



## Department of the Secretary of State Bureau of Motor Vehicles

Shenna Bellows  
*Secretary of State*

Cathie Curtis  
*Deputy Secretary of State*

Stephen P. Ashcroft  
*Director of Vehicle Services*

### JOINT STANDING COMMITTEE ON TRANSPORTATION

L.D. 130 “An Act to Create Appropriate Standards for the Secretary of State to Follow When Approving the Assignments of Vanity Registration Plates”

L.D. 200 “An Act To Allow the Secretary of State To Refuse To Issue or To Recall a Vanity Registration Plate with Vulgar, Obscene, Contemptuous or Profane Language”

L.D. 289 “An Act To Authorize the Secretary of State To Reject Certain Vanity License Plate Requests”

#### Testimony In Support by Shenna Bellows, Secretary of State

Senator Diamond, Representative Martin and distinguished members of the Transportation Committee, my name is Shenna Bellows. I am the Secretary of State and representing the Bureau of Motor Vehicles today speaking in support of L.D. 130, “An Act to Create Appropriate Standards for the Secretary of State to Follow When Approving the Assignments of Vanity Registration Plates,” L.D. 200, “An Act To Allow the Secretary of State To Refuse To Issue or To Recall a Vanity Registration Plate with Vulgar, Obscene, Contemptuous or Profane Language,” and L.D. 289, “An Act To Authorize the Secretary of State To Reject Certain Vanity License Plate Requests.”

One of my favorite games on road trips as a kid was the “license plate game.” We would track the number of out-of-state plates we could find to see who could spot which ones first. Sadly, this is not a game I’d recommend for kids on Maine’s roadways today. It’s not safe for parents or grandparents to play the license plate game with their kids in Maine anymore. You can’t escape the proliferation of the f-word and worse.

That’s because we have witnessed a rise in the number of offensive registration plates with explicit profanity, slurs, references to illegal activity and more on Maine roads. The Secretary of State’s office receives angry calls from parents, and grandparents especially, every week wondering why on earth we are issuing plates with the f-word and more for every child in the state playing the “license plate game” to see. Last week, George of Ocean Park wrote “I do not understand how the state of Maine allows these vanity license plates to be granted...As a resident of Maine I find these two license plates highly offensive. How would parents with young children explain that this is allowed?”

Ken of Westbrook wrote:

“...I think it clearly shows the state is endorsing such language and this is just not acceptable in my view. Maine depends on tourism and plates like this portrays a certain careless attitude and this makes our state a laughing stock within New England. How do I explain this to my eight year old grandson if he is with me while driving.”

Our office regularly receives complaints like this from motorists who are appalled to see these messages displayed on state-issued registration plates, and I agree with their concerns.

The obscene plates are a minority. Mainers love their vanity plates with approximately 119,169 on the road today. While most Mainers show commonsense and decency in their choice of slogans, at least 421 have not. We urge you to support some regulation of the content of registration plates in the interest of advancing public safety, peace, and civility.

Those who would oppose these bills will argue that the First Amendment precludes any regulation. Each of us swears an oath to uphold the Constitution, and the First Amendment guarantees freedom of speech. That doesn't mean however that there are no limits ever on speech. The allowable restrictions depend upon time, place and manner. A citizen may post a sign on their property or a bumper sticker on their vehicle with the most offensive slogan they choose. However, the registration plate is not a bumper sticker, and despite the common misconception that a registration plate is the property of the registrant, it is not in fact private property. Title 29A section 463 clearly states that these plates in fact are and remain the property of the State of Maine. The government has a clear and compelling interest in regulating speech on government property to protect public safety and the peace. It is also a clear government interest to shield children from obscene, sexual or violent material and to ensure that speech on government property, from which parents cannot protect their children, does not incite or encourage explicitly illegal activity. Incitement to violence, profanity, ethnic, racial, religious, or other slurs, or reference to illegal or criminal activity – all of which unfortunately can be seen on Maine registration plates today – are all directly contrary to the public interest.

Of course, any such restrictions must be narrowly tailored to fulfill the government interest, neutral and consistent with societal norms. There have been court cases successfully challenging registration plate restrictions in New Hampshire, Rhode Island, and Kentucky that the Transportation Committee should consider in crafting any limitation on registration plates. Specifically, we recommend that the committee follow the national standards proscribed by the American Association of Motor Vehicle Administrators (AAMVA) in pursuing any of these bills as a vehicle for reasonable, narrowly tailored guidelines for the issuance of vanity plates. We have attached the *AAMVA 2020 License Plate Standards Manual* to this testimony and draw your attention to *Chapter 6: Best Practices for Managing Vanity License Plate Programs*, which recommends that:

“Defined and documented criteria for unacceptable license plates may include:

- Profanity
- Derogatory reference to a group based on age, race, nationality, ethnicity, gender, or religion
- Reference to illegal substances or criminal acts
- Sexual terms, intimate body parts, and bodily functions or fluids
- Reference to acts of violence

The unacceptable criteria should be considered when read left to right, right to left, by mirror image, or aloud through phonetic spelling.”

New Hampshire and Rhode Island erred in writing a very vague standard into law that was struck down. Rhode Island had a prohibition on plates that “might carry connotations offensive to good taste and decency.”<sup>1</sup> The registration plate at issue there was “FKGAS” but Rhode Island had permitted other registration plates that indicated the f-word including FCCING, FKNFST and FKS.<sup>2</sup> New Hampshire law originally included a provision to prohibit plates “offensive to good taste.”<sup>3</sup> The registration plate in that case was “COPSLIE.”<sup>4</sup> For that reason, should you move forward with L.D. 200 or L.D. 289, we advise that you amend those bills to provide more explicit and specific criteria that are narrowly tailored to advance the public interest. As written, those bills might open the Bureau of Motor Vehicles to a First Amendment challenge.

The Kentucky provision that was struck down when a man wishing to have “IM GOD” on his registration plate<sup>5</sup> challenged their statute, which read: “The group shall not have as its primary purpose the promotion of any specific faith, religion, or anti-religion.”<sup>6</sup> None of the bills before you have any such provision, and we would advise against inclusion of any such similar provision if you amend any of these bills.

Following the New Hampshire court case for example, New Hampshire revised its criteria. New Hampshire law now states:

“All Vanity Plate requests shall comply with Administrative Rule, Saf-C 514.61(c):

(c) An initial or vanity registration plate shall:

(1) Not have the identical or similar combination of characters as any other classification;  
(2) Not imply an affiliation with a government entity that is not true;  
(3) Not refer to or be associated with any of the following subjects, in any language, whether read forward, backward, by mirror image or by phonetic spelling:

- a. Intimate body parts or genitals;
- b. Sexual or excretory acts or functions;
- c. Words or terms of profanity or obscenity;
- d. Violence;
- e. Illegal activities;
- f. Intoxicants, drugs or drug culture;
- g. Gangs; or
- h. Racial, ethnic, religious, gender or sexual orientation hatred or bigotry.”<sup>7</sup>

Like L.D. 130, New Hampshire law is very specific in what is or isn’t allowed. If the New Hampshire Bureau of Motor Vehicles can put in place commonsense limitations on vanity plates

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<sup>1</sup> *Carroll v. Craddick*, No. 1:20-cv-00126-MSM-LDA (D.R.I. 2020), [https://riaclu.org/sites/default/files/field\\_documents/decision\\_100220.pdf](https://riaclu.org/sites/default/files/field_documents/decision_100220.pdf).

<sup>2</sup> *Id.* [https://riaclu.org/sites/default/files/field\\_documents/200312\\_CarrollvCraddockComplaint.pdf](https://riaclu.org/sites/default/files/field_documents/200312_CarrollvCraddockComplaint.pdf).

<sup>3</sup> *Montenegro v. N.H. Div. of Motor Vehicles*, No. 2012-624 (N.H. 2014), <https://www.aclu-nh.org/sites/default/files/wp-content/uploads/2014/05/Montenegro-v.-DMV.pdf>.

<sup>4</sup> *Id.*

<sup>5</sup> *Hart v. Thomas*, Civil No. 3:16-cv-00092-GFVT-EBA (E.D. Ky. 2019), [https://www.aclu-ky.org/sites/default/files/field\\_documents/hart\\_v.\\_thomas\\_ruling.pdf](https://www.aclu-ky.org/sites/default/files/field_documents/hart_v._thomas_ruling.pdf).

<sup>6</sup> K.R.S. § 186.164(9)(c)–(g).

<sup>7</sup> N.H. Dep’t of Safety – Div. of Motor Vehicles, *Registration – Vanity Plates – Compliance* (2012), <https://www.nh.gov/safety/divisions/dmv/registration/vanity-plates.htm>.

after being sued, Maine can do the same, and should. Many states are in fact limiting questionable language on their registration plates similar to what has been outlined within L.D. 130. The results of this survey can be made available in an Excel format to the committee or individual members if you so desire.

The Bureau wishes to dovetail any new policy it might implement regarding the issuance of vanity plates with whatever legislation is enacted, and to that end, would like to work cooperatively during this process to define that language.

In summary, the First Amendment protects your right to have any bumper sticker you want, but it doesn't force the state to issue you a registration plate that subjects every child in your neighborhood to a message the government wouldn't allow them to see in a movie theater. Thank you for your consideration. I would be pleased to answer any questions.