

# HOUSE BILL REPORT

## HB 1316

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**As Reported by House Committee On:**  
Business & Financial Services

**Title:** An act relating to sellers of travel.

**Brief Description:** Concerning sellers of travel.

**Sponsors:** Representative Kirby.

**Brief History:**

**Committee Activity:**

Business & Financial Services: 1/27/11, 2/17/11 [DPS].

**Brief Summary of Substitute Bill**

- Modifies trust account requirements for sellers of travel.
- Makes changes to the definitions of seller of travel, transacts business with Washington consumers, and advertisement.

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### HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Buys, Assistant Ranking Minority Member; Blake, Condotta, Hudgins, Hurst, Parker, Pedersen, Rivers, Ryu and Stanford.

**Staff:** Alison Hellberg (786-7152).

**Background:**

Sellers of travel must be registered with the Department of Licensing (Department), maintain a surety bond, maintain trust accounts for sums received for travel services, and comply with the requirements related to advertising, disclosures to customers, and cancellations and refunds.

A "seller of travel" is defined as a person, firm, or corporation who transacts with Washington consumers.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

To "transact business with Washington consumers" means to directly offer or sell travel services or travel-related benefits to Washington consumers, including the placement of advertising in media based in the State of Washington or that is primarily directed to Washington residents.

Sellers of travel are required to maintain a trust account for funds received if the seller holds a customer's money for more than five days. The seller does not need to maintain a trust account or comply with trust account requirements if the seller either maintains a surety bond or is a member of a professional organization that requires members to carry professional liability insurance.

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**Summary of Substitute Bill:**

A few definitions are changed. The definition of "seller of travel" is modified to explicitly state that sellers of travel include retail location travel agencies, home-based travel agencies, and online travel agencies. An "advertisement" includes advertisements on the Internet. The definition of "transacts business with Washington consumers" is modified to include situations where the purchase of travel services is allowed, in addition to directly offering or selling them.

The trust account requirements apply when a seller of travel holds sums of money for retail travel services. The limitation that the funds be held for more than five days before they must be deposited into a trust account is limited to sums received of \$2,000, or less.

**Substitute Bill Compared to Original Bill:**

The requirements for trust accounts are modified. If a seller of travel receives a sum of over \$2,000 for retail travel services, the funds must be deposited into a trust account. Sums of less than \$2,000, must only be deposited into a trust account if they are held by the seller of travel for more than five business days.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill closes a loophole in the law that allows a certain type of scam. The requirement that funds be deposited into a trust account after five days is a major loophole. It was never intended to be like this in the original law. This provision allows commingling

funds for five days. Travel agents take advantage of the law by putting the money in a business account and it is gone when it is time to pay for the travel services. This change would not be a great burden on businesses.

This law was originally enacted in 1998 when the Internet was not as widespread as it is now. This bill brings the law into more modern times by modifying the definitions, including adding Internet to the definition of "advertisement." The industry has changed so dramatically that now there are three distinct types of travel agencies. The bill addresses all of these types. Online travel agencies especially need to be regulated.

(Opposed) The main problem in the bill is striking the five-day requirements. Most travel agencies get credit cards these days, not cash or checks. If you get cash or a check it is a very small amount of money. It would be very onerous on small businesses and banks are unwilling to offer trust accounts for such small sums. The kinds of scam artists that this bill is aimed at would find a way around the new requirements. The issues are with the home-based agents who are not registered. The five-day rule was included in the bill to protect small businesses.

This law does not cover airlines or state employees. These entities are in direct competition with travel agents and not subject to all of these requirements.

It would be better to use the word "electronic media" instead of "Internet." It is a broader term. The addition of the "allow purchase of" language does not make sense.

The seller of travel requirements should be completely repealed. The law has no teeth, is onerous, and is not properly enforced. It looks good on paper, but is just another way to tax small businesses. The statute should not be amended just to prevent one scam.

**Persons Testifying:** (In support) Representative Kirby, prime sponsor; and Steve Danishek, TMA Travel.

(Opposed) Mary Jo Strom Copland, The Travel Company; Alex Trettin, Travel Leaders and American Society of Travel Agents; and Bill Thomas, Strathclyde Partnership for Transport Travel.

**Persons Signed In To Testify But Not Testifying:** None.