

SENATE BILL REPORT

ESHB 2090

As Reported By Senate Committee On:
Commerce, Trade, Housing & Financial Institutions, April 1, 1999

Title: An act relating to sellers of travel.

Brief Description: Modifying and sunseting provisions related to sellers of travel.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Clements, Lisk, Reardon, Cooper, McMorris, Talcott, B. Chandler and Gombosky).

Brief History:

Committee Activity: Commerce, Trade, Housing & Financial Institutions: 3/30/99, 4/1/99 [DPA].

SENATE COMMITTEE ON COMMERCE, TRADE, HOUSING & FINANCIAL INSTITUTIONS

Majority Report: Do pass as amended.

Signed by Senators Shin, Vice Chair; Deccio, Gardner, Hale, Heavey, Rasmussen, T. Sheldon, West and Winsley.

Staff: Susan Jones (786-7784)

Background: The Department of Licensing (DOL) administers the sellers of travel registration program. The statute requires that registration be renewed every other year, although in practice registration is renewed every year. The current registration fee is \$234. Sellers of travel with more than one office may be issued duplicate registration for each office for a fee of \$25 per office.

Registration numbers must be posted at the travel seller's place of business and in all advertising with limited exceptions. Sellers of travel must maintain records for two years documenting that any advertised travel services were available at the time of the advertisement. Before a customer pays for travel services, a written disclosure statement must be given with certain information, including the rights and obligations of all parties in the event of cancellation of the travel arrangements.

DOL may deny, suspend or revoke a registration if the person has been found guilty of a felony involving moral turpitude or a misdemeanor involving fraud or misrepresentation within the past five years. Upon receiving a complaint against a seller of travel, the department may immediately inspect and audit the books and records of the seller of travel.

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, excluding payments made by cash or credit card for airline tickets

through the Airline Reporting Corporation. Only specified expenses may be withdrawn from the trust account.

Summary of Amended Bill: A seller of travel registration is renewed annually. DOL issues duplicate registration for sellers of travel with multiple offices upon payment of a fee for each duplicate registration at the same amount as the original registration.

Registration numbers need not be included in institutional advertising, which is advertising that does not include prices or dates for travel. Sellers of travel must maintain records for one year documenting that any advertised travel services were available at the time of the advertisement. When a customer pays for travel services, a written disclosure statement must be given with certain information, including an advisory regarding the penalties for cancellation or change by the customer. The advisory may contain either the specific amount of penalties or the statement: "Cancellation and change penalties apply to these arrangements. Details will be provided upon request."

DOL may deny, suspend or revoke a registration if the person has been found guilty of a felony involving moral turpitude or a misdemeanor involving fraud or misrepresentation within the past ten years. DOL must audit a seller of travel when ten or more complaints have been received by either DOL or the Attorney General.

Sellers of travel may deposit non-customer funds into a trust account to cover payments made by the customer that are subsequently dishonored leaving insufficient funds in the trust account. A trust account is not required for those sellers of travel who file and maintain a surety bond approved by the director in an amount set by the director of not less than \$10,000 and not 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. The director of the Department of Licensing must make rules regarding the amount of the surety bond based on the gross income of the business. A customer of a travel seller may file an action against the surety in superior, district or small claims court as appropriate and may file a civil action against the surety no later than one year following the violation of the chapter or rule or after the travel is completed.

A seller of travel is also exempt from the requirement to maintain a trust account if it is a member in good standing of a professional association that is approved by the director and that provides or require its members to provide a minimum of \$1 million in errors and omissions insurance and provides a surety bond or the equivalent in the amount of \$250,000.

Amended Bill Compared to Substitute Bill: The director of the Department of Licensing must make rules regarding the amount of the surety bond based on the gross income of the business. A customer of a travel seller may file an action against the surety in superior, district or small claims court as appropriate and may file a civil action against the surety no later than one year following the violation of the chapter or rule or after the travel is completed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill comes after many years of work by the Attorney General's Office, Department of Licensing and the travel agents. This bill is helpful to travel sellers and makes it easier for travel sellers to comply with the law. This bill allows smaller travel sellers to share more equitably in the costs of the regulatory program.

Testimony Against: None.

Testified: PRO: Representative Clements, prime sponsor; Sally Gustafson, Attorney General's Office (Consumer Division); Jerry Farley, Washington State Coalition on Travel.