

28 Section 1. Section **41-1a-418** is amended to read:

29 **41-1a-418. Authorized special group license plates.**

30 (1) The division shall only issue special group license plates in accordance with this
31 section and Sections [~~41-1a-418~~] 41-1a-419 through 41-1a-422 to a person who is specified
32 under this section within the categories listed as follows:

33 (a) disability special group license plates issued in accordance with Section 41-1a-420;

34 (b) honor special group license plates, as in a war hero, which plates are issued for a:

35 (i) survivor of the Japanese attack on Pearl Harbor;

36 (ii) former prisoner of war; or

37 (iii) recipient of a Purple Heart;

38 (c) unique vehicle type special group license plates, as for historical, collectors value,
39 or other unique vehicle type, which plates are issued for a:

40 (i) special interest vehicle;

41 (ii) vintage vehicle;

42 (iii) farm truck; or

43 (iv) vehicle powered by clean fuel and for which a current clean special fuel certificate
44 is maintained as provided in Section 59-13-304;

45 (d) recognition special group license plates, as in a public official or an emergency
46 service giver, which plates are issued for a:

47 (i) current member of the Legislature;

48 (ii) current member of the United States Congress;

49 (iii) current member of the National Guard;

50 (iv) licensed amateur radio operator;

51 (v) currently employed, volunteer, or retired firefighter;

52 (vi) emergency medical technician;

53 (vii) current member of a search and rescue team; or

54 (viii) current honorary consulate designated by the United States Department of State;

55 and

56 (e) support special group license plates, as for a contributor to an institution or cause,
57 which plates are issued for a contributor to:

58 (i) an institution's scholastic scholarship fund;

- 59 (ii) the Division of Wildlife Resources;
- 60 (iii) the Office of Veterans' Affairs;
- 61 (iv) the Division of Parks and Recreation;
- 62 (v) the Department of Agriculture and Food;
- 63 (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
- 64 (vii) the Boy Scouts of America;
- 65 (viii) spay and neuter programs through No More Homeless Pets in Utah;
- 66 (ix) the Boys and Girls Clubs of America; [or]
- 67 (x) Utah public education[-]; or
- 68 (xi) a state railroad museum support program through the Ogden Union Station

69 Foundation.

70 (2) Beginning January 1, 2003, the division may not issue a new type of special group
71 license plate unless the division receives:

72 (a) a start-up fee established under Section 63-38-3.2 for production and administrative
73 costs for providing the new special group license plates; or

74 (b) a legislative appropriation for the start-up fee provided under Subsection (2)(a).

75 (3) (a) A sponsoring organization that qualifies for tax-exempt status under Internal
76 Revenue Code Section 501(c)(3) may request the commission to authorize a new type of
77 special group license plate for the sponsoring organization. The sponsoring organization shall:

78 (i) collect a minimum of 200 applications; and

79 (ii) pay a start-up fee established under Section 63-38-3.2 for production and
80 administrative costs for providing the new type of special group license plates.

81 (b) If the provisions of Subsection (3)(a) are met, the commission shall approve the
82 request and the division shall:

83 (i) design a license plate in accordance with Section 41-1a-419; and

84 (ii) issue the new type of special group license plates.

85 Section 2. Section **41-1a-422** is amended to read:

86 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**
87 **contribution collection procedures.**

88 (1) As used in this section:

89 (a) "Contributor" means a person who has donated or in whose name at least \$25 has

90 been donated to:

91 (i) a scholastic scholarship fund of a single named institution;

92 (ii) the Division of Veterans' Affairs in the Utah National Guard for veterans'

93 programs;

94 (iii) the Division of Wildlife Resources for the Wildlife Resources Account created in
95 Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection,
96 access, and management of wildlife habitat;

97 (iv) the Department of Agriculture and Food for the benefit of soil conservation
98 districts;

99 (v) the Division of Parks and Recreation for the benefit of snowmobile programs;

100 (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah,
101 with the donation evenly divided between the two;

102 (vii) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America
103 council as specified by the contributor;

104 (viii) No More Homeless Pets in Utah for distribution to organizations or individuals
105 that provide spay and neuter programs that subsidize the sterilization of domestic animals;

106 (ix) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth
107 development programs; [~~or~~]

108 (x) the Utah Association of Public School Foundations to support public education[-];
109 or

110 (xi) the Ogden Union Station Foundation for the benefit of a state railroad museum
111 support program.

112 (b) "Institution" means a state institution of higher education as defined under Section
113 53B-3-102 or a private institution of higher education in the state accredited by a regional or
114 national accrediting agency recognized by the United States Department of Education.

115 (2) (a) An applicant for original or renewal collegiate special group license plates under
116 Subsection (1)(a)(i) must be a contributor to the institution named in the application and
117 present the original contribution verification form under Subsection (2)(b) or make a
118 contribution to the division at the time of application under Subsection (3).

119 (b) An institution with a support special group license plate shall issue to a contributor
120 a verification form designed by the commission containing:

- 121 (i) the name of the contributor;
- 122 (ii) the institution to which a donation was made;
- 123 (iii) the date of the donation; and
- 124 (iv) an attestation that the donation was for a scholastic scholarship.
- 125 (c) The state auditor may audit each institution to verify that the moneys collected by
- 126 the institutions from contributors are used for scholastic scholarships.
- 127 (d) After an applicant has been issued collegiate license plates or renewal decals, the
- 128 commission shall charge the institution whose plate was issued, a fee determined in accordance
- 129 with Section 63-38-3.2 for management and administrative expenses incurred in issuing and
- 130 renewing the collegiate license plates.
- 131 (e) If the contribution is made at the time of application, the contribution shall be
- 132 collected, treated, and deposited as provided under Subsection (3).
- 133 (3) (a) Except as provided under Subsection (3)(d), an applicant for original or renewal
- 134 support special group license plates under this section must be an annual contributor to the
- 135 entity or named institution associated with the license plate.
- 136 (b) This contribution shall be:
- 137 (i) unless collected by the named institution under Subsection (2), collected by the
- 138 division;
- 139 (ii) treated as a voluntary contribution for the funding of the activities specified under
- 140 this section and not as a motor vehicle registration fee; and
- 141 (iii) deposited into the appropriate account less actual administrative costs associated
- 142 with issuing the license plates.
- 143 (c) Except as provided under Subsection (3)(d), the donation described in Subsection
- 144 (1)(a) must be made in the 12 months prior to registration or renewal of registration.
- 145 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to
- 146 the division when issuing original:
- 147 (i) veterans' license plates;
- 148 (ii) snowmobile license plates; or
- 149 (iii) soil conservation license plates.
- 150 (4) Veterans' license plates shall display one of the symbols representing the Army,
- 151 Navy, Air Force, Marines, Coast Guard, or American Legion.

152 Section 3. **Effective date.**

153 This bill takes effect on October 1, 2004.

Legislative Review Note
as of 2-5-04 1:57 PM

This legislation authorizes a State Railroad Museum special group license plate. This legislation might be challenged on the grounds that it violates the First Amendment of the United States Constitution. The United States Supreme Court has not decided a case addressing the issuance of special group license plates. However, at least one federal district court has held that the issuance of a special plate constitutes private speech that is unconstitutional viewpoint discrimination if the license plate is issued pursuant to the uncontrolled discretion of the legislature. Planned Parenthood v. Rose, 236 F. Supp. 2d 564 (D.S.C. 2002); *See also*, Sons of Confederate Veterans, Inc. v. Commissioner of the Virginia Department of Motor Vehicles, 288 F.3d 610 (4th Cir. 2002).

This legislation also requires a contribution of at least \$25 annually to the Ogden Union Station Foundation, a private non-profit entity, in order to purchase a State Railroad Museum special group license plate. Article VI, Section 26 of the Utah Constitution prohibits special legislation. The Utah Supreme Court has defined special legislation as legislation that classifies its objects unreasonably, by selecting from a class of particular persons, places, or things for the purpose of conferring privileges or imposing burdens. It is unclear whether a court would determine that requiring a contribution of at least \$25 annually to the Ogden Union Station Foundation, if a person chooses to purchase a State Railroad Museum special group license plate, is unconstitutional special legislation. If a court finds that the classification is reasonable and that general legislation is unable to cover the same issues that the special legislation covers, a court would likely uphold the Legislature's action.

Office of Legislative Research and General Counsel

State Impact

Start-up costs range from \$4,600 to \$32,700 depending on the design, number of colors, and number of decals ordered. These costs will be paid by the sponsoring organization to the Tax Commission to cover costs. There is a Legislative Review note on this bill. If there is a legal challenge, there could be additional costs to the State.

Individual and Business Impact

For participating individuals, there is an additional \$5 fee for the plate plus a \$25 donation to Ogden Union Station Foundation that is collected for them by the Tax Commission.

Office of the Legislative Fiscal Analyst