
HOUSE BILL 2027

State of Washington

55th Legislature

1997 Regular Session

By Representatives Lisk, McMorris, Schoesler, Boldt, Hickel, Honeyford and Zellinsky

Read first time 02/18/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to travel sales; amending RCW 19.138.040,
2 19.138.100, 19.138.110, 19.138.120, 19.138.140, 19.138.170, 19.138.180,
3 19.138.190, 19.138.200, 19.138.210, 19.138.240, 19.138.250, and
4 19.138.310; adding a new section to chapter 19.138 RCW; adding new
5 sections to chapter 43.131 RCW; adding a new chapter to Title 19 RCW;
6 and prescribing penalties.

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

8 **Sec. 1.** RCW 19.138.040 and 1996 c 180 s 3 are each amended to read
9 as follows:

10 At or prior to the time of full or partial payment for any travel
11 services, the seller of travel shall furnish to the person making the
12 payment a written statement conspicuously setting forth the information
13 contained in subsections (1) through (6) of this section. However, if
14 ~~((the sale of travel services is made over the telephone or by other~~
15 ~~electronic media and payment is made by credit or debit card))~~ payment
16 is made other than in person, the seller of travel shall transmit to
17 the person making the payment the written statement required by this
18 section within three business days of ~~((the consumer's credit or debit~~

1 ~~card authorization))~~ receipt or processing of the payment. The written
2 statement shall contain the following information:

3 (1) The name and business address and telephone number of the
4 seller of travel.

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

7 (3) The registration number of the seller of travel required by
8 this chapter.

9 (4) The name of the vendor with whom the seller of travel has
10 contracted to provide travel arrangements for a consumer and all
11 pertinent information relating to the travel as known by the seller of
12 travel at the time of booking. The seller of travel will make known
13 further details as soon as received from the vendor. All information
14 will be provided with final documentation.

15 (5) ~~((The conditions, if any, upon which the contract between the
16 seller of travel and the passenger may be canceled, and the rights and
17 obligations of all parties in the event of cancellation.))~~ An advisory
18 regarding the penalties that would be charged in the event of a
19 cancellation or change by the customer. This may contain either: (a)
20 The specific amount of cancellation and change penalties; or (b) the
21 following statement: "Cancellation and change penalties apply to these
22 arrangements. Details will be provided upon written request."

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

25 "If transportation or other services are canceled by the seller of
26 travel, all sums paid to the seller of travel for services not
27 performed in accordance with the contract between the seller of travel
28 and the purchaser will be refunded within thirty days of receiving the
29 funds from the vendor with whom the services were arranged, or if the
30 funds were not sent to the vendor, the funds shall be returned within
31 fourteen days after cancellation by the seller of travel to the
32 purchaser unless the purchaser requests the seller of travel to apply
33 the money to another travel product and/or date."

34 **Sec. 2.** RCW 19.138.100 and 1996 c 180 s 4 are each amended to read
35 as follows:

36 No person, firm, or corporation may act or hold itself out as a
37 seller of travel unless, prior to engaging in the business of selling
38 or advertising to sell travel services, the person, firm, or

1 corporation registers with the director under this chapter and rules
2 adopted under this chapter.

3 (1) The registration number must be conspicuously posted in the
4 place of business and must be included in all advertisements. (~~Any~~
5 ~~corporation which issues a class of equity securities registered under~~
6 ~~section 12 of the securities exchange act of 1934, and any subsidiary,~~
7 ~~the majority of voting stock of which is owned by such corporation~~
8 ~~including any wholly owned subsidiary of such corporation are not~~
9 ~~required to include company registration numbers in advertisements.))
10 Sellers of travel are not required to include registration numbers on
11 institutional advertising. For the purposes of this subsection,
12 "institutional advertising" is advertising that does not include prices
13 or dates for travel services.~~

14 (2) (~~The director shall issue duplicate registrations upon payment~~
15 ~~of a nominal duplicate registration fee to valid registration holders~~
16 ~~operating more than one office.)) Separate offices or business
17 locations with two or more employees must be individually registered
18 under this chapter.~~

19 (3) No registration is assignable or transferable.

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

24 (5) If a seller of travel is employed by or under contract as an
25 independent contractor or an outside agent of a seller of travel who is
26 registered under this chapter, the employee, independent contractor, or
27 outside agent need not also be registered if:

28 (a) The employee, independent contractor, or outside agent is
29 conducting business as a seller of travel in the name of and under the
30 registration of the registered seller of travel; and

31 (b) All money received for travel services by the employee,
32 independent contractor, or outside agent is collected in the name of
33 the registered seller of travel and (~~deposited directly into~~)
34 processed by the registered seller of (~~travel's trust account~~) travel
35 as required under this chapter.

36 **Sec. 3.** RCW 19.138.110 and 1996 c 180 s 5 are each amended to read
37 as follows:

1 An application for registration as a seller of travel shall be
2 submitted in the form prescribed by rule by the director, and shall
3 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~~
9 ~~43.24.086~~) not to exceed fifty dollars;

10 (4) The names, business addresses, and business phone numbers of
11 all employees, independent contractors, or outside agents who sell
12 travel and are covered by the seller of travel's registration(~~. This~~
13 ~~subsection shall not apply to the out-of-state employees of a~~
14 ~~corporation that issues a class of equity securities registered under~~
15 ~~section 12 of the securities exchange act of 1934, and any subsidiary,~~
16 ~~the majority of voting stock of which is owned by the corporation));~~
17 and

18 (5) For those sellers of travel required to maintain a trust
19 account under RCW 19.138.140, a report prepared and signed by a bank
20 officer, licensed public accountant, or certified public accountant or
21 other report, approved by the director, that verifies that the seller
22 of travel maintains a trust account at a federally insured financial
23 institution located in Washington state, or other approved account, the
24 location and number of that trust account or other approved account,
25 and verifying that the account ((exists as)) required by RCW 19.138.140
26 exists. The director, by rule, may permit alternatives to the report
27 that provides for at least the same level of verification.

28 **Sec. 4.** RCW 19.138.120 and 1994 c 237 s 5 are each amended to read
29 as follows:

30 (1) Each seller of travel shall renew its registration on or before
31 July 1 of every (~~other~~) year or as otherwise determined by the
32 director.

33 (2) Renewal of a registration is subject to the same provisions
34 covering issuance, suspension, and revocation of a registration
35 originally issued.

36 (3) The director may refuse to renew a registration for any of the
37 grounds set out under RCW 19.138.130, and where the past conduct of the
38 applicant affords reasonable grounds for belief that the applicant will

1 not carry out the applicant's duties in accordance with law and with
2 integrity and honesty. The director shall promptly notify the
3 applicant in writing by certified mail of its intent to refuse to renew
4 the registration. The registrant may, within twenty-one days after
5 receipt of that notice or intent, request a hearing on the refusal.
6 The director may permit the registrant to honor commitments already
7 made to its customers, but no new commitments may be incurred, unless
8 the director is satisfied that all new commitments are completely
9 bonded or secured to insure that the general public is protected from
10 loss of money paid to the registrant. It is the responsibility of the
11 registrant to contest the decision regarding conditions imposed or
12 registration denied through the process established by the
13 administrative procedure act, chapter 34.05 RCW.

14 **Sec. 5.** RCW 19.138.140 and 1996 c 180 s 7 are each amended to read
15 as follows:

16 (1) A seller of travel shall deposit in a trust account maintained
17 in a federally insured financial institution located in Washington
18 state, or other account approved by the director, all sums held for
19 more than five business days that are received from a person or entity,
20 for retail travel services offered by the seller of travel. This
21 subsection does not apply to travel services sold by a seller of
22 travel, when payments for the travel services are made through the
23 airlines reporting corporation (~~either by cash or credit or debit card~~
24 ~~sale~~)).

25 (2) The trust account or other approved account required by this
26 section shall be established and maintained for the benefit of any
27 person or entity paying money to the seller of travel. The seller of
28 travel shall not in any manner encumber the amounts in trust and shall
29 not withdraw money from the account except the following amounts may be
30 withdrawn at any time:

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

33 (b) Refunds as required by this chapter;

34 (c) The amount of the sales commission;

35 (d) Interest earned and credited to the trust account or other
36 approved account;

37 (e) Remaining funds of a purchaser once all travel services have
38 been provided or once tickets or other similar documentation binding

1 upon the ultimate provider of the travel services have been provided;
2 or

3 (f) Reimbursement to the seller of travel for agency operating
4 funds that are advanced for a customer's travel services.

5 (3) At the time of registration, the seller of travel shall file
6 with the department the account number and the name of the financial
7 institution at which the trust account or other approved account is
8 held as set forth in RCW 19.138.110. The seller of travel shall notify
9 the department of any change in the account number or location within
10 one business day of the change.

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

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

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

18 (b) The seller of travel does not deposit, negotiate, or factor the
19 credit card charge or otherwise seek to obtain payment of the credit
20 card charge to any account over which the seller of travel has any
21 control; and

22 (c) If the charge includes transportation, the carrier that is to
23 provide the transportation processes the credit card charge, or if the
24 charge is only for services, the provider of services processes the
25 credit card charges.

26 (6) The seller of travel need not maintain a trust account nor
27 comply with the trust account provisions of this section if the seller
28 of travel:

29 (a)(i) Files and maintains a surety bond in the amount of ten
30 thousand dollars, executed by the applicant as obligor and by a surety
31 company authorized to do business in this state.

32 (ii) The bond must run to the state of Washington as obligee, and
33 must run to the benefit of the state and any person or persons who
34 suffer loss by reason of the seller of travel's violation of this
35 chapter or a rule adopted under this chapter.

36 (iii) The bond must be conditioned that the seller of travel will
37 faithfully conform to and abide by this chapter and all rules adopted
38 under this chapter, and shall reimburse all persons who suffer loss by

1 reason of a violation of this chapter or a rule adopted under this
2 chapter.

3 (iv) The bond must be continuous and may be canceled by the surety
4 upon the surety giving written notice to the director of the surety's
5 intent to cancel the bond. The cancellation is effective thirty days
6 after the notice is received by the director.

7 (v) The applicant may obtain the bond directly from the surety or
8 through a camp bonding arrangement involving a professional
9 organization comprised of sellers of travel if the arrangement provides
10 at least as much coverage as is required under this subsection.

11 (vi) In lieu of a surety bond, the applicant may, upon approval by
12 the director, file with the director a certificate of deposit, an
13 irrevocable letter of credit, or such other instrument as is approved
14 by the director by rule, drawn in favor of the director for an amount
15 equal to the required bond.

16 (vii) A person injured by a violation of this chapter may bring an
17 action against the surety bond or approved alternative of the seller of
18 travel who committed the violation or who employed the seller of travel
19 who committed the violation; or

20 (b) Is a member in good standing in a professional association,
21 such as the United States tour operators association or national tour
22 association, that is approved by the director and that provides a
23 minimum of one million dollars in errors and professional liability
24 insurance or provides a surety bond or equivalent protection in an
25 amount of at least two hundred fifty thousand dollars for its member
26 companies.

27 (7) If the seller of travel maintains its principal place of
28 business in another state and maintains a trust account or other
29 approved account in that state consistent with the requirement of this
30 section, and if that seller of travel has transacted business within
31 the state of Washington in an amount exceeding five million dollars for
32 the preceding year, the out-of-state trust account or other approved
33 account may be substituted for the in-state account required under this
34 section.

35 **Sec. 6.** RCW 19.138.170 and 1994 c 237 s 13 are each amended to
36 read as follows:

37 The director has the following powers and duties:

1 (1) To adopt, amend, and repeal rules to carry out the ((purposes))
2 registration and trust account provisions of this chapter;

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

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

7 (4) To establish fees not exceeding fifty dollars; and

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

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

17 **Sec. 7.** RCW 19.138.180 and 1994 c 237 s 15 are each amended to
18 read as follows:

19 The director, in the director's discretion, may((÷

20 ~~(1) Annually, or more frequently,)) upon receipt of a complaint
21 make public or private investigations within or without this state as
22 the director deems necessary to determine whether a registration should
23 be granted, denied, revoked, or suspended(~~(, or whether a person has
24 violated or is about to violate this chapter or a rule adopted or order
25 issued under this chapter, or to aid in the enforcement of this chapter
26 or in the prescribing of rules and forms of this chapter;~~~~

27 ~~(2) Publish information concerning a violation of this chapter or
28 a rule adopted or order issued under this chapter; and~~

29 ~~(3) Investigate complaints concerning practices by sellers of
30 travel for which registration is required by this chapter)).~~

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 19.138 RCW
32 to read as follows:

33 (1) For the purposes of this chapter, the attorney general has the
34 following powers and duties:

35 (a) Upon receipt of a complaint, to inspect and audit the books and
36 records of a seller of travel. The seller of travel shall immediately
37 make available to the attorney general those books and records as may

1 be requested at the seller of travel's place of business or at a
2 location designated by the attorney general. For that purpose, the
3 seller of travel shall provide to the attorney general full and free
4 access to the office and places of business of the seller of travel
5 during regular business hours;

6 (b) To do all things necessary to carry out the functions, powers,
7 and duties set forth in this chapter;

8 (c) Upon receipt of a complaint, to investigate whether a person
9 has violated or is about to violate this chapter or a rule adopted or
10 order issued under this chapter, or to aid in the enforcement of this
11 chapter or in the prescribing of rules and forms of this chapter;

12 (d) To publish information concerning a violation of this chapter
13 or a rule adopted or order issued under this chapter; and

14 (e) To investigate complaints concerning practices by sellers of
15 travel for which registration is required by this chapter.

16 (2) For the purpose of an investigation or proceeding under this
17 chapter, the attorney general or any officer designated by the attorney
18 general may administer oaths, subpoena witnesses, compel witnesses'
19 attendance, take evidence, and require the production of any books,
20 papers, correspondence, memoranda, agreements, or other documents or
21 records that the attorney general deems relevant or material to the
22 inquiry.

23 **Sec. 9.** RCW 19.138.190 and 1994 c 237 s 16 are each amended to
24 read as follows:

25 For the purpose of an investigation or proceeding under this
26 chapter, the ((director)) attorney general or any officer designated by
27 the ((director)) attorney general may administer oaths and
28 affirmations, subpoena witnesses, compel their attendance, take
29 evidence, and require the production of any books, papers,
30 correspondence, memoranda, agreements, or other documents or records
31 which the ((director)) attorney general deems relevant or material to
32 the inquiry.

33 **Sec. 10.** RCW 19.138.200 and 1994 c 237 s 20 are each amended to
34 read as follows:

35 The ((director)) attorney general or individuals acting on the
36 ((director's)) attorney general's behalf are immune from suit in any
37 action, civil or criminal, based on disciplinary proceedings or other

1 official acts performed in the course of their duties in the
2 administration and enforcement of this chapter.

3 **Sec. 11.** RCW 19.138.210 and 1994 c 237 s 17 are each amended to
4 read as follows:

5 If it appears to the ((~~director~~)) attorney general that a person
6 has engaged in an act or practice constituting a violation of this
7 chapter or a rule adopted or order issued under this chapter, the
8 ((~~director~~)) attorney general may, in the ((~~director's~~)) attorney
9 general's discretion, issue an order directing the person to cease and
10 desist from continuing the act or practice. Reasonable notice of an
11 opportunity for a hearing shall be given. The ((~~director~~)) attorney
12 general may issue a temporary order pending the hearing, which shall
13 remain in effect until ten days after the hearing is held and which
14 shall become final if the person to whom the notice is addressed does
15 not request a hearing within fifteen days after the receipt of the
16 notice.

17 **Sec. 12.** RCW 19.138.240 and 1994 c 237 s 21 are each amended to
18 read as follows:

19 (1) The ((~~director~~)) attorney general may assess against a person
20 or organization that violates this chapter, or a rule adopted under
21 this chapter, a civil penalty of not more than one thousand dollars for
22 each violation.

23 (2) The person or organization shall be afforded the opportunity
24 for a hearing, upon request made to the ((~~director~~)) attorney general
25 within thirty days after the date of issuance of the notice of
26 assessment. The hearing shall be conducted in accordance with chapter
27 34.05 RCW.

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

31 (4) If a person fails to pay an assessment after it has become a
32 final and unappealable order, or after the court has entered final
33 judgment in favor of the state, the ((~~director~~)) attorney general may
34 recover the amount assessed by action in the appropriate superior
35 court. In the action, the validity and appropriateness of the final
36 order imposing the penalty shall not be subject to review.

1 **Sec. 13.** RCW 19.138.250 and 1994 c 237 s 22 are each amended to
2 read as follows:

3 The ((director)) attorney general may assess against a person or
4 organization that violates this chapter, or a rule adopted under this
5 chapter, the full amount of restitution as may be necessary to restore
6 to a person an interest in money or property, real or personal, that
7 may have been acquired by means of an act prohibited by or in violation
8 of this chapter.

9 **Sec. 14.** RCW 19.138.310 and 1994 c 237 s 26 are each amended to
10 read as follows:

11 All information, documents, and reports filed with the director or
12 the attorney general under this chapter are matters of public record
13 and shall be open to public inspection, subject to reasonable
14 regulation. The director or the attorney general may make public, on
15 a periodic or other basis, the information as may be necessary or
16 appropriate in the public interest concerning the registration,
17 reports, and information filed with the director or the attorney
18 general or any other matters to the administration and enforcement of
19 this chapter.

20 NEW SECTION. **Sec. 15.** A new section is added to chapter 43.131
21 RCW to read as follows:

22 The sellers of travel regulatory program shall be terminated June
23 30, 1999, as provided in section 16 of this act.

24 NEW SECTION. **Sec. 16.** A new section is added to chapter 43.131
25 RCW to read as follows:

26 The following acts or parts of acts, as now existing or hereafter
27 amended, are each repealed, effective June 30, 2000:

- 28 (1) RCW 19.138.010 and 1994 c 237 s 1 & 1986 c 283 s 1;
29 (2) RCW 19.138.021 and 1996 c 180 s 1 & 1994 c 237 s 2;
30 (3) RCW 19.138.030 and 1996 c 180 s 2, 1994 c 237 s 10, & 1986 c
31 283 s 3;
32 (4) RCW 19.138.040 and 1997 c . . . s 1 (section 1 of this act),
33 1996 c 180 s 3, 1994 c 237 s 11, & 1986 c 283 s 4;
34 (5) RCW 19.138.050 and 1994 c 237 s 12 & 1986 c 283 s 5;
35 (6) RCW 19.138.090 and 1986 c 283 s 9;

1 (7) RCW 19.138.100 and 1997 c . . . s 2 (section 2 of this act),
2 1996 c 180 s 4, & 1994 c 237 s 3;
3 (8) RCW 19.138.110 and 1997 c . . . s 3 (section 3 of this act),
4 1996 c 180 s 5, & 1994 c 237 s 4;
5 (9) RCW 19.138.120 and 1997 c . . . s 4 (section 4 of this act) &
6 1994 c 237 s 5;
7 (10) RCW 19.138.130 and 1996 c 180 s 6 & 1994 c 237 s 6;
8 (11) RCW 19.138.140 and 1997 c . . . s 5 (section 5 of this act),
9 1996 c 180 s 7, & 1994 c 237 s 8;
10 (12) RCW 19.138.150 and 1994 c 237 s 9;
11 (13) RCW 19.138.160 and 1994 c 237 s 14;
12 (14) RCW 19.138.170 and 1997 c . . . s 6 (section 6 of this act) &
13 1994 c 237 s 13;
14 (15) RCW 19.138.1701 and 1994 c 237 s 30;
15 (16) RCW 19.138.180 and 1997 c . . . s 7 (section 7 of this act) &
16 1994 c 237 s 15;
17 (17) RCW 19.138.--- and 1997 c . . . s 8 (section 8 of this act);
18 (18) RCW 19.138.190 and 1997 c . . . s 9 (section 9 of this act) &
19 1994 c 237 s 16;
20 (19) RCW 19.138.200 and 1997 c . . . s 10 (section 10 of this act)
21 & 1994 c 237 s 20;
22 (20) RCW 19.138.210 and 1997 c . . . s 11 (section 11 of this act)
23 & 1994 c 237 s 17;
24 (21) RCW 19.138.220 and 1994 c 237 s 18;
25 (22) RCW 19.138.230 and 1994 c 237 s 19;
26 (23) RCW 19.138.240 and 1997 c . . . s 12 (section 12 of this act)
27 & 1994 c 237 s 21;
28 (24) RCW 19.138.250 and 1997 c . . . s 13 (section 13 of this act)
29 & 1994 c 237 s 22;
30 (25) RCW 19.138.260 and 1994 c 237 s 23;
31 (26) RCW 19.138.270 and 1994 c 237 s 24;
32 (27) RCW 19.138.280 and 1994 c 237 s 28;
33 (28) RCW 19.138.290 and 1994 c 237 s 27;
34 (29) RCW 19.138.300 and 1994 c 237 s 25;
35 (30) RCW 19.138.310 and 1997 c . . . s 14 (section 14 of this act)
36 & 1994 c 237 s 26;
37 (31) RCW 19.138.900 and 1986 c 283 s 11;
38 (32) RCW 19.138.901 and 1986 c 283 s 12;
39 (33) RCW 19.138.902 and 1994 c 237 s 32;

1 (34) RCW 19.138.903 and 1994 c 237 s 33; and

2 (35) RCW 19.138.904 and 1994 c 237 s 35.

3 NEW SECTION. **Sec. 17.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

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

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

8 (3) "Sale of travel-related benefits" means the sale of travel
9 services if the travel services are not identified at the time of the
10 sale with respect to dates, price, or location, and includes:

11 (a) Sales by travel clubs of memberships or other advance fees or
12 annual charges for the privilege of its members or participants to
13 arrange or obtain future travel services through or from the travel
14 club;

15 (b) Sales of vacation certificates or other documents that purport
16 to grant the holder of the certificate or other document the ability to
17 obtain future travel services, with or without additional
18 consideration; and

19 (c) Sales of travel-industry member benefits including those
20 through either or both the issuance and sale or the consulting with or
21 advising for consideration of persons in connection with the obtaining
22 of international airlines travel agent network identification cards or
23 memberships.

24 (4) "Seller of travel-related benefits" means a person, firm, or
25 corporation, both inside and outside the state of Washington, that
26 transacts business with Washington consumers for the sale of travel-
27 related benefits.

28 (a) "Seller of travel-related benefits" includes an agent or a
29 person who is an independent contractor or outside agent for a seller
30 of travel-related benefits whose duties include consulting with or
31 advising persons concerning the sale or purchase of travel-related
32 benefits in the conduct or administration of its business.

33 (b) "Seller of travel-related benefits" does not include:

34 (i) A person, firm, or corporation identified in RCW
35 19.138.021(3)(b);

36 (ii) A credit card issuer whose cards are honored at any one time
37 by one hundred or more merchants other than the issuer; and

1 (iii) An entity whose principal business is not the sale of travel-
2 related benefits and who offers multiple services including roadside
3 services, financial services, travel services, and personal lines of
4 insurance.

5 NEW SECTION. **Sec. 18.** No person, firm, or corporation may act or
6 hold itself out as a seller of travel-related benefits unless, prior to
7 engaging in the sale of travel-related benefits, the person, firm, or
8 corporation registers with the director under this chapter and rules
9 adopted under this chapter.

10 (1) The registration number must be conspicuously posted in the
11 place of business and must be included in all advertisements.

12 (2) Separate offices or business locations must be individually
13 registered under this chapter.

14 (3) No registration is assignable or transferable.

15 (4) If a registered seller of travel-related benefits sells its
16 business, when the new owner becomes responsible for the business, the
17 new owner must comply with all provisions of this chapter, including
18 registration.

19 (5) If a seller of travel-related benefits is employed by or under
20 contract as an independent contractor or an outside agent of a seller
21 of travel-related benefits who is registered under this chapter, the
22 employee, independent contractor, or outside agent must also be
23 registered if the employee, independent contractor, or outside agent is
24 conducting the sale of travel-related benefits.

25 (6) An employee of a seller of travel-related benefits must be
26 registered under this chapter if the employee's duties include the sale
27 or the consulting or advising of persons in connection with the sale or
28 purchase of travel-related benefits by Washington consumers.

29 NEW SECTION. **Sec. 19.** (1) An application for registration as a
30 seller of travel-related benefits shall be submitted in the form
31 prescribed by rule by the director, and shall contain but not be
32 limited to the following:

33 (a) The name, address, and telephone number of the seller of
34 travel-related benefits;

35 (b) Proof that the seller of travel-related benefits holds a valid
36 business license in the state of its principal state of business;

37 (c) A registration fee in an amount determined under RCW 43.24.086;

1 (d) The names, business addresses, and business phone numbers of
2 all employees, independent contractors, or outside agents who are
3 covered by the seller of travel-related benefits' registration; and

4 (e) A report prepared and signed by a bank officer, licensed public
5 accountant, or certified public accountant or other report, approved by
6 the director, that verifies that the seller of travel-related benefits
7 maintains a recovery account at a federally insured financial
8 institution located in Washington state, the location and number of
9 that recovery account, and that the account exists as required by
10 section 22 of this act.

11 (2) The director, by rule, may permit alternatives to the report
12 that provides for at least the same level of verification.

13 NEW SECTION. **Sec. 20.** (1) Each seller of travel-related benefits
14 shall renew its registration on or before July 1st of every year or as
15 otherwise determined by the director.

16 (2) Renewal of a registration is subject to the same provisions
17 covering issuance, suspension, and revocation of a registration
18 originally issued.

19 (3) The director may refuse to renew a registration for any of the
20 grounds set out under section 21 of this act, and where the past
21 conduct of the applicant affords reasonable grounds for belief that the
22 applicant will not carry out the applicant's duties in accordance with
23 law and with integrity and honesty. The director shall promptly notify
24 the applicant in writing by certified mail of its intent to refuse to
25 renew the registration. The registrant may, within twenty-one days
26 after receipt of that notice or intent, request a hearing on the
27 refusal. The director may permit the registrant to honor commitments
28 already made to its customers, but no new commitments may be incurred,
29 unless the director is satisfied that all new commitments are
30 completely bonded or secured to insure that the general public is
31 protected from loss of money paid to the registrant. It is the
32 responsibility of the registrant to contest the decision regarding
33 conditions imposed or registration denied through the process
34 established by the administrative procedure act, chapter 34.05 RCW.

35 NEW SECTION. **Sec. 21.** (1) The director may deny, suspend, or
36 revoke the registration of a seller of travel-related benefits if the
37 director finds that the applicant:

1 (a) Was previously the holder of a registration issued under this
2 chapter or chapter 19.138 RCW, and the registration was revoked for
3 cause and never reissued by the director, or the registration was
4 suspended for cause and the terms of the suspension have not been
5 fulfilled;

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

10 (c) Has made a false statement of a material fact in an application
11 under this chapter or chapter 19.138 RCW or in data attached to it;

12 (d) Has violated this chapter or chapter 19.138 RCW or failed to
13 comply with a rule adopted by the director under this chapter or
14 chapter 19.138 RCW;

15 (e) Has failed to display the registration as provided in this
16 chapter;

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

19 (g) Has committed a fraud or fraudulent practice in the operation
20 and conduct of a travel or travel-related business, including, but not
21 limited to, intentionally misleading advertising.

22 (2) If the seller of travel-related benefits is found in violation
23 of this chapter or in violation of the consumer protection act, chapter
24 19.86 RCW, by the entry of a judgment or by settlement of a claim, the
25 director may revoke the registration of the seller of travel-related
26 benefits, and the director may reinstate the registration at the
27 director's discretion.

28 NEW SECTION. **Sec. 22.** (1)(a) A seller of travel-related benefits
29 must file and maintain a surety bond in the amount of fifty thousand
30 dollars, executed by the applicant as obligor and by a surety company
31 authorized to do business in this state.

32 (b) The bond must run to the state of Washington as obligee, and
33 must run to the benefit of the state and any person or persons who
34 suffer loss by reason of the seller of travel-related benefits'
35 violation of this chapter or a rule adopted under this chapter.

36 (c) The bond must be conditioned that the seller of travel-related
37 benefits will faithfully conform to and abide by this chapter and all
38 rules adopted under this chapter, and shall reimburse all persons who

1 suffer loss by reason of a violation of this chapter or a rule adopted
2 under this chapter.

3 (d) The bond must be continuous and may be canceled by the surety
4 upon the surety giving written notice to the director of the surety's
5 intent to cancel the bond. The cancellation is effective thirty days
6 after the notice is received by the director.

7 (e) The applicant may obtain the bond directly from the surety or
8 through a camp bonding arrangement involving a professional
9 organization comprised of sellers of travel-related benefits if the
10 arrangement provides at least as much coverage as is required under
11 this subsection.

12 (f) In lieu of a surety bond, the applicant may, upon approval by
13 the director, file with the director a certificate of deposit, an
14 irrevocable letter of credit, or such other instrument as is approved
15 by the director by rule, drawn in favor of the director for an amount
16 equal to the required bond.

17 (g) A person injured by a violation of this chapter may bring an
18 action against the surety bond or approved alternative of the seller of
19 travel-related benefits who committed the violation or who employed the
20 seller of travel-related benefits who committed the violation.

21 (2)(a) A seller of travel-related benefits shall, before the sale
22 of travel-related benefits, deposit in a recovery account one hundred
23 thousand dollars. This amount must be located and maintained in a
24 federally insured financial institution and must be held for the
25 benefit of the seller of travel-related benefits' members or
26 participants. The funds must be used to pay expenses of an arbitrator,
27 if necessary, and to pay the claims of a member or participant that are
28 made against the seller of travel-related benefits.

29 (b) The seller of travel-related benefits shall maintain in the
30 recovery account a balance of at least one hundred thousand dollars.
31 If the balance of the recovery account falls below seventy-five
32 thousand dollars, the seller of travel-related benefits shall within
33 five business days deposit sufficient funds to bring the balance of the
34 recovery account to one hundred thousand dollars.

35 NEW SECTION. **Sec. 23.** A seller of travel-related benefits shall
36 perform its duties reasonably and with ordinary care in providing its
37 services.

1 NEW SECTION. **Sec. 24.** (1) A nonresident seller of travel-related
2 benefits soliciting or conducting business in the state of Washington,
3 by mail, telephone, or otherwise, either directly or indirectly, is
4 deemed, absent any other appointment, to have appointed the director to
5 be the seller of travel-related benefits' true and lawful attorney upon
6 whom may be served any legal process against that nonresident arising
7 or growing out of a transaction involving the sale of travel-related
8 benefits. That solicitation signifies the nonresident's agreement that
9 process against the nonresident that is served as provided in this
10 chapter is of the same legal force and validity as if served personally
11 on the nonresident seller of travel-related benefits.

12 (2) Service of process upon a nonresident seller of travel-related
13 benefits shall be made by leaving a copy of the process with the
14 director. The fee for the service of process shall be determined by
15 the director by rule. That service is sufficient service upon the
16 nonresident if the plaintiff or plaintiff's attorney of record sends
17 notice of the service and a copy of the process by certified mail
18 before service or immediately after service to the defendant at the
19 address given by the nonresident in a solicitation furnished by the
20 nonresident, and the sender's post office receipt of sending and the
21 plaintiff's or plaintiff's attorney's affidavit of compliance with this
22 section are returned with the process in accordance with Washington
23 superior court civil rules. Notwithstanding the other requirements of
24 this subsection, however, once service has been made on the director as
25 provided in this section, in the event of failure to comply with the
26 requirement of notice to the nonresident, the court may order that
27 notice be given that will be sufficient to apprise the nonresident.

28 NEW SECTION. **Sec. 25.** (1) A contract for travel-related services
29 may be canceled at the option of the purchaser if the purchaser sends
30 notice of the cancellation by certified mail, return receipt requested,
31 to the seller of travel-related benefits at the address contained in
32 the contract and if the notice is postmarked not later than midnight of
33 the third business day following the day on which the contract is
34 signed. In addition to this cancellation right, a purchaser who signs
35 a contract for travel-related services of any description, from a
36 seller of travel-related benefits required to be registered with the
37 department, without having received the written disclosures required in
38 this chapter has cancellation rights until three business days

1 following eventual receipt of the written disclosures. A purchaser
2 must request cancellation of a contract by sending the notice of
3 cancellation by certified mail, return receipt requested, postmarked
4 not later than midnight of the third business day following the day on
5 which the contract is signed or the day on which the disclosures were
6 actually received, whichever is later, to the seller of travel-related
7 benefits at the address contained in the contract. Within three
8 business days following receipt of timely and proper notice of
9 cancellation from the purchaser, the seller of travel-related benefits
10 shall provide evidence that the contract has been canceled.
11 Thereafter, any money or other consideration paid by the purchaser must
12 be promptly refunded. In computing the number of business days in this
13 subsection, the day on which the contract was signed is not included as
14 a "business day," nor is Saturday, Sunday, or legal holidays.

15 (2) A contract for travel-related services must include the
16 following statement in at least ten-point bold-face type immediately
17 before the space for the purchaser's signature:

18 "Purchaser's right to cancel: You may cancel this contract without
19 any cancellation fee or other penalty, or stated reason for doing so,
20 by sending notice of cancellation by certified mail, return receipt
21 requested, to . . . (insert name and address of seller of travel-
22 related benefits). The notice must be postmarked by midnight of the
23 third business day following the day on which the contract is signed.
24 In computing the three business days, the day on which the contract is
25 signed, Saturday, Sunday, and legal holidays are not included as a
26 "business day."

27 NEW SECTION. **Sec. 26.** If there is a violation of this chapter,
28 the purchaser may void the contract for travel-related services entered
29 into and the purchaser's entire consideration may be recovered from the
30 seller of travel-related benefits at the option of the purchaser.

31 NEW SECTION. **Sec. 27.** The director has the following powers and
32 duties:

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

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

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

3 (4) To establish fees;

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

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

14 NEW SECTION. **Sec. 28.** The director, in the director's discretion,
15 may:

16 (1) Annually, or more frequently, make public or private
17 investigations within or without this state as the director deems
18 necessary to determine whether a registration should be granted,
19 denied, revoked, or suspended, or whether a person has violated or is
20 about to violate this chapter or a rule adopted or order issued under
21 this chapter, or to aid in the enforcement of this chapter or in the
22 prescribing of rules and forms of this chapter;

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

25 (3) Investigate complaints concerning practices by sellers of
26 travel-related benefits for which registration is required by this
27 chapter.

28 NEW SECTION. **Sec. 29.** For the purpose of an investigation or
29 proceeding under this chapter, the director or any officer designated
30 by the director may administer oaths and affirmations, subpoena
31 witnesses, compel their attendance, take evidence, and require the
32 production of any books, papers, correspondence, memoranda, agreements,
33 or other documents or records which the director deems relevant or
34 material to the inquiry.

35 NEW SECTION. **Sec. 30.** The director or individuals acting on the
36 director's behalf are immune from suit in any action, civil or

1 criminal, based on disciplinary proceedings or other official acts
2 performed in the course of their duties in the administration and
3 enforcement of this chapter.

4 NEW SECTION. **Sec. 31.** If it appears to the director that a person
5 has engaged in an act or practice constituting a violation of this
6 chapter or a rule adopted or order issued under this chapter, the
7 director may, in the director's discretion, issue an order directing
8 the person to cease and desist from continuing the act or practice.
9 Reasonable notice of an opportunity for a hearing shall be given. The
10 director may issue a temporary order pending the hearing, which shall
11 remain in effect until ten days after the hearing is held and which
12 shall become final if the person to whom the notice is addressed does
13 not request a hearing within fifteen days after the receipt of the
14 notice.

15 NEW SECTION. **Sec. 32.** The attorney general, a county prosecuting
16 attorney, the director, or any person may, in accordance with the law
17 of this state governing injunctions, maintain an action in the name of
18 this state to enjoin a person or entity acting as a seller of travel-
19 related benefits for which registration is required by this chapter
20 without registration from engaging in the practice until the required
21 registration is secured. However, the injunction shall not relieve the
22 person or entity acting as a seller of travel-related benefits without
23 registration from criminal prosecution therefor, but the remedy by
24 injunction shall be in addition to any criminal liability.

25 NEW SECTION. **Sec. 33.** A person or business that violates an
26 injunction issued under this chapter shall pay a civil penalty, as
27 determined by the court, of not more than twenty-five thousand dollars,
28 that shall be paid to the department. For the purpose of this section,
29 the superior court issuing an injunction shall retain jurisdiction and
30 the cause shall be continued, and in such cases the attorney general
31 acting in the name of the state may petition for the recovery of civil
32 penalties.

33 NEW SECTION. **Sec. 34.** (1) The director may assess against a
34 person or organization that violates this chapter, or a rule adopted

1 under this chapter, a civil penalty of not more than one thousand
2 dollars for each violation.

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

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

10 (4) If a person fails to pay an assessment after it has become a
11 final and unappealable order, or after the court has entered final
12 judgment in favor of the state, the director may recover the amount
13 assessed by action in the appropriate superior court. In the action,
14 the validity and appropriateness of the final order imposing the
15 penalty shall not be subject to review.

16 NEW SECTION. **Sec. 35.** The director may assess against a person or
17 organization that violates this chapter, or a rule adopted under this
18 chapter, the full amount of restitution as may be necessary to restore
19 to a person an interest in money or property, real or personal, that
20 may have been acquired by means of an act prohibited by or in violation
21 of this chapter.

22 NEW SECTION. **Sec. 36.** In order to maintain or defend a lawsuit,
23 a seller of travel-related benefits must be registered with the
24 department as required by this chapter and rules adopted under this
25 chapter.

26 NEW SECTION. **Sec. 37.** (1) Each person who knowingly violates this
27 chapter or who knowingly gives false or incorrect information to the
28 director, attorney general, or county prosecuting attorney in filing
29 statements required by this chapter, whether or not the statement or
30 report is verified, is guilty of a gross misdemeanor punishable under
31 chapter 9A.20 RCW.

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

1 NEW SECTION. **Sec. 38.** In addition to any other penalties or
2 remedies under chapter 19.86 RCW, a person who is injured by a
3 violation of this chapter may bring an action for recovery of actual
4 damages, including court costs and attorneys' fees. No provision in
5 this chapter shall be construed to limit any right or remedy provided
6 under chapter 19.86 RCW.

7 NEW SECTION. **Sec. 39.** The legislature finds that the practices
8 governed by this chapter are matters vitally affecting the public
9 interest for the purpose of applying the consumer protection act,
10 chapter 19.86 RCW. A violation of this chapter is not reasonable in
11 relation to the development and preservation of business and is an
12 unfair or deceptive act in trade or commerce and an unfair method of
13 competition for the purposes of applying the consumer protection act,
14 chapter 19.86 RCW.

15 NEW SECTION. **Sec. 40.** The administrative procedure act, chapter
16 34.05 RCW, shall, wherever applicable, govern the rights, remedies, and
17 procedures respecting the administration of this chapter.

18 NEW SECTION. **Sec. 41.** All information, documents, and reports
19 filed with the director or the attorney general under this chapter are
20 matters of public record and shall be open to public inspection,
21 subject to reasonable regulation. The director or the attorney general
22 may make public, on a periodic or other basis, the information as may
23 be necessary or appropriate in the public interest concerning the
24 registration, reports, and information filed with the director or the
25 attorney general or any other matters to the administration and
26 enforcement of this chapter.

27 NEW SECTION. **Sec. 42.** If any provision of this chapter or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 43.** The director of licensing may take such
32 steps as are necessary to ensure that this chapter is implemented on
33 the effective date of this section.

1 NEW SECTION. **Sec. 44.** A new section is added to chapter 43.131
2 RCW to read as follows:

3 The seller of travel-related benefits regulatory program shall be
4 terminated June 30, 2002, as provided in section 45 of this act.

5 NEW SECTION. **Sec. 45.** A new section is added to chapter 43.131
6 RCW to read as follows:

7 The following acts or parts of acts, as now existing or hereafter
8 amended, are each repealed, effective June 30, 2003:

- 9 (1) RCW 19.---.--- and section 17 of this act;
- 10 (2) RCW 19.---.--- and section 18 of this act;
- 11 (3) RCW 19.---.--- and section 19 of this act;
- 12 (4) RCW 19.---.--- and section 20 of this act;
- 13 (5) RCW 19.---.--- and section 21 of this act;
- 14 (6) RCW 19.---.--- and section 22 of this act;
- 15 (7) RCW 19.---.--- and section 23 of this act;
- 16 (8) RCW 19.---.--- and section 24 of this act;
- 17 (9) RCW 19.---.--- and section 25 of this act;
- 18 (10) RCW 19.---.--- and section 26 of this act;
- 19 (11) RCW 19.---.--- and section 27 of this act;
- 20 (12) RCW 19.---.--- and section 28 of this act;
- 21 (13) RCW 19.---.--- and section 29 of this act;
- 22 (14) RCW 19.---.--- and section 30 of this act;
- 23 (15) RCW 19.---.--- and section 31 of this act;
- 24 (16) RCW 19.---.--- and section 32 of this act;
- 25 (17) RCW 19.---.--- and section 33 of this act;
- 26 (18) RCW 19.---.--- and section 34 of this act;
- 27 (19) RCW 19.---.--- and section 35 of this act;
- 28 (20) RCW 19.---.--- and section 36 of this act;
- 29 (21) RCW 19.---.--- and section 37 of this act;
- 30 (22) RCW 19.---.--- and section 38 of this act;
- 31 (23) RCW 19.---.--- and section 39 of this act;
- 32 (24) RCW 19.---.--- and section 40 of this act;
- 33 (25) RCW 19.---.--- and section 41 of this act;
- 34 (26) RCW 19.---.--- and section 42 of this act; and
- 35 (27) RCW 19.---.--- and section 43 of this act.

36 NEW SECTION. **Sec. 46.** Sections 17 through 43 of this act
37 constitute a new chapter in Title 19 RCW.

1 NEW SECTION. **Sec. 47.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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