

HOUSE BILL REPORT

SB 6731

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to prohibiting sellers of travel from promoting travel for sex tourism.

Brief Description: Prohibiting sellers of travel from promoting travel for sex tourism.

Sponsors: Senators Fraser, Kohl-Welles, Deccio, Fairley, Mulliken, Prentice, Roach, Honeyford, McAuliffe, Keiser, Regala, Delvin, Franklin, Shin, Sheldon, Berkey, Rasmussen, Haugen, Thibaudeau, Kline and Parlette.

Brief History:

Committee Activity:

Commerce & Labor: 2/22/06, 2/23/06 [DPA].

Brief Summary of Bill
(As Amended by House Committee)

- Makes it a crime to knowingly promote travel for prostitution.
- Prohibits sellers of travel from engaging in activities related to the promotion of sex tourism.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse, Hudgins, Kenney and McCoy.

Staff: Elisabeth Frost (786-5793) and Chris Cordes (786-7103).

Background:

Sex Tourism

The New Oxford Dictionary defines "sex tourism" as "the organization of holidays with the purpose of taking advantage of the lack of restrictions imposed on sexual activity and prostitution in some foreign countries."

Since 1994 it has been a federal crime for a United States citizen or permanent resident to engage in sexual conduct in a foreign locale with a person under 18 years of age. A person guilty of such behavior is subject to not more than 30 years imprisonment, a fine, or both. Any

person who facilitates the travel of a person knowing that they are traveling for the purpose of engaging in such conduct may also be subject to the same criminal penalties. In addition, it is a federal crime to travel in interstate commerce for the purpose of engaging in an illegal sexual act with a person under 18 years of age.

In 1996, Business Week reported that more than 25 companies based in this country were in the business of "sex tourism," offering travel packages that included prostitution services abroad.

Federal law does not specifically address travel for the purpose of engaging in prostitution with a person 18 years of age or older.

Prostitution under Washington Law

The following activities related to prostitution are classified as misdemeanors in Washington:

- *A person is guilty of prostitution* if he or she engages in or agrees or offers to engage in sexual conduct with another person in return for a fee.
- *A person is guilty of promoting prostitution* if he or she engages in any conduct designed to institute, aid, or facilitate an act or enterprise of prostitution.
- *A person is guilty of patronizing a prostitute* if he or she pays or agrees to pay a fee to another person for the purpose of engaging in sexual conduct.

When a person knowingly profits from or advances prostitution, he or she commits *promoting prostitution in the second degree*, a level III class C felony. When a person knowingly advances prostitution with threat or force, or advances or profits from prostitution of a person less than 18 years old, he or she commits *promoting prostitution in the first degree*, a level VIII class B felony.

State Regulation of Travel Services and Sellers of Travel

Washington law defines "travel services" as including transportation by air, sea, or ground, and hotel or any lodging accommodation, package tours, or vouchers or coupons to be redeemed for future travel or accommodations for a fee, commission, or other valuable consideration.

The Department of Licensing (DOL) regulates the business of selling travel services. A "seller of travel" is a person, firm, or corporation who transacts business with Washington consumers and whose principal duties include consulting with and advising persons concerning travel arrangements or accommodations. A "seller of travel" does not include transportation companies (including air, motor, and rail carriers) or hotels or other lodging accommodations.

The Director of the DOL may take disciplinary action against a seller of travel licensee or applicant, if the person has violated a provision of the sellers of licensing statute, or committed any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession or operation of their business, whether the act constitutes a crime or not.

Summary of Amended Bill:

A new crime of "promoting travel for prostitution" is created. A person commits the offense of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be patronizing a prostitute or promoting prostitution, if occurring in this state. Violation of this provision is an unranked class C felony, carrying a presumptive sentence under the Sentencing Reform Act of up to 12 months in jail, a fine of up to \$10,000, or both.

The sellers of travel licensing law is amended to add prohibitions related to sex tourism. Sellers of travel are forbidden from promoting travel for prostitution, or selling, advertising, or otherwise offering to sell travel services or facilitate travel:

- for the purposes of engaging in a commercial sex act;
- that offers sexual acts as enticement for tourism; or
- that provides, purports to provide access to, or facilitates the availability of sex escorts or sexual services.

A "sexual act" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party. A "commercial sexual act" means any sexual act for which anything of value is given to or received by any person.

Amended Bill Compared to Original Bill:

The amendment clarifies that the behavior proscribed by the crime of "promoting travel for prostitution" is the facilitation of travel for the purpose of engaging in what would be patronizing a prostitute or promoting prostitution, if occurring in this state. A typographical error is corrected.

Appropriation: None.**Fiscal Note:** Not requested.**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Slavery in many forms is still going on around the world. Eighty percent of the people caught up in sex slavery are women and girls. It is brutal, vicious, horrific, dehumanizing and life-threatening. The bill deals with official sales of travel, so it would mainly apply to sales of travel for outside the country. The U.S. has the best laws in the world to try to curtail this scourge. The bill is patterned after similar legislation in Hawaii to allow the state to take a small step toward reducing demand. At least it says that this service cannot be sold or advertized in this state. It is not known if this goes on in Washington, but there have been arrests for trafficking of women and girls in the Seattle-Portland corridor.

Questions of whether this bill would reach Internet sales to people in Washington state should

not keep the Legislature from passing this bill. In 2001 and 2002, Washington became the country's leader in enacting anti-sexual trafficking laws and for providing protection for mail-order brides. This state has also developed model protocols for providing services to victims of sexual trafficking. There is a direct parallel and link to this legislation and issues of trafficking and mail order brides - there are often links between mail order bride Internet sites and pornography and sex tourism sites. This state is equidistance from Europe and Asia. For the most part this legislation would be preventive, but the market for recruiting men to go abroad for this kind of activity is expanding.

The Department of Licensing (DOL) does not have jurisdiction over the creation of the new felony for promoting travel for prostitution. The bill includes promoting travel to a state such as Nevada, where prostitution is legal. The DOL would become involved when a licensed seller of travel puts together a travel package to other jurisdictions outside of this state for the purpose of prostitution. The DOL's recourse would come from the seller of travel law and from the Uniform Regulation of Business and Professions Act, which would give DOL the authority to suspend, revoke or fine the licensed seller of travel. The DOL could also refer that person to the county prosecutor's office for potential prosecution. Washington does not have reciprocity agreements with other states regarding the licensing of sellers of travel. The DOL only has jurisdiction over licensees within this state. If a seller of travel from another jurisdiction was selling packages on the Internet, the only way that the DOL would be able to reach them is through unlicensed activity within the State of Washington. The law on Internet activity is not well established, so it is unclear whether those kinds of Internet sales would be reached.

Testimony Against: None.

Persons Testifying: Senator Fraser, prime sponsor; Senator Kohl-Welles; and Jana Jones and Trudie Touchette, Department of Licensing.

Persons Signed In To Testify But Not Testifying: None.