

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: May 28, 2010
POSITION: Oppose

BILL NUMBER: AB 1815
AUTHOR: B. Emmerson

BILL SUMMARY: Vehicles: Special Interest License Plates: NASCAR

This bill would authorize the Bureau of Automotive Repair to apply to the Department of Motor Vehicles (DMV) to sponsor a program for a series of officially licensed National Association for Stock Car Auto Racing (NASCAR) driver-specialized license plates.

FISCAL SUMMARY

DMV estimates \$350,000 to \$400,000 in programming and other start-up costs, with unknown but potentially significant costs to design and produce up to 40 individual plates in the plate series. The bill would allow DMV to receive only \$8 from each plate application, which would generate only \$60,000 from the initial complement of 7,500 plates, which is insufficient to pay DMV's start-up costs. Once the plates are implemented, it is unclear how much revenue would be received.

COMMENTS

Finance opposes the bill because:

- DMV would be unable to cover its start-up costs from the minimum number of license plates because of the \$8 per license plate cap on DMV costs. The purpose of the 7,500 minimum order is to allow DMV to recoup start-up costs, but the \$8 cap makes this meaningless.
The bill is counter to the Women's Resource Network v. Gourley ruling, which found the previous process of approving individual special license plate programs via legislation to be inherently unconstitutional because the state was violating free speech by picking which messages to support. The ruling did not cover license plates that support governmental programs, so current law limits specialized plates to those supporting a governmental purpose. Under this bill the message that would appear on the proposed license plate would promote a professional sport.
With up to 40 individual plates in the series, this would increase manufacturing costs above usual costs and DMV would be unable to order sufficient stock of one design to obtain a reasonable price on the inventory.
It is unclear how The Bureau of Automotive Repairs (BAR) will be able to obtain the use of the NASCAR logo given that the bill prohibits BAR from paying for the rights. Nine other states offer a NASCAR specialized license plate and pay royalties to NASCAR for the licensing rights.

Analyst/Principal (0744) J. Gregg Date Program Budget Manager Mark Hill Date

Department Deputy Director Date

Governor's Office: By: Date: Position Approved Position Disapproved

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B. Emmerson

May 28, 2010

AB 1815

**ANALYSIS**

## A. Programmatic Analysis

Existing law:

- Allows any state agency to apply to DMV to sponsor a specialized license plate program.
- Prohibits DMV from establishing a specialized license plate program for an agency until it has received not less than 7,500 applications for that agency's plates.
- Requires that specialized license plates must have a design or contain a message that publicizes or promotes the policy, mission, or program of a state agency.
- Prohibits any contract with a nongovernmental entity for the manufacturing of reflectorized license plates.
- Provides that revenues from specialized plates are deposited to the Specialized License Plate Fund and allocated proportionally to the sponsoring state agencies, after DMV deducts its costs of administering the special license plate program.

This bill would:

- Authorize the Bureau of Automotive Repair (BAR) to apply to the Department of Motor Vehicles (DMV) to sponsor National Association for Stock Car Auto Racing (NASCAR) driver-specialized license plates.
- Allow the NASCAR plates to bear emblems, seals, or other symbols or designs displaying themes for professional stock car auto racing, or professional stock car auto racing drivers.
- Prohibit DMV from establishing this program until it has received not less than 7,500 applications for NASCAR plates.
- Authorize BAR to secure license rights for emblems, seals, or other auto racing symbols or designs displaying themes of professional stock car auto racing for use on specialized license plates, but prohibit BAR from paying, or providing any monetary compensation, for those license rights.
- Specify that the fee for the original issuance of the plates would be \$60 and renewals would be \$50. DMV's share would be capped at \$8 per plate.

**Discussion:** Since February 20, 2004, DMV has been under a court injunction prohibiting the issuance of any new special interest license plate based on the court's finding that the Legislature's method of approving special interest license plates was inherently unconstitutional because the Legislature was limiting speech through its selection process. The lawsuit, Women's Resource

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May 28, 2010

AB 1815

Network, et. al. v. Gourley was initiated due to the Legislature's reluctance to approve a "Choose Life" special interest license plate. The injunction does not extend to the special interest plates already in use, such as Yosemite and Lake Tahoe, as all were deemed by the court to essentially support governmental programs, but any new special license plate program must adhere to the strict prohibitions of the injunction. As a result of the court case, the Legislature established an administrative process that authorizes a state agency to sponsor a plate program that promotes the agency's official policy, mission or work.

Following the ruling, the Legislature revised the authority for specialized plates to specifically require plates to have a design or contain a message that publicizes or promotes a state agency or its mission. Since the design of proposed NASCAR license plates, which promotes a professional sport, will not promote BAR or its official state mission, the issuance of the license plate would likely violate the court ruling, even though the bill waives the statutory requirement.

**B. Fiscal Analysis**

DMV estimates \$350,000 to \$400,000 in programming and other start-up costs, with unknown but potentially significant costs to design and produce up to 40 individual plates in the plate series.

Current law provides that fees from the first 7,500 applications for a specialized license plate program are intended to pay for start-up programming and implementation costs. This bill would allow DMV to receive only \$8 from each application, which would generate only \$60,000 from the initial complement of 7,500 plates.

Based on other successful specialized plates, the program could eventually raise from several hundred thousand to a few million dollars annually.

Code/Department Agency or Revenue Type	(Fiscal Impact by Fiscal Year)								Fund Code
	SO	LA			FC			FC	
	RV	98	FC	2009-2010	2010-2011	2011-2012			
2740/DMV	SO	No		-----	See Fiscal Analysis	-----		0044	
1143/Other MV Fee	RV	No		-----	See Fiscal Analysis	-----		3122	

Fund Code	Title
0044	Motor Vehicle Account, STF
3122	Enhanced Fleet Mod Subacct,HiPollRmvlRpr