July 18, 2016

VIA E-MAIL (ida.traschen@dmv.ny.gov)

Ida L. Traschen, Esq.
Department of Motor Vehicles
Six Empire State Plaza, Room 522A
Albany, NY 12228

Re: Proposed Amendment of Sections 16.1, 16.3, and 16.5 of Title 15 NYCRR – L.D. No. MTV-22-16-00007-P

Dear Ms. Traschen:

Please accept this correspondence as a comment on the proposed amendments referenced above, which relate to special and reserved series license plates.

The proposed Section 16.5(b)(1) of Title 15 NYCRR provides that reserved series license plates “are issued by DMV in the sole discretion of the commissioner.” Furthermore, the proposed Section 16.5(b)(2) provides that “[r]eserved series [plates] bearing a message, image, or other mark that has a meaning, connotation, or format that the commissioner deems objectionable shall not be issued”; this section goes on to refer to the proposed Section 16.5(a)(2), which sets forth a non-exclusive list of characteristics of license plates that would be deemed objectionable.

The proposed regulatory language is problematic for the following reasons:

1. The proposed regulations fail to set forth a process to be used by the Commissioner in making decisions regarding the acceptability of applications for reserved series license plates;
2. The proposed regulations fail to require the Commissioner to state a reason for rejecting an application for reserved series license plates;
3. The proposed regulations fail to set forth any internal procedure for reconsidering or appealing denials of applications for reserved series license plates; and
4. The proposed regulations would give the Commissioner of the Department of Motor Vehicles unbridled discretion in accepting or rejecting applications for reserved series license plates. The recitation of a vague, non-exclusive list of “objectionable” characteristics does not provide an adequate safeguard against unchecked executive authority, or against potential viewpoint discrimination.

Based on the foregoing, New Yorkers for Constitutional Freedoms (NYCF) respectfully urges the Department of Motor Vehicles to revise the above-referenced regulations.
Thank you for your consideration.

In His Service,

[Signature]

Rev. Jason J. McGuire
Executive Director