vendor regularly to remit money payable to TXDOT. The contract could allow or require the vendor to establish a secure computer system compatible with TXDOT's by which vehicle owners could electronically submit applications and payments.

The bill would require TXDOT to deposit funds sufficient to cover administrative costs, including any payments to a private vendor, for all license plates and amounts required by other laws into the highway fund. If money received by TXDOT from the vendor was governed by another law, it would have to be deposited in accordance with that law. Additional revenue received from the vendor would be deposited into the general revenue fund.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

Under current law, TXDOT is required to offer personalized and special license plates, for which a vehicle owner pays a fee in addition to the standard registration fee. However, TXDOT does very little to market these plates. If the plates were marketed better, TXDOT very likely could increase its sale of non-standard plates and raise additional revenue for the state without raising taxes. By contracting with a private vendor, the state would net an estimated \$2.4 million per biennium, which could allow the state to fund some of the

critical programs currently threatened by budget shortfalls. Queensland, Australia has followed a similar model and seen sales increase by 400 percent in five years. Higher priced personalized or specialty plates are not a tax because they are a discretionary purchase, and standard plates would be available, as always, to vehicle owners at the basic price.

Rather than requiring TXDOT to market the plates with internal resources, this bill would allow it to contract with a third-party firm with the requisite experience to market the plates successfully. The bill is permissive and would not require the transportation commission to authorize private vendor contracts if it did not think doing so would be in the public interest. TXDOT would retain control over the plates, their design and color, their manufacture, their price, and the volume produced. Only marketing and sales would be affected. The bill would have the additional impact of encouraging private sector employment in the license plate marketing and sales niche.

This bill would have no negative effect on the county tax assessors who currently sell license plates. Vehicle owners still would pick up plates from the tax assessor, and counties still would receive the portion of license plate fees that they currently receive. The bill also would not affect the proceeds that some organizations currently receive from the sale of license plates promoting charitable causes.

It is likely that vendors would charge the same price as the county tax assessor for existing specialty plates, so as not to put themselves at a disadvantage. However, the private vendor could sell for a higher price new plates approved by TXDOT that likely would not be available through the county tax assessor. The bottom line is that a vendor could not profit from the contract by charging excessive fees, because the bill would require the commission to establish reasonable fees. The vendor could profit only by increasing sales of specialty and personalized license plates.

**OPPONENTS
SAY:**

This bill could lead to higher license plate fees set by the transportation commission in order to cover TXDOT payments to the private vendor. It would delegate authority to the commission to increase the fee for personalized and specialized license plates beyond the level set by the Legislature but without accountability to the voters who would pay the fee.

It would be possible for a private vendor to sell the existing license plates that benefit charitable causes for more than the cost of the same plate through a county tax assessor. This could mislead the public into thinking that purchasing the higher priced plate would increase the amount the charitable cause receives, though it would be the private vendor that actually received the higher profit. If a private vendor sold existing charitable plates for a higher price, it should be required by the TXDOT contract to inform the purchasing motorist that charitable proceeds from the plate would be the same as if the plate were purchased from the county tax assessor.

If the Legislature enacted this bill, it could unintentionally create a new monopoly market. Since private marketing of license plates is not a common practice in the United States, there might be only one or two firms that are able and willing to contract with TXDOT for this service.

NOTES:

The committee substitute differs from the bill as introduced by adding greater specificity about how money received by TXDOT from the private vendor would be allocated and deposited.

The companion bill, SB 425 by Carona, was considered in a public hearing of the Senate committee on Infrastructure Development and Security on April 14. The text of SB 425 was incorporated into SB 1704 by Wentworth, which passed the Senate on the Local and Uncontested Calendar on May 8.