

**LETTER OPINION  
2006-L-03**

January 25, 2006

The Honorable Ray Holmberg  
State Senate  
621 High Plains Court  
Grand Forks, ND 58201-7717

Dear Senator Holmberg:

Thank you for your letter asking whether N.D.C.C. § 39-04-10.13 requires the director of the Department of Transportation (Department) to issue a uniquely designed license plate for each approved qualifying public and nonprofit organization, or whether a standard license plate with a symbol or design applied by means of a decal is sufficient. For the reasons explained below, it is my opinion that a standard license plate with an organizational design applied by a decal is sufficient to meet the statute's language.

ANALYSIS

Section 39-04-10.13(1), N.D.C.C., was enacted in 2005 and states, in part:

The director shall develop an organization number plate program for distinctive number plates for qualifying public and for nonprofit organizations recognized by the internal revenue service as tax exempt under 26 U.S.C. 501(c)(3). When appropriate, the department shall design a distinctive number plate to minimize the changes to a single application of overlay on the left side of the number plate.

(Emphasis added.) The reference to an “application of overlay on the left side of the number plate” seems to contemplate the use of a decal with a unique design as an overlay to a generic license plate. The exact meaning of this language is ambiguous<sup>1</sup> because the phrase “distinctive number plates” could indicate the Legislature intended that the Department create a plate with an entirely unique design, rather than a decal on a uniform plate.

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<sup>1</sup> “A statute is ambiguous if it is susceptible to meanings that are different, but rational.” Public Service Commission v. Wimbledon Grain Co., 163 N.W.2d 186, 193 (N.D. 2003).

When a statute is ambiguous, the statutory rules of construction<sup>2</sup> permit the use of extraneous sources, including the legislative history, to determine legislative intent.<sup>3</sup> A review of the legislative history indicates that the Legislature contemplated the concept of a decal, rather than a uniquely designed license plate. A record of the legislative hearings reflects the following discussion:

**Senator Trenbeath** asked if he was correct in thinking this would be a standard ND license plate with a logo/sticker on it and not a specially designed plate.

**Brad Heidel** said either way.

**Keith Kiser** said that in the short term that is probably what they would do—similar to the FFA.<sup>4</sup>

Later, testimony was more specific regarding this issue:

**Keith Kiser:** Director of DOT.<sup>5</sup> It is our agency that would be issuing these plates if this legislation passes. I will not speak to the merits of the idea; only to the process of how it will work if it passes. Our attempt here would be to continue to use the basic license plate design that we put out in 1992. What we have done with each of the special organizations that we have dealt with is to put approximately a 2 inch round logo on the left hand side of that license plate and [that] leaves enough room to put five characters on the plate. We won't have a new design on the street. There is new technology coming soon that allows for a simplified process to design special graphic where you truly could have multitudes of different license plates. The prison does not have that now and I don't know when they will have it. . . . This is the process we envision at this point in time if it passes.<sup>6</sup>

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<sup>2</sup> See N.D.C.C. § 1-02-39.

<sup>3</sup> "If a statute is ambiguous or of doubtful meaning, we may consider extrinsic aids, including legislative history, along with the language of the statute, to ascertain legislative intent." *Amerada Hess Corp. v. Fong*, 704 N.W.2d 8, 13 (N.D. 2005).

<sup>4</sup> Hearing on S.B. 2368 Before the Senate Transportation Committee, 2005 N.D. Leg. (Feb. 3).

<sup>5</sup> Mr. Kiser was the director of the Motor Vehicle Licensing Division of DOT, not the director of DOT.

<sup>6</sup> Hearing on S.B. 2368 Before the House Transportation Committee, 2005 N.D. Leg. (Mar. 10).

LETTER OPINION 2006-L-03  
January 25, 2006  
Page 3

Based upon the language of the statute and its legislative history, it is my opinion that the director of the Department of Transportation may choose to attach a decal to the standard license plate rather than issue a uniquely designed license plate to comply with N.D.C.C. § 39-04-10.13.

Sincerely,

Wayne Stenehjem  
Attorney General

njl/vkk

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.<sup>7</sup>

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<sup>7</sup> See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).