

Date of Hearing: June 21, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

SB 399 (Umberg) – As Amended June 15, 2021

SENATE VOTE: 40-0

SUBJECT: Specialized license plates: professional sports

SUMMARY: Requires the California Department of Veteran Affairs (CalVet) to sponsor a professional sports plate and clarifies that other agencies may still sponsor a professional sports plate.

EXISTING LAW:

- 1) Provides for a specialized license plate program, under which the Department of Motor Vehicles (DMV) may issue new special-interest license plates. Special-interest license plates may only be issued on behalf of state agencies if:
 - a) The license plate has “a design or contains a message that publicizes or promotes a state agency, or the official policy, mission, or work of a state agency.” The design shall also be confined to the left of and below the numerical series (i.e., no full-plate designs allowed).
 - b) The state agency submits 7,500 applications and accompanying fees to DMV for the license plate. The state agency has 12 months to collect these applications and fees, but it can extend that to a maximum of 24 months if it notifies and offers to refund fees to those who applied during the first 12 months. Once a plate is issued, DMV stops issuing that plate for the agency if the number of plates drops below 7,500.
- 2) Authorizes DMV to charge, in addition to the usual registration and license fees, the following additional fees for specialized license plates: \$50 for the initial issuance, \$40 for annual renewal, and \$98 to personalize. DMV deducts its administrative costs from the revenues generated. The net revenues derived from a specialized license plate are then available upon appropriation for the sponsoring state agency to expend exclusively on projects and programs that promote the state agency’s official policy, mission, or work.

FISCAL EFFECT: Unknown.

COMMENTS: California allows individuals to request a specialized license plate for their vehicle for an additional fee of \$50 and for a renewal fee of \$40. These plates generally have a different design than the standard plate, and are sponsored by a state agency that receives the additional fees after DMV has received enough funds to reimburse the agency for the costs of issuing the specialized plates.

In the past, California allowed private organizations to sponsor specialized license plates by making an application to DMV and allowed DMV to refuse to issue a plate based on its content. A U.S. District Court determined that the process for creating the plates was a freedom of speech

violation as the court had determined that the process California used for creating specialized license plates was private speech and DMV could not turn down sponsorships based on content.

In response, the Legislature passed and Governor Schwarzenegger signed AB 84 (Leslie), Chapter 454, Statutes of 2006, which restricted DMV to only issue specialized license plates if they were sponsored by a state agency that received 7,500 commitments from individuals to purchase the plates.

The fees generated from 7,500 plates are necessary to ensure there are enough funds to reimburse DMV for the costs of adding a new plate. The majority of DMV's costs incurred are for computer programming, not the production, of the plate. Without meeting the 7,500 commitment threshold, these specialized plates would not serve their purpose of raising additional revenue for the state, and instead would become a cost burden to DMV, an agency whose expenditures are forecast to exceed revenues in the next five years.

Since the passage of AB 84, the U.S. Supreme Court, in *Walker v. Texas Division, Sons of Confederate Veterans*, determined that specialized license plates are government speech, not private speech, and upheld a Texas law that was similar to California's previous process of establishing specialized license plates.

A 2020 federal court case in the United States District Court Northern District of California has brought this decision into question. *Ogilvie v. Gordon* made the determination that personalized plates are not government speech and therefore the DMV cannot place restrictions on plates that may carry connotations offensive to good taste and decency, or which would be misleading. *Walker v. Texas Division, Sons of Confederate Veterans* explicitly placed aside the issue on whether personalized plates are government speech. As of the writing of this analysis, DMV has not appealed the decision made in *Ogilvie*, allowing individuals to continue to have plates that may be offensive to others.

The Anaheim Ducks, the sponsors of this bill, write "We firmly believe your bill will be of great benefit to our fans, our community, our team, and the State Department of Veterans Affairs who will be able to utilize revenue generated from the program to help fund a wide variety of projects and programs that benefit our state's veterans."

A Bill Is Not Necessary to Create a New Specialized Plate: A new specialized license plate does not require legislation. A state agency just needs to sponsor a plate, and members of the Legislature or private individuals can ask state agencies to sponsor a new plate. If there is a good plan in place to get to the 7,500 prepaid commitments, an agency would likely be happy to sponsor a plate because it would mean additional revenue for that agency.

One such agency that has taken advantage of this is the Natural Resources Agency (NRA). DMV provides a packet to state agencies on how to sponsor a plate on their own. NRA in this past year has reached out to multiple professional sports teams and has signed a deal with at least one team and will likely announce a deal with others.

There is nothing in law preventing CalVet from doing the same without this bill. In fact, AB 84 was intended to stop members of the Legislature from introducing such bills because they were considered constitutionally suspect under the first amendment at the time.

The current process has not stopped members of the Legislature from introducing bills requiring agencies to sponsor plates. These bills have largely been unsuccessful. Of the 12 legislatively-sponsored plates approved since 2000, only two have met the 7,500 commitment threshold. Of the four that have passed since 2014, only one reached the threshold. In the 2015-16 Legislative Session, seven bills were introduced directing a state agency to sponsor a specialized license plate. All seven died in either the Senate or Assembly Appropriations Committee. In the 2017-2018 session, five specialized license plates were introduced. One made it to the Governor and was vetoed. In the 2019 session, two specialized license plates were introduced and both were held in Senate Appropriations Committee. In the 2020 session, three bills were introduced. One died in Assembly Appropriations Committee, the other two were never set for a hearing. In 2021 one bill has been held as a two year bill in Senate Appropriations Committee. This is the fourth attempt in the last decade at requiring a state agency to sponsor a professionalized sports license plate.

Previous Legislation:

AB 84 (Leslie), Chapter 454, Statutes of 2006, restricts specialized license plates to only be issued if sponsored by a state agency that received 7,500 commitments from individuals to purchase the plates.

SB 593 (Umberg) of 2019 was similar to this bill. That bill was held on suspense in Senate Appropriations Committee.

AB 932 (Daly) of 2015 would have required the Department of Parks and Recreation to sponsor a professional sports plate. That bill was held on suspense in Senate Appropriations Committee.

AB 618 (Levine) of 2003 Required DMV to make available a professional sports team plate. That bill passed out of the Assembly but was never referred for a hearing in the Senate.

REGISTERED SUPPORT / OPPOSITION:

Support

Anaheim Ducks (Sponsor)
Los Angeles Lakers

Opposition

None on file

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