

ASSEMBLY, No. 551

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman TURNER

1 AN ACT providing for the regulation of sellers of travel and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. As used in this act:

8 "Director" means the Director of the Division of Consumer Affairs
9 in the Department of Law and Public Safety.

10 "Offer for sale" includes holding out, directly or indirectly, as a
11 principal, as being able, or offering or undertaking by any means or
12 method, to acquire or provide transportation or transportation-related
13 services for a fee, commission or other valuable consideration from
14 any source.

15 "Person" includes an individual, partnership, corporation,
16 joint-venture, organization or association or other legal entity,
17 however organized.

18 "Seller of travel" means any resident or nonresident person who
19 offers for sale directly or indirectly at wholesale or retail,
20 transportation or transportation-related services to persons in this
21 State.

22 "Transportation-related services" includes car rentals, lodging,
23 transfers, sight-seeing tours and all other services which are reasonably
24 related to air, sea, rail, motor coach or other medium of transportation
25 and accommodations, except that transportation-related services shall
26 not include services provided as a benefit of membership to members
27 of an automobile club or other membership organization providing
28 private motor vehicle touring information including, but not limited to,
29 maps and trip routings, information concerning scenic routes or tourist
30 attractions, or any other private motor vehicle touring advice.

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32 2. Every seller of travel doing business in this State shall register
33 with the director on forms the director provides. The registration shall
34 be renewed every two years. The seller of travel shall provide the full
35 name and address of each business location where

1 transportation-related services are sold to residents in the State as well
2 as any other information regarding the ownership and operation of
3 each business location that the director deems appropriate. The
4 registration and renewal fees shall be established or changed by the
5 director and shall be fixed at a level to allow for the proper
6 administration and enforcement of this act, but shall not be fixed at a
7 level that will raise amounts in excess of the amount estimated to be
8 so required.

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10 3. The requirement for obtaining a registration certificate required
11 under section 2 of this act shall not apply to:

12 a. Any common carrier of passengers regulated by an agency of the
13 federal government or employees of a carrier;

14 b. Intrastate common carriers selling transportation only as defined
15 in the applicable State or local registration or certification;

16 c. Hotels, motels, or other places of public accommodation selling
17 public accommodations;

18 d. Persons involved solely in the rental, leasing or sale of
19 transportation vehicles;

20 e. Persons engaged in making travel arrangements for the
21 employees of their own business for which no fee, commission or other
22 valuable consideration is received, directly or indirectly, from the
23 supplier of these travel arrangements;

24 f. Persons involved solely in the rental, leasing or sale of residential
25 property; or

26 g. Publicly held corporations, their subsidiaries and divisions and
27 the employees thereof, the voting stocks of which are traded on a
28 recognized exchange or over the counter.

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30 4. With the application for the registration certificate required by
31 section 2 of this act, a seller of travel shall, for each business location
32 where transportation-related services are sold to residents in the State,
33 maintain a bond issued by a surety authorized to transact business in
34 this State or maintain an irrevocable letter of credit by a bank or
35 maintain with the director securities, moneys or other security
36 acceptable to the director to fulfill the requirements of this section.
37 The principal sum of the bond, letter of credit, or securities, moneys
38 or other security shall be in the amount of \$50,000 for a seller of travel
39 offering for sale interstate or international transportation or
40 transportation-related services. If the seller of travel offers for sale
41 only intrastate transportation or transportation related services, the
42 amount of the bond shall be \$20,000. The bond, letter of credit, or
43 securities, moneys or other security shall be filed or deposited with the
44 director and shall be executed to the State of New Jersey for the use
45 of any person who, after entering into a transportation-related services
46 contract, is damaged or suffers any loss by reason of breach of

1 contract or bankruptcy by the seller. Any person claiming against the
2 bond, letter of credit, or securities, moneys, or other security may
3 maintain an action at law against the seller of travel and the surety,
4 bank or director, as the case may be. The aggregate liability of the
5 surety, bank, or the director to all persons for all breaches of the
6 conditions of the bond, letter of credit, or the securities, moneys or
7 other security held by the director shall not exceed the amount of the
8 bond, letter of credit, or the securities, moneys or other security held
9 by the director.

10 In the case of a bond, the seller of travel shall file a copy of the
11 bond with the director and a certificate by the surety that the surety
12 will notify the director at least 10 days in advance of the date of any
13 cancellation or material change in the bond.

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15 5. a. Every contract for transportation-related services shall be in
16 writing. A copy of the written contract shall be given to the buyer at
17 the time the buyer signs the contract.

18 b. A transportation-related services contract shall specifically set
19 forth in a conspicuous manner on the first page of the contract the
20 buyer's total payment obligation for transportation-related services to
21 be received pursuant to the contract.

22 c. A transportation-related services contract of a seller of travel
23 that maintains a bond, irrevocable letter of credit or securities, moneys
24 or other security pursuant to section 4 of this act shall set forth that a
25 bond, irrevocable letter of credit or securities, moneys or other
26 security is filed or deposited with the Director of the Division of
27 Consumer Affairs to protect buyers of these contracts who are
28 damaged or suffer any loss by reason of breach of contract or
29 bankruptcy by the seller.

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31 6. a. A transportation-related services contract shall not require
32 the execution of any note or series of notes by the buyer which, if
33 separately negotiated, will cut off as to third parties any right of action
34 or defense which the buyer has against the seller of travel.

35 b. A right of action or defense arising out of a
36 transportation-related services contract which the buyer has against
37 the seller of travel shall not be cut off by assignment of the contract
38 whether or not the assignee acquires the contract in good faith and for
39 value.

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41 7. a. Any transportation-related services contract entered into in
42 reliance upon any fraudulent or substantially and willfully false or
43 misleading information, representation, notice or advertisement of the
44 seller of travel is voidable at the option of the buyer of the contract.
45 Any transportation-related services contract which does not comply with
46 the applicable provisions of this act is voidable at the option of the

1 buyer of the contract.

2 b. Any waiver by the buyer of the provisions of this act is void.

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4 8. It is an unlawful practice and a violation of P.L.1960, c.39
5 (C.56:8-1 et seq.) to violate the provisions of this act.

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7 9. The director shall adopt pursuant to the provisions of the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
9 rules and regulations necessary to effectuate the purposes of this act.

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11 10. This act shall take effect on the 120th day after enactment and
12 shall apply to all transportation-related services contracts entered into
13 on or after the effective date of this act.

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STATEMENT

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18 This bill provides for the registration and regulation of sellers of
19 travel (travel agents and tour wholesalers) who offer for sale
20 transportation or transportation-related services to persons in this
21 State. As defined in the bill, "transportation-related services" includes
22 car rentals, lodging, transfers, sight-seeing tours and all other services
23 which are reasonably related to air, sea, rail, motor coach or other
24 medium of transportation and accommodations.

25 Automobile clubs providing motor vehicle touring information are
26 exempt from the bill as well as persons who make travel arrangements
27 for their own employees for no commission. In addition, in most
28 instances, common carriers, hotels, and car rental companies are also
29 exempt, as are publicly held corporations, their subsidiaries and
30 divisions and the employees thereof, the voting stocks of which are
31 traded on a recognized exchange or over the counter.

32 Each seller of travel must register with the Director of the Division
33 of Consumer Affairs. A seller of travel must also meet certain
34 requirements for financial security in order to obtain a registration
35 certificate. Sellers of travel are required to obtain a bond, a letter of
36 credit, or deposit cash or securities for \$50,000 if the seller of travel
37 is offering interstate or international transportation services or for
38 \$20,000 if the seller of travel is offering only intrastate transportation
39 services. These bonds, letters of credit, cash or securities shall be filed
40 or deposited with the director and shall be executed to the State of
41 New Jersey for the use of any person who, after entering into a
42 transportation-related services contract, is damaged or suffers any loss
43 by reason of breach of contract or bankruptcy by the seller.

44 The bill supplements the consumer fraud law, P.L.1960, c.39
45 C.56:8-1 et seq.) and therefore makes violations of its provisions
46 subject to the penalties and the other sanctions provided in that law.

1 A person violating the consumer fraud law is subject to a penalty of
2 not more than \$7,500 for a first offense and not more than \$15,000 for
3 each subsequent offense.

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8 Provides for the registration and regulation of sellers of travel.