

CERTIFICATION OF ENROLLMENT  
ENGROSSED SUBSTITUTE HOUSE BILL 2688

53rd Legislature  
1994 Regular Session

Passed by the House March 8, 1994  
Yeas 53 Nays 43

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Speaker of the  
House of Representatives

Passed by the Senate March 4, 1994  
Yeas 28 Nays 20

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President of the Senate

Approved

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Governor of the State of Washington

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2688** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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Chief Clerk

FILED

Secretary of State  
State of Washington

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ENGROSSED SUBSTITUTE HOUSE BILL 2688

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AS AMENDED BY THE SENATE

Passed Legislature - 1994 Regular Session

State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives G. Cole and King; by request of Attorney General)

Read first time 02/04/94.

1 AN ACT Relating to sellers of travel; amending RCW 19.138.010,  
2 19.138.030, 19.138.040, and 19.138.050; adding new sections to chapter  
3 19.138 RCW; creating new sections; repealing RCW 19.138.020,  
4 19.138.060, 19.138.070, and 19.138.080; prescribing penalties; and  
5 providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 19.138.010 and 1986 c 283 s 1 are each amended to read  
8 as follows:

9 The legislature finds and declares that advertising, sales, and  
10 business practices of certain (~~travel charter or tour operators~~)  
11 sellers of travel have worked financial hardship upon the people of  
12 this state; that the travel business has a significant impact upon the  
13 economy and well-being of this state and its people; that problems have  
14 arisen regarding certain (~~segments of the travel charter or tour~~  
15 ~~operator business~~) sales of travel; and that the public welfare  
16 requires (~~regulation~~) registration of (~~travel charter or tour~~  
17 ~~operators~~) sellers of travel in order to eliminate unfair advertising,  
18 sales and business practices. The legislature further finds it  
19 necessary to establish standards that will safeguard the people against

1 financial hardship and to encourage fair dealing and prosperity in the  
2 travel business.

3 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
4 otherwise, the definitions in this section apply throughout this  
5 chapter.

6 (1) "Department" means the department of licensing.

7 (2) "Director" means the director of licensing or the director's  
8 designee.

9 (3) "Seller of travel" means a person, firm, or corporation both  
10 inside and outside the state of Washington, who transacts business with  
11 Washington consumers, including, but not limited to, travel agencies,  
12 who sell, provide, furnish contracts for, arrange, or advertise, either  
13 directly or indirectly, by any means or method, to arrange or book any  
14 travel services including travel reservations or accommodations,  
15 tickets for domestic or foreign travel by air, rail, ship, bus, or  
16 other medium of transportation or hotel or other lodging accommodation  
17 and vouchers or coupons to be redeemed for future travel or  
18 accommodations for a fee, commission, or other valuable consideration.

19 (a) "Seller of travel" includes a travel agent and any person who  
20 is an independent contractor or outside agent for a travel agency or  
21 other seller of travel whose principal duties include consulting with  
22 and advising persons concerning travel arrangements or accommodations  
23 in the conduct or administration of its business. If a seller of  
24 travel is employed by a seller of travel who is registered under this  
25 chapter, the employee need not also be registered.

26 (b) "Seller of travel" does not include:

27 (i) An air carrier;

28 (ii) An owner or operator of a vessel including an ocean common  
29 carrier as defined in 46 U.S.C. App. 1702(18), an owner or charterer of  
30 a vessel that is required to establish its financial responsibility in  
31 accordance with the requirements of the federal maritime commission, 46  
32 U.S.C. App. 817 (e), and a steamboat company as defined in RCW  
33 84.12.200 whether or not operating over and upon the waters of this  
34 state;

35 (iii) A motor carrier;

36 (iv) A rail carrier;

37 (v) A charter party carrier of passengers as defined in RCW  
38 81.70.020;

1 (vi) An auto transportation company as defined in RCW 81.68.010;  
2 (vii) A hotel or other lodging accommodation;  
3 (viii) An affiliate of any person or entity described in (i)  
4 through (vii) of this subsection (3)(b) that is primarily engaged in  
5 the sale of travel services provided by the person or entity. For  
6 purposes of this subsection (3)(b)(viii), an "affiliate" means a person  
7 or entity owning, owned by, or under common ownership, with "owning,"  
8 "owned," and "ownership" referring to equity holdings of at least  
9 eighty percent.

10 (4) "Travel services" includes transportation by air, sea, or rail  
11 ground transportation, hotel or any lodging accommodations, or package  
12 tours, whether offered or sold on a wholesale or retail basis.

13 (5) "Advertisement" includes, but is not limited to, a written or  
14 graphic representation in a card, brochure, newspaper, magazine,  
15 directory listing, or display, and oral, written, or graphic  
16 representations made by radio, television, or cable transmission that  
17 relates to travel services.

18 NEW SECTION. **Sec. 3.** No person, firm, or corporation may act or  
19 hold itself out as a seller of travel unless, prior to engaging in the  
20 business of selling or advertising to sell travel services, the person,  
21 firm, or corporation registers with the director under this chapter and  
22 rules adopted under this chapter.

23 (1) The registration number must be conspicuously posted in the  
24 place of business and must be included in all advertisements. Any  
25 corporation which issues a class of equity securities registered under  
26 section 12 of the securities exchange act of 1934, and any subsidiary,  
27 the majority of voting stock of which is owned by such corporation  
28 including any wholly owned subsidiary of such corporation are not  
29 required to include company registration numbers in advertisements.

30 (2) The director shall issue duplicate registrations upon payment  
31 of a nominal duplicate registration fee to valid registration holders  
32 operating more than one office.

33 (3) No registration is assignable or transferable.

34 (4) If a registered seller of travel sells his or her business,  
35 when the new owner becomes responsible for the business, the new owner  
36 must comply with all provisions of this chapter, including  
37 registration.

1        NEW SECTION.    **Sec. 4.**    An application for registration as a seller  
2 of travel shall be submitted in the form prescribed by rule by the  
3 director, and shall contain but not be limited to the following:

4        (1) The name, address, and telephone number of the seller of  
5 travel;

6        (2) Proof that the seller of travel holds a valid business license  
7 in the state of its principal state of business;

8        (3) A registration fee in an amount determined under RCW 43.24.086;

9        (4) The name, address, and social security numbers of all employees  
10 who sell travel and are covered by the seller of travel's registration.  
11 This subsection shall not apply to the out-of-state employees of a  
12 corporation that issues a class of equity securities registered under  
13 section 12 of the securities exchange act of 1934, and any subsidiary,  
14 the majority of voting stock of which is owned by the corporation;

15        (5) A report prepared and signed by a licensed public accountant or  
16 certified public accountant or other report, approved by the director,  
17 that verifies that the seller of travel maintains a trust account or  
18 other approved account at a federally insured institution located in  
19 the state of Washington, the location and number of that trust account  
20 or other approved account, and verifying that the account is maintained  
21 and used as required by section 8 of this act. The director, by rule,  
22 may permit alternatives to the report that provides for at least the  
23 same level of verification.

24        NEW SECTION.    **Sec. 5.**    (1) Each seller of travel shall renew its  
25 registration on or before July 1 of every other year or as otherwise  
26 determined by the director.

27        (2) Renewal of a registration is subject to the same provisions  
28 covering issuance, suspension, and revocation of a registration  
29 originally issued.

30        (3) The director may refuse to renew a registration for any of the  
31 grounds set out under section 6 of this act, and where the past conduct  
32 of the applicant affords reasonable grounds for belief that the  
33 applicant will not carry out the applicant's duties in accordance with  
34 law and with integrity and honesty. The director shall promptly notify  
35 the applicant in writing by certified mail of its intent to refuse to  
36 renew the registration. The registrant may, within twenty-one days  
37 after receipt of that notice or intent, request a hearing on the  
38 refusal. The director may permit the registrant to honor commitments

1 already made to its customers, but no new commitments may be incurred,  
2 unless the director is satisfied that all new commitments are  
3 completely bonded or secured to insure that the general public is  
4 protected from loss of money paid to the registrant. It is the  
5 responsibility of the registrant to contest the decision regarding  
6 conditions imposed or registration denied through the process  
7 established by the administrative procedure act, chapter 34.05 RCW.

8 NEW SECTION. **Sec. 6.** (1) The director may deny, suspend, or  
9 revoke the registration of a seller of travel if the director finds  
10 that the applicant:

11 (a) Was previously the holder of a registration issued under this  
12 chapter, and the registration was revoked for cause and never reissued  
13 by the director, or the registration was suspended for cause and the  
14 terms of the suspension have not been fulfilled;

15 (b) Has been found guilty of a felony within the past five years  
16 involving moral turpitude, or of a misdemeanor concerning fraud or  
17 conversion, or suffers a judgment in a civil action involving willful  
18 fraud, misrepresentation, or conversion;

19 (c) Has made a false statement of a material fact in an application  
20 under this chapter or in data attached to it;

21 (d) Has violated this chapter or failed to comply with a rule  
22 adopted by the director under this chapter;

23 (e) Has failed to display the registration as provided in this  
24 chapter;

25 (f) Has published or circulated a statement with the intent to  
26 deceive, misrepresent, or mislead the public;

27 (g) Has committed a fraud or fraudulent practice in the operation  
28 and conduct of a travel agency business, including, but not limited to,  
29 intentionally misleading advertising; or

30 (h) Has aided or abetted a person, firm, or corporation that they  
31 know has not registered in this state in the business of conducting a  
32 travel agency or other sale of travel.

33 (2) If the seller of travel is found in violation of this chapter  
34 or in violation of the consumer protection act, chapter 19.86 RCW, by  
35 the entry of a judgment or by settlement of a claim, the director may  
36 revoke the registration of the seller of travel, and the director may  
37 reinstate the registration at the director's discretion.

1        NEW SECTION.    **Sec. 7.**    The department, in cooperation with the  
2 travel industry and the office of the attorney general shall examine  
3 the establishment of a cost recovery fund, surety bond, or other  
4 requirement to indemnify industry consumers.    The department shall  
5 report to the legislature by December 1, 1994, concerning legislation  
6 to establish one or all of these procedures.

7        NEW SECTION.    **Sec. 8.**    (1) Within five business days of receipt, a  
8 seller of travel shall deposit all sums received from a person or  
9 entity, for travel services offered by the seller of travel, in a trust  
10 account or other approved account maintained in a federally insured  
11 financial institution located in Washington state.    Exempted are  
12 airline sales made by a seller of travel, when payments for the airline  
13 tickets are made through the airline reporting corporation either by  
14 cash or credit card sale.

15        (2) The trust account or other approved account required by this  
16 section shall be established and maintained for the benefit of any  
17 person or entity paying money to the seller of travel.    The seller of  
18 travel shall not in any manner encumber the amounts in trust and shall  
19 not withdraw money from the account except the following amounts may be  
20 withdrawn at any time:

21        (a) Partial or full payment for travel services to the entity  
22 directly providing the travel service;

23        (b) Refunds as required by this chapter;

24        (c) The amount of the sales commission;

25        (d) Interest earned and credited to the trust account or other  
26 approved account; or

27        (e) Remaining funds of a purchaser once all travel services have  
28 been provided or once tickets or other similar documentation binding  
29 upon the ultimate provider of the travel services have been provided.

30        (3) At the time of registration, the seller of travel shall file  
31 with the department the account number and the name of the financial  
32 institution at which the trust account or other approved account is  
33 held as set forth in section 4 of this act.    The seller of travel shall  
34 notify the department of any change in the account number or location  
35 within one business day of the change.

36        (4) The director, by rule, may allow for the use of other types of  
37 funds or accounts only if the protection for consumers is no less than  
38 that provided by this section.

1 (5) The seller of travel need not comply with the requirements of  
2 this section if all of the following apply, except as exempted in  
3 subsection (1) of this section:

4 (a) The payment is made by credit card;

5 (b) The seller of travel does not deposit, negotiate, or factor the  
6 credit card charge or otherwise seek to obtain payment of the credit  
7 card charge to any account over which the seller of travel has any  
8 control; and

9 (c) If the charge includes transportation, the carrier that is to  
10 provide the transportation processes the credit card charge, or if the  
11 charge is only for services, the provider of services processes the  
12 credit card charges.

13 (6) If the seller of travel maintains its principal place of  
14 business in another state and maintains a trust account or other  
15 approved account in that state consistent with the requirement of this  
16 section, and if that seller of travel has transacted business within  
17 the state of Washington in an amount exceeding five million dollars for  
18 the preceding year, the out-of-state trust account or other approved  
19 account may be substituted for the in-state account required under this  
20 section.

21 NEW SECTION. **Sec. 9.** A seller of travel shall perform its duties  
22 reasonably and with ordinary care in providing travel services.

23 **Sec. 10.** RCW 19.138.030 and 1986 c 283 s 3 are each amended to  
24 read as follows:

25 A (~~((travel charter or tour operator))~~) seller of travel shall not  
26 advertise that air, sea, or land transportation either separately or in  
27 conjunction with other services is or may be available unless he or she  
28 has, prior to (~~((such))~~) the advertisement, (~~((received written~~  
29 ~~confirmation with a carrier for the transportation advertised))~~)  
30 determined that the product advertised was available at the time the  
31 advertising was placed. This determination can be made by the seller  
32 of travel either by use of an airline computer reservation system, or  
33 by written confirmation from the vendor whose program is being  
34 advertised.

35 It is the responsibility of the seller of travel to keep written or  
36 printed documentation of the steps taken to verify that the advertised  
37 offer was available at the time the advertising was placed. These

1 records are to be maintained for at least two years after the placement  
2 of the advertisement.

3 **Sec. 11.** RCW 19.138.040 and 1986 c 283 s 4 are each amended to  
4 read as follows:

5 At or prior to the time of full or partial payment for air, sea, or  
6 land transportation or any other services offered by the seller of  
7 travel (~~((charter or tour operator))~~) in conjunction with (~~((such))~~) the  
8 transportation, the seller of travel (~~((charter or tour operator))~~) shall  
9 furnish to the person making the payment a written statement  
10 conspicuously setting forth the following information:

11 (1) The name and business address and telephone number of the  
12 (~~((travel charter or tour operator))~~) seller of travel.

13 (2) The amount paid, the date of such payment, the purpose of the  
14 payment made, and an itemized statement of the balance due, if any.

15 (3) The (~~((location and))~~) registration number of the (~~((trust account~~  
16 ~~or bond))~~) seller of travel required by this chapter.

17 (4) The name of the (~~((carrier))~~) vendor with whom the (~~((travel~~  
18 ~~charter or tour operator))~~) seller of travel has contracted to provide  
19 (~~((the transportation, the type of equipment contracted, and the date,~~  
20 ~~time, and place of each departure: PROVIDED, That the information~~  
21 ~~required in this subsection may be provided at the time of final~~  
22 ~~payment))~~) travel arrangements for a consumer and all pertinent  
23 information relating to the travel as known by the seller of travel at  
24 the time of booking. The seller of travel will make known further  
25 details as soon as received from the vendor. All information will be  
26 provided with final documentation.

27 (5) The conditions, if any, upon which the contract between the  
28 (~~((travel charter or tour operator))~~) seller of travel and the passenger  
29 may be canceled, and the rights and obligations of all parties in the  
30 event of (~~((such))~~) cancellation.

31 (6) A statement in eight-point boldface type in substantially the  
32 following form:

33 "If transportation or other services are canceled by the (~~((travel~~  
34 ~~charter or tour operator))~~) seller of travel, all sums paid to the  
35 (~~((travel charter or tour operator))~~) seller of travel for services not  
36 performed in accordance with the contract between the (~~((travel charter~~  
37 ~~or tour operator))~~) seller of travel and the (~~((passenger))~~) purchaser  
38 will be refunded within (~~((fourteen))~~) thirty days (~~((after the~~

1 ~~cancellation by the travel charter or tour operator to the passenger or~~  
2 ~~the party who contracted for the passenger unless mutually acceptable~~  
3 ~~alternative travel arrangements are provided)) of receiving the funds~~  
4 ~~from the vendor with whom the services were arranged, or if the funds~~  
5 ~~were not sent to the vendor, the funds shall be returned within~~  
6 ~~fourteen days after cancellation by the seller of travel to the~~  
7 ~~purchaser unless the purchaser requests the seller of travel to apply~~  
8 ~~the money to another travel product and/or date."~~

9       **Sec. 12.** RCW 19.138.050 and 1986 c 283 s 5 are each amended to  
10 read as follows:

11       (1) If the transportation or other services contracted for are  
12 canceled (~~the travel charter or tour operator~~), or if the money is to  
13 be refunded for any reason, the seller of travel shall ((return))  
14 refund to the ((passenger within fourteen days after the cancellation  
15 all moneys paid for services not performed in accordance with the  
16 contract unless mutually acceptable alternative travel arrangements are  
17 provided)) person with whom it contracts for travel services, the money  
18 due the person within thirty days of receiving the funds from the  
19 vendor with whom the services were arranged. If the funds were not  
20 sent to the vendor and remain in the possession of the seller of  
21 travel, the funds shall be refunded within fourteen days.

22       (2) Any material misrepresentation with regard to the  
23 transportation and other services offered shall be deemed to be a  
24 cancellation necessitating the refund required by this section.

25       (3) When travel services are paid to a vendor and charged to a  
26 consumer's credit card by the seller of travel, and the arrangements  
27 are subsequently canceled by the consumer, the vendor, or the seller of  
28 travel, any refunds to the consumer's credit card must be applied for  
29 within ten days from the date of cancellation.

30       (4) The seller of travel shall not be obligated to refund any  
31 cancellation penalties imposed by the vendor with whom the services  
32 were arranged if these penalties were disclosed in the statement  
33 required under RCW 19.138.040.

34       NEW SECTION.   **Sec. 13.** The director has the following powers and  
35 duties:

36       (1) To adopt, amend, and repeal rules to carry out the purposes of  
37 this chapter;

1 (2) To issue and renew registrations under this chapter and to deny  
2 or refuse to renew for failure to comply with this chapter;

3 (3) To suspend or revoke a registration for a violation of this  
4 chapter;

5 (4) To establish fees;

6 (5) Upon receipt of a complaint, to inspect and audit the books and  
7 records of a seller of travel. The seller of travel shall immediately  
8 make available to the director those books and records as may be  
9 requested at the seller of travel's place of business or at a location  
10 designated by the director. For that purpose, the director shall have  
11 full and free access to the office and places of business of the seller  
12 of travel during regular business hours; and

13 (6) To do all things necessary to carry out the functions, powers,  
14 and duties set forth in this chapter.

15 NEW SECTION. **Sec. 14.** (1) A nonresident seller of travel  
16 soliciting business or selling travel in the state of Washington, by  
17 mail, telephone, or otherwise, either directly or indirectly, is  
18 deemed, absent any other appointment, to have appointed the director to  
19 be the seller of travel's true and lawful attorney upon whom may be  
20 served any legal process against that nonresident arising or growing  
21 out of a transaction involving travel services. That solicitation  
22 signifies the nonresident's agreement that process against the  
23 nonresident that is served as provided in this chapter is of the same  
24 legal force and validity as if served personally on the nonresident  
25 seller of travel.

26 (2) Service of process upon a nonresident seller of travel shall be  
27 made by leaving a copy of the process with the director. The fee for  
28 the service of process shall be determined by the director by rule.  
29 That service is sufficient service upon the nonresident if the  
30 plaintiff or plaintiff's attorney of record sends notice of the service  
31 and a copy of the process by certified mail before service or  
32 immediately after service to the defendant at the address given by the  
33 nonresident in a solicitation furnished by the nonresident, and the  
34 sender's post office receipt of sending and the plaintiff's or  
35 plaintiff's attorney's affidavit of compliance with this section are  
36 returned with the process in accordance with Washington superior court  
37 civil rules. Notwithstanding the foregoing requirements, however, once  
38 service has been made on the director as provided in this section, in

1 the event of failure to comply with the requirement of notice to the  
2 nonresident, the court may order that notice be given that will be  
3 sufficient to apprise the nonresident.

4 NEW SECTION. **Sec. 15.** The director, in the director's discretion,  
5 may:

6 (1) Annually, or more frequently, make public or private  
7 investigations within or without this state as the director deems  
8 necessary to determine whether a registration should be granted,  
9 denied, revoked, or suspended, or whether a person has violated or is  
10 about to violate this chapter or a rule adopted or order issued under  
11 this chapter, or to aid in the enforcement of this chapter or in the  
12 prescribing of rules and forms of this chapter;

13 (2) Publish information concerning a violation of this chapter or  
14 a rule adopted or order issued under this chapter; and

15 (3) Investigate complaints concerning practices by sellers of  
16 travel for which registration is required by this chapter.

17 NEW SECTION. **Sec. 16.** For the purpose of an investigation or  
18 proceeding under this chapter, the director or any officer designated  
19 by the director may administer oaths and affirmations, subpoena  
20 witnesses, compel their attendance, take evidence, and require the  
21 production of any books, papers, correspondence, memoranda, agreements,  
22 or other documents or records which the director deems relevant or  
23 material to the inquiry.

24 NEW SECTION. **Sec. 17.** If it appears to the director that a person  
25 has engaged in an act or practice constituting a violation of this  
26 chapter or a rule adopted or order issued under this chapter, the  
27 director may, in the director's discretion, issue an order directing  
28 the person to cease and desist from continuing the act or practice.  
29 Reasonable notice of an opportunity for a hearing shall be given. The  
30 director may issue a temporary order pending the hearing, which shall  
31 remain in effect until ten days after the hearing is held and which  
32 shall become final if the person to whom the notice is addressed does  
33 not request a hearing within fifteen days after the receipt of the  
34 notice.

1        NEW SECTION.    **Sec. 18.**    The attorney general, a county prosecuting  
2 attorney, the director, or any person may, in accordance with the law  
3 of this state governing injunctions, maintain an action in the name of  
4 this state to enjoin a person or entity selling travel services for  
5 which registration is required by this chapter without registration  
6 from engaging in the practice until the required registration is  
7 secured.    However, the injunction shall not relieve the person or  
8 entity selling travel services without registration from criminal  
9 prosecution therefor, but the remedy by injunction shall be in addition  
10 to any criminal liability.

11        NEW SECTION.    **Sec. 19.**    A person or business that violates an  
12 injunction issued under this chapter shall pay a civil penalty, as  
13 determined by the court, of not more than twenty-five thousand dollars,  
14 that shall be paid to the department.    For the purpose of this section,  
15 the superior court issuing an injunction shall retain jurisdiction and  
16 the cause shall be continued, and in such cases the attorney general  
17 acting in the name of the state may petition for the recovery of civil  
18 penalties.

19        NEW SECTION.    **Sec. 20.**    The director or individuals acting on the  
20 director's behalf are immune from suit in any action, civil or  
21 criminal, based on disciplinary proceedings or other official acts  
22 performed in the course of their duties in the administration and  
23 enforcement of this chapter.

24        NEW SECTION.    **Sec. 21.**    (1) The director may assess against a  
25 person or organization that violates this chapter, or a rule adopted  
26 under this chapter, a civil penalty of not more than one thousand  
27 dollars for each violation.

28        (2) The person or organization shall be afforded the opportunity  
29 for a hearing, upon request made to the director within thirty days  
30 after the date of issuance of the notice of assessment.    The hearing  
31 shall be conducted in accordance with chapter 34.05 RCW.

32        (3) A civil penalty shall be imposed by the court for each  
33 violation of this chapter in an amount not less than five hundred  
34 dollars nor more than two thousand dollars per violation.

35        (4) If a person fails to pay an assessment after it has become a  
36 final and unappealable order, or after the court has entered final

1 judgment in favor of the state, the director may recover the amount  
2 assessed by action in the appropriate superior court. In the action,  
3 the validity and appropriateness of the final order imposing the  
4 penalty shall not be subject to review.

5 NEW SECTION. **Sec. 22.** The director may assess against a person or  
6 organization that violates this chapter, or a rule adopted under this  
7 chapter, the full amount of restitution as may be necessary to restore  
8 to a person an interest in money or property, real or personal, that  
9 may have been acquired by means of an act prohibited by or in violation  
10 of this chapter.

11 NEW SECTION. **Sec. 23.** In order to maintain or defend a lawsuit,  
12 a seller of travel must be registered with the department as required  
13 by this chapter and rules adopted under this chapter.

14 NEW SECTION. **Sec. 24.** (1) Each person who knowingly violates this  
15 chapter or who knowingly gives false or incorrect information to the  
16 director, attorney general, or county prosecuting attorney in filing  
17 statements required by this chapter, whether or not the statement or  
18 report is verified, is guilty of a gross misdemeanor punishable under  
19 chapter 9A.20 RCW.

20 (2) A person who violates this chapter or who gives false or  
21 incorrect information to the director, attorney general, or county  
22 prosecuting attorney in filing statements required by this chapter,  
23 whether or not the statement or report is verified, is guilty of a  
24 misdemeanor punishable under chapter 9A.20 RCW.

25 NEW SECTION. **Sec. 25.** The administrative procedure act, chapter  
26 34.05 RCW, shall, wherever applicable, govern the rights, remedies, and  
27 procedures respecting the administration of this chapter.

28 NEW SECTION. **Sec. 26.** All information, documents, and reports  
29 filed with the director under this chapter are matters of public record  
30 and shall be open to public inspection, subject to reasonable  
31 regulation. The director may make public, on a periodic or other  
32 basis, the information as may be necessary or appropriate in the public  
33 interest concerning the registration, reports, and information filed

1 with the director or any other matters to the administration and  
2 enforcement of this chapter.

3 NEW SECTION. **Sec. 27.** The legislature finds that the practices  
4 governed by this chapter are matters vitally affecting the public  
5 interest for the purpose of applying the consumer protection act,  
6 chapter 19.86 RCW. Any violation of this chapter is not reasonable in  
7 relation to the development and preservation of business and is an  
8 unfair and deceptive act or practice and unfair method of competition  
9 in the conduct of trade or commerce in violation of RCW 19.86.020.  
10 Remedies provided by chapter 19.86 RCW are cumulative and not  
11 exclusive.

12 NEW SECTION. **Sec. 28.** In addition to any other penalties or  
13 remedies under chapter 19.86 RCW, a person who is injured by a  
14 violation of this chapter may bring an action for recovery of actual  
15 damages, including court costs and attorneys' fees. No provision in  
16 this chapter shall be construed to limit any right or remedy provided  
17 under chapter 19.86 RCW.

18 NEW SECTION. **Sec. 29.** The following acts or parts of acts are  
19 each repealed:

- 20 (1) RCW 19.138.020 and 1986 c 283 s 2;
- 21 (2) RCW 19.138.060 and 1986 c 283 s 6;
- 22 (3) RCW 19.138.070 and 1986 c 283 s 7; and
- 23 (4) RCW 19.138.080 and 1986 c 283 s 8.

24 NEW SECTION. **Sec. 30.** Any state funds appropriated to the  
25 department of licensing for implementation of chapter . . ., Laws of  
26 1994 (this act) for the biennium ending June 30, 1995, shall be  
27 reimbursed by June 30, 1997, by an assessment of fees sufficient to  
28 cover all costs of implementing chapter . . ., Laws of 1994 (this act).

29 NEW SECTION. **Sec. 31.** A violation of RCW 19.138.030 through  
30 19.138.070 shall constitute a violation of RCW 19.86.020.

31 NEW SECTION. **Sec. 32.** If any provision of this act or its  
32 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 33.** Sections 1 through 29 of this act shall  
4 take effect January 1, 1996.

5 NEW SECTION. **Sec. 34.** Sections 2 through 6, 8, 9, 13 through 28,  
6 30, and 31 of this act are each added to chapter 19.138 RCW.

7 NEW SECTION. **Sec. 35.** The director of licensing, beginning July  
8 1, 1995, may take such steps as are necessary to ensure that this act  
9 is implemented on its effective date.

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