

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

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

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

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

(2) any additional fee prescribed by this subchapter for the issuance of specialty ~~[the specialized]~~ license plates for

that vehicle; and

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

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

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

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

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

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

(g-1) The department may not:

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

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

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

(k) The department shall certify to the comptroller the estimate, with a detailed explanation of the basis on which the

estimate is calculated, of all reasonable costs to the department associated with the evaluation of competitive sealed proposals received by the department under this section and associated with the implementation and enforcement of a contract entered into under this section, including direct, indirect, and administrative costs for the issuance or renewal of personalized license plates or specialty license plates.

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

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

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

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

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

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

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

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

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

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

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

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

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

President of the Senate
House

Speaker of the

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.

House

Chief Clerk of the

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.

Senate

Secretary of the