

2 **2SHB 2027 - H AMD 236**

3 By Representative McMorris

4

5 Strike everything after the enacting clause and insert the
6 following:

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

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

20 (1) The name and business address and telephone number of the
21 seller of travel.

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

24 (3) The registration number of the seller of travel required by
25 this chapter.

26 (4) The name of the vendor with whom the seller of travel has
27 contracted to provide travel arrangements for a consumer and all
28 pertinent information relating to the travel as known by the seller of
29 travel at the time of booking. The seller of travel will make known
30 further details as soon as received from the vendor. All information
31 will be provided with final documentation.

32 (5) ~~((The conditions, if any, upon which the contract between the~~
33 ~~seller of travel and the passenger may be canceled, and the rights and~~
34 ~~obligations of all parties in the event of cancellation.))~~ An advisory
35 regarding the penalties that would be charged in the event of a
36 cancellation or change by the customer. This may contain either: (a)

1 The specific amount of cancellation and change penalties; or (b) the
2 following statement: "Cancellation and change penalties apply to these
3 arrangements. Details will be provided upon request."

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

6 "If transportation or other services are canceled by the seller of
7 travel, all sums paid to the seller of travel for services not
8 performed in accordance with the contract between the seller of travel
9 and the purchaser will be refunded within thirty days of receiving the
10 funds from the vendor with whom the services were arranged, or if the
11 funds were not sent to the vendor, the funds shall be returned within
12 fourteen days after cancellation by the seller of travel to the
13 purchaser unless the purchaser requests the seller of travel to apply
14 the money to another travel product and/or date."

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

17 No person, firm, or corporation may act or hold itself out as a
18 seller of travel unless, prior to engaging in the business of selling
19 or advertising to sell travel services, the person, firm, or
20 corporation registers with the director under this chapter and rules
21 adopted under this chapter.

22 (1) The registration number must be conspicuously posted in the
23 place of business and must be included in all advertisements. (~~Any~~
24 ~~corporation which issues a class of equity securities registered under~~
25 ~~section 12 of the securities exchange act of 1934, and any subsidiary,~~
26 ~~the majority of voting stock of which is owned by such corporation~~
27 ~~including any wholly owned subsidiary of such corporation are not~~
28 ~~required to include company registration numbers in advertisements.))
29 Sellers of travel are not required to include registration numbers on
30 institutional advertising. For the purposes of this subsection,
31 "institutional advertising" is advertising that does not include prices
32 or dates for travel services.~~

33 (2) The director shall issue duplicate registrations upon payment
34 of a nominal duplicate registration fee to valid registration holders
35 operating more than one office with less than two employees. Separate
36 offices or business locations with two or more employees operated by
37 the same valid registration holder need not be individually registered

1 under this chapter but must pay a fee equal to the base registration
2 fee paid by the registration holder.

3 (3) No registration is assignable or transferable.

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

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

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

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

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

22 An application for registration as a seller of travel shall be
23 submitted in the form prescribed by rule by the director, and shall
24 contain but not be limited to the following:

25 (1) The name, address, and telephone number of the seller of
26 travel;

27 (2) Proof that the seller of travel holds a valid business license
28 in the state of its principal state of business;

29 (3) A registration fee in an amount ~~((determined under RCW~~
30 43.24.086)) not to exceed one hundred dollars;

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

1 (5) The unified business identifier number of independent
2 contractors or outside agents who sell travel and are covered by the
3 seller of travel's registration; and

4 (6) For those sellers of travel required to maintain a trust
5 account under RCW 19.138.140, a report prepared and signed by a bank
6 officer, licensed public accountant, or certified public accountant or
7 other report, approved by the director, that verifies that the seller
8 of travel maintains a trust account at a federally insured financial
9 institution located in Washington state, or other approved account, the
10 location and number of that trust account or other approved account,
11 and verifying that the account ((exists-as)) required by RCW 19.138.140
12 exists. The director, by rule, may permit alternatives to the report
13 that provides for at least the same level of verification.

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

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

19 (2) Renewal of a registration is subject to the same provisions
20 covering issuance, suspension, and revocation of a registration
21 originally issued.

22 (3) The director may refuse to renew a registration for any of the
23 grounds set out under RCW 19.138.130, and where the past conduct of the
24 applicant affords reasonable grounds for belief that the applicant will
25 not carry out the applicant's duties in accordance with law and with
26 integrity and honesty. The director shall promptly notify the
27 applicant in writing by certified mail of its intent to refuse to renew
28 the registration. The registrant may, within twenty-one days after
29 receipt of that notice or intent, request a hearing on the refusal.
30 The director may permit the registrant to honor commitments already
31 made to its customers, but no new commitments may be incurred, unless
32 the director is satisfied that all new commitments are completely
33 bonded or secured to insure that the general public is protected from
34 loss of money paid to the registrant. It is the responsibility of the
35 registrant to contest the decision regarding conditions imposed or
36 registration denied through the process established by the
37 administrative procedure act, chapter 34.05 RCW.

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

3 (1) A seller of travel shall deposit in a trust account maintained
4 in a federally insured financial institution located in Washington
5 state, or other account approved by the director, all sums held for
6 more than five business days that are received from a person or entity,
7 for retail travel services offered by the seller of travel. This
8 subsection does not apply to travel services sold by a seller of
9 travel, when payments for the travel services are made through the
10 airlines reporting corporation (~~either by cash or credit or debit card~~
11 ~~sale~~)).

12 (2) The trust account or other approved account required by this
13 section shall be established and maintained for the benefit of any
14 person or entity paying money to the seller of travel. The seller of
15 travel shall not in any manner encumber the amounts in trust and shall
16 not withdraw money from the account except the following amounts may be
17 withdrawn at any time:

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

20 (b) Refunds as required by this chapter;

21 (c) The amount of the sales commission;

22 (d) Interest earned and credited to the trust account or other
23 approved account;

24 (e) Remaining funds of a purchaser once all travel services have
25 been provided or once tickets or other similar documentation binding
26 upon the ultimate provider of the travel services have been provided;
27 or

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

30 (3) At the time of registration, the seller of travel shall file
31 with the department the account number and the name of the financial
32 institution at which the trust account or other approved account is
33 held as set forth in RCW 19.138.110. The seller of travel shall notify
34 the department of any change in the account number or location within
35 one business day of the change.

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

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

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

5 (b) The seller of travel does not deposit, negotiate, or factor the
6 credit card charge or otherwise seek to obtain payment of the credit
7 card charge to any account over which the seller of travel has any
8 control; and

9 (c) If the charge includes transportation, the carrier that is to
10 provide the transportation processes the credit card charge, or if the
11 charge is only for services, the provider of services processes the
12 credit card charges.

13 (6) The seller of travel need not maintain a trust account nor
14 comply with the trust account provisions of this section if the seller
15 of travel requests, in writing, and is granted an exception by the
16 director from the trust account requirement, and:

17 (a)(i) Files and maintains a surety bond approved by the director
18 in an amount of not less than ten thousand nor more than fifty thousand
19 dollars, as determined by the director based on the volume of business
20 conducted by the seller of travel during the prior year. The bond
21 shall be executed by the applicant as obligor and by a surety company
22 authorized to do business in this state.

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

27 (iii) The bond must be conditioned that the seller of travel will
28 faithfully conform to and abide by this chapter and all rules adopted
29 under this chapter, and shall reimburse all persons who suffer loss by
30 reason of a violation of this chapter or a rule adopted under this
31 chapter.

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

36 (v) In lieu of a surety bond, the applicant may, upon approval by
37 the director, file with the director a certificate of deposit, an
38 irrevocable letter of credit, or such other instrument as is approved

1 by the director by rule, drawn in favor of the director for an amount
2 equal to the required bond.

3 (vi) A person injured by a violation of this chapter may bring an
4 action against the surety bond or approved alternative of the seller of
5 travel who committed the violation or who employed the seller of travel
6 who committed the violation; or

7 (b) Is a member in good standing in a professional association,
8 such as the United States tour operators association or national tour
9 association, that is approved by the director and provides a surety
10 bond or equivalent protection in an amount of at least two hundred
11 fifty thousand dollars for its member companies that runs to the
12 benefit of the consumer.

13 (7) If the seller of travel maintains its principal place of
14 business in another state and maintains a trust account or other
15 approved account in that state consistent with the requirement of this
16 section, and if that seller of travel has transacted business within
17 the state of Washington in an amount exceeding five million dollars for
18 the preceding year, the out-of-state trust account or other approved
19 account may be substituted for the in-state account required under this
20 section.

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

23 The director has the following powers and duties:

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

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

28 (3) To suspend or revoke a registration for a violation of this
29 chapter;

30 (4) To establish fees not exceeding one hundred dollars;

31 (5) Upon receipt of a complaint, to inspect and audit the books and
32 records of a seller of travel. The seller of travel shall immediately
33 make available to the director those books and records as may be
34 requested at the seller of travel's place of business or at a location
35 designated by the director. For that purpose, the director shall have
36 full and free access to the office and places of business of the seller
37 of travel during regular business hours; and

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

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

5 The director, in the director's discretion, may:

6 (1) (~~Annually, or more frequently,~~) Upon receipt of a complaint
7 make public or private investigations within or without this state as
8 the director deems necessary to determine whether a registration should
9 be granted, denied, revoked, or suspended, or whether a person has
10 violated or is about to violate this chapter or a rule adopted or order
11 issued under this chapter, or to aid in the enforcement of this chapter
12 or in the prescribing of rules and forms of this chapter;

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

15 (3) Investigate complaints concerning practices by sellers of
16 travel for which registration is required by this chapter.

17 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.131 RCW
18 to read as follows:

19 The sellers of travel regulatory program shall be terminated June
20 30, 2001, as provided in section 9 of this act.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.131 RCW
22 to read as follows:

23 The following acts or parts of acts, as now existing or hereafter
24 amended, are each repealed, effective June 30, 2002:

25 (1) RCW 19.138.010 and 1994 c 237 s 1 & 1986 c 283 s 1;

26 (2) RCW 19.138.021 and 1996 c 180 s 1 & 1994 c 237 s 2;

27 (3) RCW 19.138.030 and 1996 c 180 s 2, 1994 c 237 s 10, & 1986 c
28 283 s 3;

29 (4) RCW 19.138.040 and 1997 c . . . s 1 (section 1 of this act),
30 1996 c 180 s 3, 1994 c 237 s 11, & 1986 c 283 s 4;

31 (5) RCW 19.138.050 and 1994 c 237 s 12 & 1986 c 283 s 5;

32 (6) RCW 19.138.090 and 1986 c 283 s 9;

33 (7) RCW 19.138.100 and 1997 c . . . s 2 (section 2 of this act),
34 1996 c 180 s 4, & 1994 c 237 s 3;

35 (8) RCW 19.138.110 and 1997 c . . . s 3 (section 3 of this act),
36 1996 c 180 s 5, & 1994 c 237 s 4;

- 1 (9) RCW 19.138.120 and 1997 c . . . s 4 (section 4 of this act) &
2 1994 c 237 s 5;
- 3 (10) RCW 19.138.130 and 1996 c 180 s 6 & 1994 c 237 s 6;
- 4 (11) RCW 19.138.140 and 1997 c . . . s 5 (section 5 of this act),
5 1996 c 180 s 7, & 1994 c 237 s 8;
- 6 (12) RCW 19.138.150 and 1994 c 237 s 9;
- 7 (13) RCW 19.138.160 and 1994 c 237 s 14;
- 8 (14) RCW 19.138.170 and 1997 c . . . s 6 (section 6 of this act) &
9 1994 c 237 s 13;
- 10 (15) RCW 19.138.1701 and 1994 c 237 s 30;
- 11 (16) RCW 19.138.180 and 1994 c 237 s 15;
- 12 (17) RCW 19.138.190 and 1994 c 237 s 16;
- 13 (18) RCW 19.138.200 and 1994 c 237 s 20;
- 14 (19) RCW 19.138.210 and 1994 c 237 s 17;
- 15 (20) RCW 19.138.220 and 1994 c 237 s 18;
- 16 (21) RCW 19.138.230 and 1994 c 237 s 19;
- 17 (22) RCW 19.138.240 and 1994 c 237 s 21;
- 18 (23) RCW 19.138.250 and 1994 c 237 s 22;
- 19 (24) RCW 19.138.260 and 1994 c 237 s 23;
- 20 (25) RCW 19.138.270 and 1994 c 237 s 24;
- 21 (26) RCW 19.138.280 and 1994 c 237 s 28;
- 22 (27) RCW 19.138.290 and 1994 c 237 s 27;
- 23 (28) RCW 19.138.300 and 1994 c 237 s 25;
- 24 (29) RCW 19.138.310 and 1994 c 237 s 26;
- 25 (30) RCW 19.138.900 and 1986 c 283 s 11;
- 26 (31) RCW 19.138.901 and 1986 c 283 s 12;
- 27 (32) RCW 19.138.902 and 1994 c 237 s 32;
- 28 (33) RCW 19.138.903 and 1994 c 237 s 33; and
- 29 (34) RCW 19.138.904 and 1994 c 237 s 35.

30 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
31 this act, referencing this act by bill or chapter number, is not
32 provided by June 30, 1997, in the omnibus appropriations act, this act
33 is null and void.

34 NEW SECTION. **Sec. 11.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the
36 remainder of the act or the application of the provision to other
37 persons or circumstances is not affected."

1 Correct the title accordingly.

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