

State looks to pull anti-Bush license plate

By Kevin Woster, Journal staff

RAPID CITY -- Heather Moriah loves the personalized license plates on her silver Prius encouraging the impeachment of President George W. Bush.

But somebody doesn't agree. And that somebody complained to the state. Now, the South Dakota Division of Motor Vehicles is trying to recall the plates -- which read MPEACHW. And if Moriah doesn't turn them in voluntarily, the state might send law-enforcement officers to pick them up.

Even so, she's not immediately inclined to cooperate.

"I don't think I'm going to play," Moriah said Thursday afternoon. "The plate isn't in poor taste. It's not sexual in nature or pornographic. To me, a political message should not be considered offensive."

But Division of Motor Vehicles director Deb Hillmer said Thursday that the law clearly gives the state authority to recall the plates and have them forcibly removed if necessary. And although only one person complained about Moriah's political statement, that's all it takes to recall a set of vanity plates, Hillmer said.

"I'm following the letter of the law," she said. "It's offensive to someone and not in good taste and decency. And the plates are the property of the state of South Dakota."

State law declares motor vehicle licenses plates to be the property of the state as long as the plates are valid. The law also allows personalized plates with as many as seven letters for an extra \$25 fee. But it gives DMV officials the right to refuse to issue "any letter combination which carries connotations offensive to good taste and decency."

Hillmer said MPEACHW meets that criterion. The plates never would have been issued if DMV officials had caught their meaning at the time Moriah applied, Hillmer said.

"This was one that we apparently missed when it came through originally, and we received a complaint from an individual that found it offensive," she said, declining to identify the individual or provide the contents of the complaint. "I don't think we ever would have issued it if we'd have picked up on what it was inferring."

Moriah said she bought the 2005 Prius late last summer and fitted it with personalized plates similar to those her partner, Curt Finnegan, had on his blue 2004 Prius. His plates actually read: IMPCH-W.

Moriah said has received plenty of positive reactions in public to her plates and that negative responses have been rare. So she was surprised to receive the April 18 letter from the DMV announcing the recall and giving her 10 days to turn in the plates at the Pennington County Treasurer's Office or the DMV office in Pierre.

The letter said DMV would issue a refund on the months remaining on Moriah's license.

She is hesitant to give up the plates, however, because she believes her free-speech rights are being unnecessarily limited.

"It's kind of sad to me," she said. "For one person to be able to say they're offended because it's different from their political beliefs seems really arbitrary. And I don't think the law is very clear about what 'offensive' means."

Hillmer said the law gives the state great latitude in making that determination. Moriah is free to exercise her free-speech rights in ways that don't involve state property or implied state sanction of a given message, Hillmer said.

"They have every right to use that free speech, but they need to do it with a bumper sticker," she said. "That plate is property of South Dakota. And that (message) is not something the state should advocate."

It wouldn't matter if the political message or the president were different, it would be inappropriate on a state plate, Hillmer said.

Moriah has contacted the American Civil Liberties Union, which intends to protest the recall in a letter to the state. Moriah said it's unlikely the ACLU will pursue legal action, in part because she is planning a move to Pennsylvania in the next couple of months.

Finnegan already has moved there and replaced his South Dakota plates for Pennsylvania plates, Moriah said. Moriah hopes to leave in June or July, with her plates still intact. Hillmer said it might not work out that way.

"We may have law enforcement go pick them up if we receive more complaints about it," she said. "If she returns them, we'll make her new plates. If we have to go pick them up, we probably won't."

Hillmer has been with DMV for more than 20 years. She remembers five or six instances when so-called vanity plates were recalled. One of them said "SNIPER" and another "OLDFART."

Moriah is the only person to complain about a recall, Hillmer said.

Rapid City lawyer Patrick Duffy said there's plenty of reason to complain. Duffy, who has worked on key civil rights cases involving American Indian voting issues, said action by the state means that any personalized plate must be recalled because of a single complaint, no matter what the message.

"What this means is that every atheist can now wipe out anything that seems to refer to God," Duffy said. "Will vanity plates for members of the armed forces suddenly be declared offensive if they offend a single pacifist? It's absolutely preposterous."

Even obscenity must be judged by the mores and standards of a community, not just one offended individual, Duffy said.

"Here, all we need is one lone citizen who is apparently invested with the complete authority to determine what is good taste and decency for all the rest of us," he said. "It seems a little tyrannical to me."

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