

HOUSE BILL REPORT

ESHB 1704

As Passed Legislature

Title: An act relating to sellers of travel.

Brief Description: Eliminating registration requirements for sellers of travel.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Lisk, L. Thomas, Ballasiotes, Kremen, Chappell, Cooke, Goldsmith, Padden, Radcliff, Mulliken, Pennington, McMorris, Smith, Delvin, Hickel, Mastin, Sehlin, Beeksma, Robertson, Cairnes, Koster, Brumsickle, D. Schmidt, Horn, Reams, Campbell, Chandler, Backlund, McMahan and Elliot).

Brief History:

Committee Activity:

Commerce & Labor: 2/16/95, 2/27/95 [DPS];
Appropriations: 3/3/95 [DPS(CL)].

Floor Activity:

Passed House: 3/9/95, 74-21;
Passed House: 1/26/96, 82-14.
Senate Amended.
House Concurred.
Passed Legislature.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Cairnes; Fuhrman; Goldsmith and Horn.

Minority Report: Do not pass. Signed by 4 members: Representatives Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cody and Cole.

Staff: Pam Madson (786-7166).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Commerce & Labor be substituted therefor and the substitute bill do pass. Signed by 19 members: Representatives Silver, Chairman; Clements, Vice Chairman; Huff, Vice Chairman; Pelesky, Vice Chairman; Basich; Beeksma; Brumsickle; Carlson; Cooke; Crouse; Grant; Lambert; Lisk; McMorris; Poulsen; Reams; Sehlin; Sheahan and Talcott.

Minority Report: Do not pass. Signed by 6 members: Representatives Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Jacobsen; Rust; Thibaudeau and Wolfe.

Staff: Susan Nakagawa (786-7145).

Background: Beginning January 1, 1996, the statute regulating travel charter or tour operators is expanded to apply to sellers of travel. A "seller of travel" includes those who transact business with Washington consumers for travel services. Sellers of travel must register with the Department of Licensing.

A seller of travel must comply with the following practices: (1) deposit all sums received for travel services in a trust account maintained in a federally-insured financial institution in Washington; (2) include their registration number in all advertisements; and (3) disclose information to the customer including conditions for cancellation and the customer's right to refunds.

The director has the following powers and duties: (1) to adopt, amend and repeal rules; (2) to issue, renew and deny registrations; (3) to suspend or revoke registrations; (4) to establish fees; (5) to inspect and audit books and records relating to the trust account and bond requirements; and (6) to do all things necessary to carry out the purposes of the act.

Summary of Bill: Several changes and clarifications are made to the travel agent registration program under the Department of Licensing.

"Transacting business with Washington consumers" is defined. Merely placing advertising through national media does not constitute transacting business with Washington consumers. Those who wholesale travel services are not considered to be transacting business with Washington consumers.

Sellers of travel, independent contractors, or outside agents working for or under contract with an agent who is registered need not also be registered if the employees or contract agents are working under the name of the registered agent and money received is collected in the name of the registered agent and is deposited into the registered agent's trust account.

Certain information is required for purposes of registration. Social security numbers are not required but the name, business address, and phone number for each employee, independent contractor, and outside agent are required.

A seller of travel must furnish a written disclosure statement to the consumer. If the sale is by telephone or other electronic media and payment is made by credit or debit card, the disclosure statement must be furnished within three business days.

Trust account reports can be verified by bank officers or licensed or certified public accountants. Reimbursement to the seller of travel for agency operating funds that are advanced for a customer's travel services may be withdrawn from a trust account.

The Director of the Department of Licensing may revoke or suspend a registration; however, the director may no longer base a revocation or suspension on the fact that a person knowingly aided a unregistered seller of travel.

A joint legislative task force is established to consider options for improving the implementation of the sellers of travel registration program. Ten members may serve on the task force: two Senate members, two House members, one representative from the Attorney General's office, one representative from the Department of Licensing, and four members from the industry. The task force may meet up to three times and must submit recommendations to the Legislature by December 1, 1996.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: (Commerce & Labor) There is a need to protect the public from travel scams. Complaints peaked in 1993 and dropped off significantly. There has been vigorous enforcement by the Attorney General and federal authorities. Travel companies who are approved to sell airline tickets have to meet rigorous requirements. Travel businesses operate on a narrow margin. They do want to protect the public and their own business reputation. They rely on repeat business. They want to avoid unnecessary rules and regulations. There are two ways to protect consumers, register sellers of travel or enforce consumer protection laws. Registration requirements add costs of doing business and regulate the innocent. Enforcement should be directed toward those who conduct deceptive practices.

(Appropriations) This bill transfers consumer protection to the Office of the Attorney General and relieves travel agents from the burden of registering. The vast majority of complaints are against a small percentage of companies. The attorney general is the more appropriate entity to focus on fraud.

Testimony Against: (Commerce & Labor) The travel industry is not acting to protect consumers. There still are a significant number of complaints. There has been less loss to consumers when they charge their travel on credit cards, however, the loss is then the bank's loss. There is concern over the ability to recover customer funds once a travel service has been paid for but not delivered. The ability to freeze accounts of consumers' money is needed.

(Appropriations) By the time the Office of the Attorney General learns of a problem, it is too late and the money is gone and unrecoverable. That's why last year's legislation was important. The attorney general opposes this legislation. This represents a step back from where the state is now. This is a problem for the consumer and a problem for the attorney general in terms of enforcement.

Testified: (Commerce & Labor) Joe Daniels, Mary Jo Strom Copland, and Dona Papadimitriou, Washington State Coalition of Travel (pro); Wil Doak, National Travel Association (pro); Ted Bottiger, Coalition for Travel (pro); Dan Reid (con); Steve Danishek, TMA Inc. (con); Jerry Farley and Jean Larson, Lets Go Travel (pro); Sally Gustafson, Consumer Protection, Attorney Generals Office (con); Emil Moore (con); and Bev Clausen (con).

(Appropriations) Joe Daniels, Washington State Coalition of Travel (pro); and Sally Gustafson, Consumer Protection, Office of the Attorney General (con).