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NO.
STATE OF NEBRASKA
OFFICIAL
AUG 31 1995
DEPT. OF JUSTICE

DATE: August 28, 1995

SUBJECT: Credit Card Sales of Permits, Licenses and Stamps

REQUESTED BY: Rex Amack, Director
Nebraska Game and Parks Commission

WRITTEN BY: Don Stenberg, Attorney General
Lynn A. Melson, Assistant Attorney General

You have inquired whether the Nebraska Game and Parks Commission has the authority to sell hunting and fishing permits, motor vehicle entry permits, habitat stamps, trout stamps and other permits through the use of credit card sales. Specifically, you have inquired whether state statutes preclude credit card sales of permits, licenses and stamps. You have also inquired whether the service fee charged by the credit card company could be added to the permit, license or stamp fee at the point of sale.

A state agency has no power or authority other than that specifically conferred by statute or by construction necessary to accomplish the plain purpose of the statute. ***In re Application A-16642***, 236 Neb. 671, 463 N.W.2d 591 (1990); ***Nebraska Ass'n of Pub. Employees v. Game and Parks Comm'n***, 220 Neb. 883, 374 N.W.2d 46 (1985). We have reviewed the statutes relating to the sale of permits, licenses and stamps by the Nebraska Game and Parks Commission. Based upon this review, it appears that the Legislature has not granted authority to accept credit cards as a means of payment for such permits, licenses and stamps.

Neb. Rev. Stat. § 81-814.02 (1994) provides that the Commission shall establish the fees for licenses, permits and stamps and shall establish collection fees to be retained by

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authorized vendors of such licenses, permits and stamps. Specific statutes which are administered by the Commission set out the various fee amounts and provide for the deposit of all such fees in statutorily designated funds. Neb. Rev. Stat. § 37-203 (1994) allows vendors authorized by the Commission to sell permits to collect and retain an additional fee as reimbursement for the clerical work of issuing the permit and remitting the permit fee to the Commission. There is no authorization within the statutes administered by the Commission for credit card sales. Furthermore, to the extent that the acceptance of credit cards would require payment of service fees to credit card companies, not all of the fee revenue collected from such sales would be deposited in the appropriate state funds as mandated by statute.

The Legislature has considered the use of credit card sales by state agencies in Neb. Rev. Stat. § 81-118.01 (1994). That statute provides that a state agency "operating a facility in a proprietary capacity may accept credit cards as a means of cash payment and may adjust the price for services to reflect the usual and customary discount charges." It is a general principle of statutory interpretation that mention of one thing implies the exclusion of another. Stated another way, an affirmative description of cases in which certain powers may be exercised implies a negative on exercise of such powers in other cases. ***Harrington v. Grieser***, 154 Neb. 685, 488 N.W.2d 753 (1951); ***State Board of Agriculture v. State Racing Comm.***, 239 Neb. 762, 478 N.W.2d 270 (1992). The Legislature has considered the acceptance of credit cards by state agencies and has narrowly limited the acceptance of credit cards.

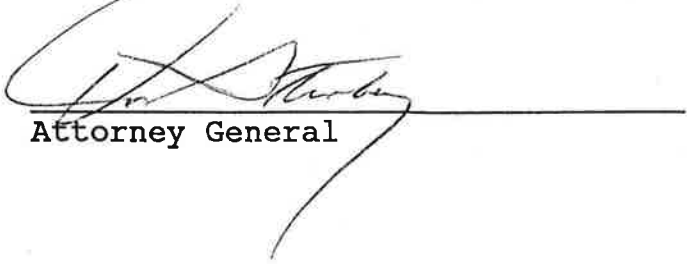
In conclusion, it is our determination that the Commission is not authorized to sell its permits, licenses and stamps through credit card sales. Since we have determined that credit card sales are not authorized, it is not necessary to answer your second question concerning the addition of a service fee.

Sincerely,

DON STENBERG
Attorney General

Lynn A. Melson
Assistant Attorney General

Approved By:



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