

OPPOSE Choose Life License Plates

SB 801: Violation of the First Amendment

“Choose Life” Plate Without a “Pro-Choice” Plate is Unconstitutional

- A bedrock principle of the First Amendment is that the government must act with complete neutrality regarding private expression in a public forum, neither favoring nor disfavoring messages based on their viewpoint.
- SB 801 is not viewpoint neutral because it permits the Commonwealth to favor one side in a political debate by providing for only that side to place its slogan on license plates.
- The issue has already been decided: In *Planned Parenthood of South Carolina v. Rose*, the South Carolina legislature authorized the issuance a “Choose Life” license plate, but not a “Pro-Choice” license plate. In that case, the Fourth Circuit struck down the law as unconstitutional and held that when a state authorizes and promotes the expression of only one position in the abortion debate, such as on a license plate, while preventing the expression of the opposite viewpoint, the state has engaged in viewpoint discrimination.⁸

DMV, Not the General Assembly, Should Administer the Specialty Plates Program

- A legislature that has the power, by majority rule, to decide which political or controversial messages will be placed on license plates and which messages will not, violates the free speech rights of its citizens every time it votes to authorize a specialty license plate.
- A non-legislative entity, such as the Department of Motor Vehicles, could properly administer the specialty license plate program so long as it operates under a viewpoint neutral policy with reasonable rules and regulations including an appeal process for citizens whose request for a license plate is rejected. If the process is moved to the DMV and properly administered, it could promote the free speech rights of all citizens.

Choose Life Plate is Vulnerable to a Challenge in Federal Court

- If SB 801 becomes law (and no Pro-Choice license plate bill is passed), then it is subject to the same type of legal challenge that struck down the “Choose Life” license plate law passed by the South Carolina legislature.⁹

Furthermore, specifically excluding those organizations that provide or refer for abortions from receiving funds from this revenue generating license plate is unconstitutional.

- The guidelines prohibit funding to be allocated to “any agency that is involved or associated with abortion activities, providing abortion-related procedures, or pro-abortion advertising.” It is unconstitutional for a state to disqualify a potential recipient of state funds because of the constitutionally protected activity engaged in by that recipient. Any restriction that disqualifies an entity from funding because it refers for abortion is unconstitutional under the First Amendment.

⁸ *Planned Parenthood of South Carolina, Inc. v. Rose*, 361 F.3d 786 (4th Cir., 2004). ⁹ If both “Choose-Life” and “Pro-Choice” license plate bills are introduced, both bills must pass or both bills must be rejected. To do so otherwise would violate the free speech rights of the supporters of the failed bill.

