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## Abortion debate moves to special license plates

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PHILADELPHIA -- The latest forum for the national debate over abortion is whizzing by at 65 mph.

Anti-abortion groups have won approval in at least 18 states for specialized license plates with the tagline "Choose Life," even as officials in New Jersey and other states fight the requests on various grounds.

The cases raise unresolved questions about whether license plates — or even portions of them — convey government or private speech. To raise revenues, many states let drivers buy specialty plates that recognize everything from military units and colleges to sports teams and nonprofit groups.

"Legislatures can say there might be certain controversies they do not want discussed on license plates," Assistant New Jersey Attorney General Andrea Silkowitz argued Tuesday in the 3rd U.S. Circuit Court, referring to an Illinois case.

Silkowitz argued that her state rejected the "Choose Life" plate not to avoid controversy but because the relevant law limits designs to group names and logos, and does not permit slogans.

In 2003, the New Jersey Motor Vehicle Commission approved a request from the New York-based Children First Foundation, but later rejected the proposed design, which included a small graphic of a sun, two children's faces and the words "Choose Life."

The New Jersey agency also dismissed a later attempt to substitute a new domain name, "NJChoose-Life.Org," for the original "Fund-Adoption.Org" on the plate.

The foundation sued on free-speech grounds, but a federal judge last year dismissed the case.

"Defendants partially denied Plaintiff's designs not because of their desire to stay away from a controversial issue, but because they do not allow slogans or advocacy messages," U.S. District Judge Joel A. Pisano wrote. "New Jersey has a legitimate interest in communicating that it does not approve or disapprove of any particular political cause, belief, or message."

But Children First's lawyer argued Tuesday that the design was rejected because it was "too controversial."

States invite such controversy by sanctioning specialized plates for groups with various viewpoints, from Greenpeace to the Knights of Columbus, he argued.

"It's really inescapable that the Legislature was welcoming in a number of viewpoints," said Jeff Shafer, senior legal counsel for the Alliance Defense Fund.

Judge Theodore A. McKee agreed that states may have inadvertently courted controversy in an effort to raise money.

Across the country, federal judges have issued myriad opinions on the issue, but the facts also differ from case to case.

\_ In Illinois, a federal judge found the General Assembly had rejected a plate featuring the words "Choose Life" only because of its politically controversial nature, and found that discriminatory.

\_ In Arizona, the 9th U.S. Circuit also found discriminatory the state's decision to reject the "Choose Life" message so as "not to enter the Choose Life/Pro-Choice debate."

\_ The 4th U.S. Circuit Court in Richmond told South Carolina officials they could not approve "Choose Life" plates without also allowing abortion-rights plates.

The 3rd Circuit panel presiding over Tuesday's case \_ Circuit Judges McKee and D. Brooks Smith and District Judge Richard Stearns of Massachusetts \_ gave the lawyers unlimited time to argue what McKee called an "extraordinary" case. The judges did not indicate when they would rule.

Children First, which operates in the New York region, has "Choose Life" plates in use in Connecticut and a similar suit pending in New York, Shafer said.

The U.S. Supreme Court declined last fall to review an appeal in the Arizona case, but will get another chance with the expected appeal of the Illinois case.

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