

HOUSE BILL REPORT

E2SHB 2027

As Passed House:

March 6, 1998

Title: An act relating to travel sales.

Brief Description: Regulating travel sales.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Lisk, McMorris, Schoesler, Boldt, Hickel, Honeyford and Zellinsky).

Brief History:

Committee Activity:

Commerce & Labor: 2/26/97, 3/5/97 [DPS];
Appropriations: 3/8/97 [DP2S(w/o sub CL)].

Floor Activity:

Passed House: 3/6/98, 64-34.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Boldt; Clements and Lisk.

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

Staff: Pam Madson (786-7166).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Commerce & Labor. Signed by 20 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; Doumit, Assistant Ranking Minority Member; Benson; Carlson; Cooke; Crouse; Kessler; Lambert; Lisk; Mastin; McMorris; Parlette; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Minority Report: Do not pass. Signed by 10 members: Representatives H. Sommers, Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Chopp; Cody; Grant; Keiser; Kenney; Linville; Poulsen and Regala.

Staff: Jeff Olsen (786-7157).

Background:

Registration of travel sellers.

Beginning in 1996, sellers of travel must register with the Department of Licensing. The registration fee is set by the department and is determined by the cost of monitoring and enforcing the registration program. The registration fee is \$234. Sellers of travel that operate more than one office are issued a duplicate registration for each office and pay a fee of \$25 for each office. Registration is renewed every other year unless the director determines otherwise.

Posting of registration numbers.

Registration numbers must be posted at the travel seller's place of business and in all advertising with limited exception.

Maintaining records verifying availability of advertised travel services.

Sellers of travel must maintain records documenting their verification that any travel services advertised by them were in fact available at the time of the advertisement. These records must be kept for two years after the advertisement.

Criminal history.

The director of the Department of Licensing may deny, suspend or revoke a travel seller's registration if the person has been found guilty within the past five years of a felony involving moral turpitude or a misdemeanor involving fraud or misrepresentation.

Written customer disclosure statement.

A written disclosure statement must be provided to the customer. The statement must include the travel seller's name, address, phone number and registration number; itemized statement of costs and payment; names of all vendors providing travel services and information on travel arrangements; and the rights and obligations of all parties in the event of cancellation of the travel arrangements.

Trust accounts.

A trust account must be maintained by a seller of travel for money paid by the customer for travel services. Money received from a customer must be deposited in this account within five days of its receipt. Money paid by cash or credit card for airline tickets through the Airline Reporting Corporation (ARC) is exempt from this requirement. Only specified seller of travel expenses may be withdrawn from the trust account.

Division of responsibilities between the Attorney General and the Department of Licensing.

The Department of Licensing has primary responsibility for administering the registration program and monitoring compliance with business practices required under the law. These activities include auditing books and records upon complaint from a customer, suspending and revoking registration, issuing cease and desist orders for violations of the sellers of travel law, and imposing administrative penalties. The attorney general investigates consumer complaints against sellers of travel.

Summary of Bill:

Registration of travel sellers.

A separate registration fee must be paid for each office or business location having two or more employees for businesses operating in multiple locations. Registration is renewed annually unless the director of the Department of Licensing determines otherwise.

Posting of registration numbers.

Registration numbers need not be included in institutional advertising which is advertising that does not include prices or dates for travel. For example, registration numbers would not be required in the yellow pages of the telephone book.

Maintaining records verifying availability of advertised travel services.

The amount of time that a seller of travel must keep records verifying that advertised travel services are in fact available when advertised is reduced from two years to one year.

Criminal history.

The director of the Department of Licensing must consider ten years rather than five years of a person's criminal history for felony convictions involving moral turpitude or misdemeanors involving fraud or misrepresentation as part of the registration process.

Written disclosure statement.

Rather than requiring a detailed disclosure statement on the penalties imposed upon cancellation of travel arrangements, the seller of travel has the option to advise the customer that cancellation penalties and penalties for changing arrangements may apply and additional details will be provided upon request.

Trust account.

A trust account is not required for those sellers of travel who file and maintain a surety bond approved by the director of the Department of Licensing in an amount set by the director of not less than \$10,000 nor more than \$50,000 or an alternative form of security approved by the director such as a certificate of deposit or an irrevocable line of credit. A seller of travel who is a member in good standing of a professional association is also exempt from the requirement to maintain a trust account. The association must be approved by the director and must provide for its members a minimum of \$1 million in errors and omissions insurance or a surety bond or its equivalent in the amount of \$250,000.

Division of responsibilities between the Attorney General and the Department of Licensing.

The duties of the Department of Licensing under the sellers of travel law is limited to administering the registration of travel sellers and monitoring the trust account requirement. Authority to inspect and audit books and records in response to a complaint is deleted. The department duties also include providing technical assistance to registered sellers of travel and publishing information concerning violations.

The attorney general is the primary enforcement and investigative agency for the sellers of travel law. The office has the following duties and responsibilities (1) investigate oral or written complaints on practices of sellers of travel; (2) exercise subpoena powers and take evidence; (3) issue cease and desist orders for practices that violate the law; and (4) assess and collect civil penalties.

Requiring use of licensed Washington-based sellers of travel

Travel services purchased by the Department of General Administration for use by state employees or officials must be from a licensed Washington-based seller of travel. Travel services used by Institutions of Higher Education must be purchased from licensed Washington-based sellers of travel except for travel provided by official bowl committees for athletic bowl events. Travel services must be competitively bid and any use of logos, telephone services or facilities offered to a vendor must be offered to all potential bidders.

Sunset of the sellers of travel act.

The sellers of travel act sunsets June 30, 2001.

Appropriation: None.

Fiscal Note: Available.

Effective Date Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: (Commerce & Labor) This bill is a work-in-progress. This legislation is an attempt to work out an arrangement that provides consumer protection but at the same time does not burden small business with unnecessary requirements. Most of the problems in the industry are occurring in the area of sales of travel certificates, travel-related benefits and travel clubs. There is a need to distinguish between those offering a product such as specific travel arrangements for set times and locations and those offering a promise to provide services at some time in the future.

(Appropriations) None.

Testimony Against: (Commerce & Labor) This is not a consumer protection bill. It is a bill biased towards traditional agencies and suppresses competition from new marketing techniques. There are legal multi-level marketing techniques. Pyramid schemes are currently illegal. This bill hurts the independent outside travel agent. This bill changes many things about the sellers of travel law. It establishes a dual enforcement system for the two separate registration programs which is cumbersome. Work should continue on this issue.

(Appropriations) A legislative task force has done a lot of work on this issue over the past year. Although there is still need to work on policy issues that drive costs, the parties are close on issues. This version is still a work in progress. The Office of the Attorney General opposed the provision that transfers to it the authority to regulate sellers of travel. The Office of the Attorney General is not used to writing rules, auditing books, and this type of work, and it would be expensive to implement.

Testified: (Commerce & Labor) (Pro) Joe Daniels, Washington State Coalition of Travel; Kris Erickson, Ed Fleischer; Bob Lovely; Jeff Dickinson. (Con) Alexander Anolik; Ernest Martz; Nolan Bush; Lyle Bullinger; Wade Davis; Charles Brazina; Janese Stokle; Sally Gustafson, Office of the Attorney General; Joanie Ward, Mike Fletcher; Bob Rose; Connie Rose; Joy Kemppainen; Stephen Carpenter; Audi Mathisen; Fred Mendoza; Steve Danishek; and Linda Bremmer, Department of Licensing.

(Appropriations) Sally Gustafson, Office of the Attorney General (con).