

ASSEMBLY, No. 551

STATE OF NEW JERSEY

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  
36 transportation-related services are sold to residents in the State as well  
37 as any other information regarding the ownership and operation of

1 each business location that the director deems appropriate. The  
2 registration and renewal fees shall be established or changed by the  
3 director and shall be fixed at a level to allow for the proper  
4 administration and enforcement of this act, but shall not be fixed at a  
5 level that will raise amounts in excess of the amount estimated to be  
6 so required.

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

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

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

14 c. Hotels, motels, or other places of public accommodation selling  
15 public accommodations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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