S T A T E O F N E W Y O R K

7944

I N S E N A T E

May 25, 2010

Introduced by Sen. PERALTA -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law and the economic development law, in relation to requiring travel consultants and travel promoters located or doing business in this state to be registered with the department of state; and to repeal article 10-A of the general business law relating to the truth in travel act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Article 10-A of the general business law is REPEALED and a new article 10-A is added to read as follows:

ARTICLE 10-A

TRAVEL AGENTS

SECTION 155. LEGISLATIVE INTENT.
155-A. DEFINITIONS.
156. DOING BUSINESS WITHOUT REGISTRATION PROHIBITED.
156-A. APPLICATION FOR REGISTRATION.
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157-B. PROHIBITED PRACTICES BY TRAVEL PROMOTERS.
158. VIOLATIONS AND PENALTIES.
159. SEVERABILITY.

S 155. LEGISLATIVE INTENT. IT IS HEREBY DETERMINED AND DECLARED THAT THE PROMOTION OF TRAVEL, EITHER INDIVIDUALLY OR AS A GROUP, IS NOW OF SUCH VOLUME THAT IT IS IN THE PUBLIC INTEREST TO SUBJECT IT TO THE REGISTRATION BY AND THE SUPERVISION OF THE DEPARTMENT OF THE STATE FOR THE PURPOSE OF SAFEGUARDING THE PUBLIC AGAINST FRAUD, FALSE ADVERTISING, MISREPRESENTATION AND SIMILAR ABUSES.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 155-A. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "APPLICANT" MEANS A TRAVEL AGENT WHO HAS FILED AN APPLICATION WITH THE DEPARTMENT FOR A REGISTRATION.

2. "DEPARTMENT" MEANS THE DEPARTMENT OF STATE.

3. "DIVISION" MEANS THE DIVISION OF CRIMINAL JUSTICE SERVICES.

4. "MERCHANT ACCOUNT NUMBER" MEANS AN IDENTIFYING NUMBER GIVEN BY A CREDIT CARD ISSUER TO A MERCHANT FOR PURPOSES OF IDENTIFYING THE MERCHANT IN THE PROCESSING OF CREDIT CARD CHARGES AND PURCHASES.

5. "PRINCIPAL OWNER" MEANS ANY PERSON CONTROLLING AN INTEREST GREATER THAN TEN PERCENT IN A BUSINESS PROVIDING TRAVEL SERVICES, OR ANY PERSON WITH A CONTROLLING INTEREST IN A COMPANY THAT HAS A CONTROLLING INTEREST IN A BUSINESS PROVIDING TRAVEL SERVICES.

6. "REGISTRANT" MEANS A TRAVEL AGENT THAT HAS BEEN ISSUED A REGISTRATION IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

7. "SECRETARY" MEANS THE SECRETARY OF STATE.

8. "TIME SHARE" MEANS AN INTEREST IN ANY ARRANGEMENT, PLAN, SCHEME, OR SIMILAR DEVICE, WHETHER BY MEMBERSHIP, AGREEMENT, TENANCY IN COMMON, SALE, LEASE, DEED, RENTAL AGREEMENT, LICENSE, OR RIGHT-TO-USE AGREEMENT OR BY ANY OTHER MEANS, WHEREBY THREE OR MORE PURCHASERS, IN EXCHANGE FOR CONSIDERATION, RECEIVE OWNERSHIP RIGHTS IN OR A RIGHT TO USE THE SAME ACCOMMODATIONS OR FACILITIES IN REAL PROPERTY, OR BOTH, FOR DIFFERENT INTERVALS OF LESS THAN A FULL YEAR DURING ANY GIVEN YEAR, BUT NOT NECESSARILY FOR CONSECUTIVE YEARS, AND WHICH EXTEND FOR A PERIOD OF MORE THAN THREE YEARS OR WHICH, FOR NOMINAL CONSIDERATION, MAY BE RENEWED TO CONTINUE FOR A PERIOD OF MORE THAN THREE YEARS.

9. "TRAVEL AGENT" MEANS ANY TRAVEL PROMOTER OR TRAVEL CONSULTANT HAVING A PLACE OF BUSINESS IN THIS STATE OR OFFERING TRAVEL SERVICES TO ANY PERSON IN THIS STATE.

10. "TRAVEL CONSULTANT" MEANS ANY PERSON, FIRM, LIMITED LIABILITY COMPANY, CORPORATION, PARTNERSHIP OR ASSOCIATION, OTHER THAN A COMMON CARRIER OR EMPLOYEE OF A COMMON CARRIER, WHO AS PRINCIPAL OR AGENT, SELLS OR OFFERS FOR SALE ANY TRAVEL TICKETS OR ORDERS FOR TRANSPORTATION, OR NEGOTIATES FOR OR HOLDS HIMSELF OR HERSELF OUT BY SOLICITATION, ADVERTISEMENT OR OTHERWISE AS ONE WHO SELLS, PROVIDES, FURNISHES CONTRACTS OR ARRANGES FOR SUCH TRAVEL TICKETS OR ORDERS FOR TRANSPORTATION.

FOR THE PURPOSES OF THIS ARTICLE, "CARRIER" MEANS ANY PERSON, FIRM, LIMITED LIABILITY COMPANY, CORPORATION, PARTNERSHIP OR ASSOCIATION ENGAGED IN THE BUSINESS OF TRANSPORTING PERSONS FOR HIRE.

11. "TRAVEL PROMOTER" MEANS ANY PERSON, FIRM, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP OR ASSOCIATION, OTHER THAN A COMMON CARRIER OR EMPLOYEE OF A COMMON CARRIER, WHO IS PRIMARILY ENGAGED IN THE DIRECT SOLICITATION OF PERSONS, BY MAIL OR TELEPHONE, FOR THE SALE OF ANY TRAVEL OR VACATION INVESTMENTS, GOODS, PRODUCTS OR SERVICES, INCLUDING, BUT NOT LIMITED TO TRAVEL OR TOUR BENEFITS, REAL PROPERTY, INTERESTS IN REAL PROPERTY, TIME SHARES, LODGING, COMMODITIES OR SECURITIES. FOR PURPOSES OF THIS ARTICLE, A "TRAVEL PROMOTER" DOES NOT INCLUDE:

A. A PERSON, FIRM, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP OR ASSOCIATION THAT IS AN OFFICIALLY APPOINTED AGENT OF A COMMON CARRIER AND MEETS STANDARDS NO LESS THAN THOSE REQUIRED ON JANUARY FIRST, NINETEEN HUNDRED EIGHTY-NINE, FOR AUTHORIZED AGENTS OF THE AIRLINE REPORTING CORPORATION;

B. A PERSON, FIRM, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP OR ASSOCIATION THAT IS A REGISTERED MEMBER IN GOOD STANDING OF THE CRUISE LINES INTERNATIONAL ASSOCIATION AND WHO SOLELY SOLICITS AND/OR SELLS TRAVEL SERVICES AND PRODUCTS AS AN OFFICIALLY APPOINTED AGENT OF

ONE OR MORE OCEAN CARRIERS IN THE SALE OF THE OCEAN CARRIER'S TRAVEL SERVICES PURSUANT TO THE AGENCY APPOINTMENT; OR

C. A BROKER-DEALER REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE DEPARTMENT OF LAW WHO IS ENGAGED IN THE SALE OF SECURITIES OR COMMODITIES OR SALE OR RENTAL OF REAL ESTATE PURSUANT TO ITS REGISTRATION.

12. "TRAVEL SERVICES" MEANS TRANSPORTATION, ACCOMMODATIONS IN LODGINGS SUCH AS HOTELS, MOTELS OR MOTOR COURTS, RENTAL OF MOTOR VEHICLES, OR ANY OTHER SERVICE RELATED TO TRAVEL. FOR PURPOSES OF THIS ARTICLE, "TRAVEL SERVICES" SHALL INCLUDE INVESTMENTS IN TIME SHARES.

S 156. DOING BUSINESS WITHOUT REGISTRATION PROHIBITED. NO TRAVEL AGENT SHALL OPERATE OR DO BUSINESS IN THIS STATE EXCEPT AS AUTHORIZED BY THIS ARTICLE AND WITHOUT FIRST BEING REGISTERED BY THE DEPARTMENT.

S 156-A. APPLICATION FOR REGISTRATION. 1. APPLICATION FOR A REGISTRATION REQUIRED UNDER THIS ARTICLE SHALL BE IN WRITING, UNDER OATH, AND IN THE FORM PRESCRIBED BY THE SECRETARY, AND SHALL CONTAIN THE FOLLOWING:

A. THE EXACT NAME AND THE ADDRESS OF THE APPLICANT;

B. THE NAME AND THE BUSINESS AND RESIDENTIAL ADDRESS OF EACH PRINCIPAL AND OFFICER OF THE APPLICANT;

C. THE COMPLETE ADDRESS WHERE THE BUSINESS OF THE APPLICANT IS TO BE CONDUCTED, SHOWING THE STREET AND NUMBER, IF ANY, POST OFFICE AND BUILDING AND ROOM NUMBER, IF ANY, THE OFFICE BUILDING AND ROOM NUMBER, IF ANY, AND THE MUNICIPALITY AND COUNTY;

D. IF THE APPLICANT HAS ONE OR MORE BRANCHES, SUBSIDIARIES OR AFFILIATES OPERATING IN THE STATE, THE COMPLETE ADDRESS OF EACH SUCH PLACE OF BUSINESS; AND

E. A COMPLETE SET OF TWO FINGERPRINT CARDS ON A STANDARD FINGERPRINT CARD APPROVED BY THE DIVISION AND A FEE PURSUANT TO SUBDIVISION EIGHT-A OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW, AND AMENDMENTS THERETO, FOR THE COST OF THE DIVISION'S FULL SEARCH AND RETAIN PROCEDURES, WHICH FEE SHALL BE REMITTED BY THE DEPARTMENT TO THE DIVISION FOR DEPOSIT BY THE COMPTROLLER INTO THE GENERAL FUND. BEFORE APPROVING SUCH APPLICATION THE SECRETARY, OR HIS OR HER DESIGNEE, SHALL FORWARD ONE COPY OF SUCH FINGERPRINT CARD AND THE PROCESSING FEE TO THE DIVISION UPON RECEIPT OF SUCH FINGERPRINTS. THE DIVISION SHALL FORWARD TO THE SECRETARY A REPORT WITH RESPECT TO THE APPLICANT'S PREVIOUS CRIMINAL HISTORY, IF ANY, OR A STATEMENT THAT THE APPLICANT HAS NO PREVIOUS CRIMINAL HISTORY ACCORDING TO ITS FILES. IF ADDITIONAL COPIES OF FINGERPRINTS ARE REQUIRED THE APPLICANT SHALL FURNISH THEM UPON REQUEST.

2. UPON ORIGINAL APPLICATION FOR A REGISTRATION TO OPERATE AS A TRAVEL AGENT, THE APPLICANT SHALL PAY AN APPLICATION FEE OF ONE HUNDRED DOLLARS. UPON APPLICATION FOR AN ANNUAL RENEWAL, THE REGISTRANT SHALL PAY A RENEWAL PROCESSING FEE OF ONE HUNDRED DOLLARS.

S 156-B. CONDITIONS PRECEDENT TO REGISTRATION. UPON FILING OF AN APPLICATION FOR A REGISTRATION, IF THE SECRETARY SHALL BE SATISFIED OF THE GOOD CHARACTER, COMPETENCY AND INTEGRITY OF THE APPLICANT, AND OF THE PRINCIPALS AND OFFICERS THEREOF ARE SUCH AS TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE, HE OR SHE SHALL THEREUPON ISSUE A REGISTRATION IN DUPLICATE TO OPERATE AS A TRAVEL AGENT IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE. THE SECRETARY SHALL TRANSMIT ONE COPY OF SUCH REGISTRATION TO THE REGISTRANT AND FILE ANOTHER IN THE OFFICE OF THE DEPARTMENT. SUCH REGISTRATION SHALL REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF ONE YEAR UNLESS IT IS SURRENDERED BY THE REGISTRANT OR REVOKED OR SUSPENDED AS PROVIDED IN THIS ARTICLE; IF THE SECRETARY SHALL NOT SO FIND, THE SECRETARY SHALL NOT ISSUE SUCH REGISTRATION AND THE SECRETARY SHALL NOTIFY THE APPLICANT OF THE DENIAL IN WRITING. THE

SECRETARY SHALL APPROVE OR DENY EVERY APPLICATION FOR REGISTRATION WITHIN NINETY DAYS FROM THE FILING THEREOF.

S 156-C. REGISTRATION. 1. EACH REGISTRATION ISSUED PURSUANT TO THIS ARTICLE SHALL STATE THE ADDRESS OR ADDRESSES AT WHICH THE BUSINESS IS TO BE CONDUCTED, STATE FULLY THE NAME OF THE REGISTRANT, THE EXPIRATION DATE OF THE REGISTRATION AND THE UNIQUE REGISTRATION NUMBER ASSIGNED TO THE REGISTRANT. A COPY OF SUCH REGISTRATION SHALL BE PROMINENTLY POSTED IN EACH PLACE OF BUSINESS OF THE REGISTRANT. SUCH REGISTRATION SHALL NOT BE TRANSFERABLE OR ASSIGNABLE.

2. EVERY REGISTRANT SHALL INCLUDE IN EVERY COMMUNICATION, ADVERTISEMENT AND CONTRACT OFFERED OR PROVIDED IN THE COURSE OF PROVIDING OR OFFERING TRAVEL SERVICE, A NOTICE THAT HE, SHE OR IT IS REGISTERED PURSUANT TO THIS ARTICLE AND THE NUMBER OF SUCH REGISTRATION. THE FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SUBDIVISION SHALL RESULT IN MAKING THE PROVISIONS OF ANY CONTRACT AFFECTED THEREBY VOIDABLE, AT THE OPTION OF THE CONSUMER.

3. IN THE EVENT THE LOCATION AT WHICH THE BUSINESS IS TO BE CONDUCTED SHALL BE CHANGED, THE REGISTRANT SHALL FORTHWITH NOTIFY THE SECRETARY IN WRITING, WHO SHALL THEREUPON, WITHOUT CHARGE ATTACH TO THE REGISTRATION A RIDER SETTING FORTH SUCH CHANGED LOCATION.

4. IN THE EVENT THAT THERE SHALL BE ANY CHANGE IN THE REGISTRANT'S INFORMATION, THE REGISTRANT SHALL NOTIFY THE SECRETARY IN WRITING WITHIN TEN BUSINESS DAYS IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH E OF SUBDIVISION ONE OF SECTION ONE HUNDRED FIFTY-SIX-A OF THIS ARTICLE.

5. A REGISTRATION GRANTED UNDER THE PROVISIONS OF THIS ARTICLE MAY BE REVIEWED BY THE DEPARTMENT UPON APPLICATION THEREFOR BY THE REGISTRANT, IN SUCH FORM AS THE DEPARTMENT MAY PRESCRIBE, ACCOMPANIED BY THE NON-REFUNDABLE RENEWAL PROCESSING FEE PURSUANT TO SUBDIVISION TWO OF SECTION ONE HUNDRED FIFTY-SIX-A OF THIS ARTICLE. IN NO EVENT WILL RENEWAL BE GRANTED MORE THAN SIX MONTHS AFTER THE DATE OF EXPIRATION OF A REGISTRATION. NO REGISTRANT SHALL CARRY ON ANY BUSINESS SUBJECT TO THIS ARTICLE DURING ANY PERIOD WHICH MAY EXIST BETWEEN THE DATE OF EXPIRATION OF A REGISTRATION AND THE RENEWAL THEREOF.

6. THE DEPARTMENT SHALL POST AND MAKE AVAILABLE TO THE PUBLIC ON ITS INTERNET WEBSITE A SEARCHABLE LISTING OF ALL TRAVEL AGENTS REGISTERED PURSUANT TO THIS ARTICLE AND THEIR CORRESPONDING REGISTRATION NUMBERS. SUCH LISTING SHALL BE IN BOTH ALPHABETICAL ORDER AND BY COUNTY. THE PUBLIC SHALL BE ABLE TO SEARCH THE LISTING BY REGISTRANT, COUNTY, ZIP CODE OR TRAVEL AGENT REGISTRATION NUMBER. ALSO, THE DEPARTMENT SHALL PROVIDE A REAL TIME UPDATE OF SUCH INFORMATION TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT FOR CONSPICUOUS INCLUSION ON THE STATE MARKETING INTERNET WEBSITE PURSUANT TO SECTION ONE HUNDRED FIFTY-FOUR OF THE ECONOMIC DEVELOPMENT LAW AND FOR DISSEMINATION, UPON REQUEST, AT STATE TOURISM FACILITIES OPERATED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT.

S 156-D. GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION. 1. THE SECRETARY SHALL HAVE THE POWER TO SUSPEND OR REVOKE A REGISTRATION OR, IN LIEU THEREOF, TO IMPOSE A FINE NOT EXCEEDING ONE THOUSAND DOLLARS PAYABLE TO THE DEPARTMENT, OR REPRIMAND ANY REGISTRANT OR DENY AN APPLICATION FOR A REGISTRATION OR RENEWAL THEREOF UPON PROOF:

A. THAT THE APPLICANT OR REGISTRANT HAS VIOLATED ANY OF THE PROVISIONS OF THIS ARTICLE OR THE RULES AND REGULATIONS PROMULGATED PURSUANT THERETO;

B. THAT THE APPLICANT OR REGISTRANT HAS PRACTICED FRAUD, DECEIT OR MISREPRESENTATION;

C. THAT THE APPLICANT OR REGISTRANT HAS KNOWINGLY MADE A MATERIAL MISSTATEMENT IN THE APPLICATION FOR OR RENEWAL OF HIS OR HER REGISTRATION; OR

D. THAT THE APPLICANT OR REGISTRANT HAS DEMONSTRATED INCOMPETENCE OR UNTRUSTWORTHINESS IN HIS OR HER ACTIONS.

2. NO REGISTRATION SHALL BE REVOKED OR SUSPENDED EXCEPT AFTER WRITTEN NOTICE AND A HEARING AS SET FORTH IN SUBDIVISIONS TWO, THREE, FOUR, FIVE AND SIX OF SECTION SEVENTY-NINE OF THIS CHAPTER.

3. EVERY REGISTRATION ISSUED PURSUANT TO THIS ARTICLE SHALL REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF ONE YEAR UNLESS THE SAME SHALL HAVE BEEN SURRENDERED, REVOKED OR SUSPENDED IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE, BUT THE SECRETARY SHALL HAVE AUTHORITY TO REINSTATE A SUSPENDED REGISTRATION OR TO ISSUE A NEW REGISTRATION TO A REGISTRANT WHOSE REGISTRATION SHALL HAVE BEEN REVOKED IF NO FACT OR CONDITION THEN EXISTS WHICH WOULD HAVE WARRANTED THE SECRETARY IN REFUSING ORIGINALLY TO ISSUE SUCH REGISTRATION UNDER THIS ARTICLE.

4. WHENEVER THE SECRETARY SHALL REVOKE OR SUSPEND A REGISTRATION ISSUED PURSUANT TO THIS ARTICLE, THE SECRETARY SHALL FORTHWITH EXECUTE IN DUPLICATE A WRITTEN ORDER TO THAT EFFECT. THE SECRETARY SHALL FILE ONE COPY OF SUCH ORDER IN THE OFFICE OF THE DEPARTMENT AND SHALL FORTHWITH SERVE THE OTHER COPY UPON THE REGISTRANT. ANY SUCH ORDER MAY BE REVIEWED IN THE MANNER PROVIDED BY ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

S 156-E. PREEMPTION. THE PROVISIONS OF SECTIONS ONE HUNDRED FIFTY-SIX, ONE HUNDRED FIFTY-SIX-A, ONE HUNDRED FIFTY-SIX-B, ONE HUNDRED FIFTY-SIX-C AND ONE HUNDRED FIFTY-SIX-D OF THIS ARTICLE SHALL EXCLUSIVELY GOVERN ALL TRAVEL AGENTS NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE CONTRARY, AND FURTHERMORE, NO LOCAL LAW, CODE OR ORDINANCE SHALL BE ENACTED WHICH SHALL REQUIRE ANY FEE, LICENSE OR REGISTRATION FOR THE LICENSURE OR REGISTRATION OF TRAVEL AGENTS.

S 156-F. REGULATIONS. THE SECRETARY IS HEREBY AUTHORIZED AND EMPOWERED TO MAKE SUCH RULES AND REGULATIONS NECESSARY FOR THE PROPER CONDUCT OF THE BUSINESS AUTHORIZED UNDER THIS ARTICLE, AND NOT INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE.

S 157. TRAVEL AGREEMENTS. 1. WHEN A PERSON AGREES, IN RESPONSE TO A SOLICITATION BY A TRAVEL PROMOTER WHICH IS DIRECTED TO THE PERSON INDIVIDUALLY, TO PURCHASE MEMBERSHIP IN A TRAVEL CLUB OR TO ENTER INTO ANY TRAVEL SERVICES CONTRACT OR OTHER AGREEMENT TO ACCEPT TRANSPORTATION, LODGING, AN INTEREST OR INVESTMENT IN A TIME SHARE PLAN, TRAVEL INVESTMENTS, OR OTHER TRAVEL SERVICES, THE TRAVEL PROMOTER MUST PROVIDE SUCH PURCHASER WITH WRITTEN DISCLOSURE OF ALL LIMITATIONS ON AND TERMS OF SUCH PURCHASE OR AGREEMENT WITHIN FIVE BUSINESS DAYS OF THE DATE OF THE AGREEMENT. SUCH DISCLOSURE SHALL CLEARLY AND CONSPICUOUSLY INCLUDE:

A. THE NAME, BUSINESS ADDRESS AND TELEPHONE NUMBER OF THE TRAVEL PROMOTER;

B. THE AMOUNT DUE, THE DATE OF PAYMENT, THE PURPOSE OF THE PAYMENT AND AN ITEMIZED STATEMENT OF THE BALANCE DUE, IF ANY;

C. THE NAME OF THE CARRIER WITH WHICH THE TRAVEL PROMOTER HAS CONTRACTED TO PROVIDE THE TRANSPORTATION, THE TYPE AND SIZE OF CARRIER TO BE USED, AND THE DATE, TIME AND PLACE OF EACH DEPARTURE;

D. A DETAILED DESCRIPTION OF ANY OTHER SERVICES PROVIDED IN CONJUNCTION WITH THE TRANSPORTATION;

E. CONDITIONS, IF ANY, UPON WHICH THE TRAVEL SERVICES CONTRACT BETWEEN THE TRAVEL PROMOTER AND THE TRAVELER MAY BE CANCELLED, AND THE RIGHTS AND OBLIGATIONS OF ALL PARTIES IN THE EVENT OF SUCH CANCELLATION;

F. THE CONDITIONS, IF ANY, UPON WHICH THE TRAVEL SERVICES CONTRACT BETWEEN THE TRAVEL PROMOTER AND THE CARRIER OR OTHER SERVICE PROVIDER MAY BE CANCELLED, AND THE RIGHTS AND OBLIGATIONS OF ALL PARTIES IN THE EVENT OF SUCH CANCELLATION; AND

G. A DESCRIPTION OF ALL CONTINGENCIES, LIMITATIONS AND/OR CONDITIONS OF THE AGREEMENT.

2. AFTER RECEIPT OF FULL WRITTEN DISCLOSURE, THE PURCHASER MAY CANCEL SUCH AN AGREEMENT UNTIL MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DISCLOSURE IS RECEIVED BY THE PURCHASER, BY USE OF THE FORM PRESCRIBED IN SUBDIVISION THREE OF THIS SECTION; HOWEVER, NOTICE OF CANCELLATION NEED NOT TAKE THE FORM PRESCRIBED AND SHALL BE SUFFICIENT IF IT INDICATES THE INTENTION OF THE BUYER NOT TO BE BOUND. NOTICE OF CANCELLATION, IF GIVEN BY MAIL, SHALL BE DEEMED GIVEN WHEN DEPOSITED IN A MAILBOX, PROPERLY ADDRESSED AND POSTAGE PREPAID.

3. THE WRITTEN DISCLOSURE SHALL INCLUDE, IN ADDITION TO THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION, THE FOLLOWING STATEMENT PRINTED IN CAPITAL AND LOWER CASE LETTERS OF NOT LESS THAN TEN POINT BOLD FACED TYPE:

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE RECEIPT OF THIS DISCLOSURE.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE OR SEND A TELEGRAM TO

(NAME OF SELLER), AT (ADDRESS OF SELLER)

_____ _____

NOT LATER THAN
MIDNIGHT OF THE THIRD DAY
AFTER RECEIPT OF THIS
DISCLOSURE

_____
(PLACE OF BUSINESS)

_____

_____
(DATE)

I HEREBY CANCEL THIS TRANSACTION

(DATE)

_____
(PURCHASER'S SIGNATURE)

4. UNTIL THE WRITTEN DISCLOSURE REQUIRED BY SUBDIVISION ONE OF THIS SECTION HAS BEEN RECEIVED, THE PURCHASER MAY CANCEL THE AGREEMENT BY NOTIFYING THE TRAVEL PROMOTER IN ANY MANNER AND BY ANY MEANS OF HIS OR HER INTENTION TO CANCEL.

5. WITHIN TEN DAYS AFTER NOTICE OF CANCELLATION IS GIVEN, THE TRAVEL PROMOTER SHALL REFUND TO THE PURCHASER CONCERNED ANY PAYMENTS MADE BY SUCH PURCHASER; SUCH REFUND MAY BE MADE BY REACCREDITING THE PURCHASER'S ACCOUNT IF A CREDIT CARD, DEBIT CARD OR ELECTRONIC FUNDS TRANSFER WAS

USED TO MAKE A PAYMENT AND IF THE TRAVEL PROMOTER INFORMS THE PURCHASER IN WRITING THAT THE ACCOUNT HAS BEEN REACCREDITED.

6. IF THE TRAVEL PROMOTER FAILS WITHIN THE PERIOD PRESCRIBED BY SUBDIVISION FIVE OF THIS SECTION TO RETURN ALL PAYMENTS MADE BY A PURCHASER, HE OR SHE SHALL BE LIABLE TO THE PURCHASER FOR SUCH PAYMENTS.

7. IF THE PURCHASER IS SUCCESSFUL IN AN ACTION TO ENFORCE ANY PROVISION OF THIS SECTION OR SECTION ONE HUNDRED FIFTY-SEVEN-B OF THIS ARTICLE OR APPEAL THEREON, THE COURT SHALL AWARD THE PURCHASER ONE HUNDRED DOLLARS AND MAY AWARD REASONABLE ATTORNEY'S FEES AND COSTS, IN ADDITION TO ANY OTHER REMEDY.

8. THE OBLIGATIONS IMPOSED BY THIS SECTION SHALL BE IN ADDITION TO AND NOT IN DEROGATION OF THE REQUIREMENTS OF ANY OTHER LAW.

S 157-A. PROHIBITED PRACTICES BY TRAVEL CONSULTANTS. IT SHALL BE ILLEGAL FOR ANY TRAVEL CONSULTANT AND, IF SUCH TRAVEL CONSULTANT IS A CORPORATION, ANY OFFICER OR DIRECTOR THEREOF, TO ENGAGE IN ANY OR ALL OF THE FOLLOWING ENUMERATED PRACTICES:

1. KNOWINGLY MISREPRESENT THE QUALITY OR KIND OF SERVICE, TYPE OR SIZE OF AIRCRAFT, VEHICLE, SHIP OR TRAIN, TIME OF DEPARTURE OR ARRIVAL, POINTS SERVED, ROUTE TO BE TRAVELED, STOPS TO BE MADE, OR TOTAL TRIP-TIME FROM POINT OF DEPARTURE TO DESTINATION OR OTHER SERVICES AVAILABLE, RESERVED OR CONTRACTED FOR IN CONNECTION WITH ANY TRIP OR TOUR.

2. KNOWINGLY MISREPRESENT THE FARES AND CHARGES FOR TRANSPORTATION OR SERVICES IN CONNECTION THEREWITH.

3. KNOWINGLY ADVERTISE OR OTHERWISE OFFER FOR SALE OR SELL TRANSPORTATION OR SERVICES IN CONNECTION THEREWITH AT LESS THAN THE RATES, FARES AND CHARGES SPECIFIED IN THE CURRENTLY EFFECTIVE TARIFFS OF THE CARRIER, WHO IS ENGAGED TO PROVIDE SUCH TRANSPORTATION OR SERVICES, OR KNOWINGLY OFFER OR GIVE REBATES OR OTHER CONCESSIONS THEREON, OR KNOWINGLY ASSIST OR PERMIT A PERSON OR PERSONS TO OBTAIN SUCH TRANSPORTATION OR SERVICES AT LESS THAN SUCH LAWFUL RATES, FARES AND CHARGES.

4. KNOWINGLY MISREPRESENT THAT SPECIAL PRIORITIES FOR RESERVATIONS ARE AVAILABLE WHEN SUCH SPECIAL CONSIDERATIONS ARE NOT IN FACT GRANTED TO MEMBERS OF THE PUBLIC GENERALLY.

5. KNOWINGLY SELL TRANSPORTATION TO A PERSON OR PERSONS ON A RESERVATION OR CHARTER BASIS FOR SPECIFIED SPACE, FLIGHT OR TIME OR KNOWINGLY REPRESENT THAT SUCH DEFINITE RESERVATION OR CHARTER IS OR WILL BE AVAILABLE OR HAS BEEN ARRANGED, WITHOUT A BINDING COMMITMENT WITH A CARRIER FOR THE FURNISHING OF SUCH DEFINITE RESERVATION OR CHARTER AS REPRESENTED OR SOLD.

6. KNOWINGLY SELL OR ISSUE TICKETS OR OTHER DOCUMENTS TO PASSENGERS TO BE EXCHANGED OR USED FOR TRANSPORTATION IF SUCH TICKETS OR OTHER DOCUMENTS WILL NOT BE OR CANNOT BE LEGALLY HONORED BY CARRIERS FOR TRANSPORTATION.

7. KNOWINGLY MISREPRESENT THE REQUIREMENTS THAT MUST BE MET BY A PERSON OR PERSONS IN ORDER TO QUALIFY FOR CHARTER OR GROUP FARE RATES.

S 157-B. PROHIBITED PRACTICES BY TRAVEL PROMOTERS. IT SHALL BE ILLEGAL FOR ANY TRAVEL PROMOTER AND, IF SUCH TRAVEL PROMOTER IS A CORPORATION, ANY OFFICER OR DIRECTOR THEREOF, TO ENGAGE IN ANY OR ALL OF THE FOLLOWING ENUMERATED PRACTICES:

1. OFFER FREE ACCOMMODATIONS FOR MORE THAN ONE PERSON AND FREE TRAVEL FOR ONE PERSON WHEN THE CHARGE FOR THE TRAVEL OF THE ADDITIONAL PERSON OR PERSONS IS EQUAL TO OR EXCEEDS WHAT WOULD HAVE BEEN PAID FOR THE TOTAL NUMBER OF TRAVEL TICKETS WITHOUT UTILIZING THE TRAVEL SERVICES OFFERED BY THE TRAVEL PROMOTER.

2. USE A MERCHANT ACCOUNT NUMBER ASSIGNED TO A MERCHANT OTHER THAN THE TRAVEL PROMOTER PROVIDING OR OFFERING THE TRAVEL SERVICE IN ORDER TO PROCESS CREDIT CARD CHARGES AND PURCHASES.

3. MISREPRESENT THE QUALITY OR KIND OF SERVICE, TYPE OR SIZE OF AIRCRAFT, VEHICLE, SHIP OR TRAIN, TIME OF DEPARTURE OR ARRIVAL, POINTS SERVED, ROUTE TO BE TRAVELED, STOPS TO BE MADE, TOTAL TRIP-TIME FROM POINT OF DEPARTURE TO DESTINATION, TYPE OR SIZE OF LODGING, TIME SHARE OR OTHER ACCOMMODATION, AVAILABILITY OF LODGING, TIME SHARE OR OTHER ACCOMMODATION, OR OTHER SERVICES AVAILABLE, RESERVED OR CONTRACTED FOR IN CONNECTION WITH ANY TRIP, TOUR OR OTHER TRAVEL SERVICES, UNLESS SUCH MISREPRESENTATION WAS BASED UPON A REASONABLE BELIEF AS TO THE SERVICES AVAILABLE BASED UPON REPRESENTATIONS MADE BY THE PERSON, COMPANY, CORPORATION, COMMON CARRIER OR OTHER ENTITY OFFERING SUCH SERVICES.

4. MISREPRESENT THE FARES AND CHARGES FOR TRANSPORTATION OR SERVICES IN CONNECTION THEREWITH, UNLESS SUCH MISREPRESENTATION WAS BASED UPON A REASONABLE BELIEF AS TO THE FARES AND CHARGES APPLICABLE BASED UPON REPRESENTATIONS MADE BY THE PERSON, COMPANY, CORPORATION, COMMON CARRIER OR OTHER ENTITY OFFERING SUCH SERVICES.

5. ADVERTISE OR OTHERWISE OFFER FOR SALE OR SELL TRANSPORTATION OR SERVICES IN CONNECTION THEREWITH AT LESS THAN THE RATES, FARES AND CHARGES SPECIFIED IN THE CURRENTLY EFFECTIVE TARIFFS OF THE CARRIER THAT IS ENGAGED TO PROVIDE SUCH TRANSPORTATION OR SERVICES, OR OFFER OR GIVE REBATES OR OTHER CONCESSIONS THEREON, OR ASSIST OR PERMIT A PERSON OR PERSONS TO OBTAIN SUCH TRANSPORTATION OR SERVICES AT LESS THAN SUCH LAWFUL RATES, FARES AND CHARGES.

6. MISREPRESENT THAT SPECIAL PRIORITIES FOR RESERVATIONS ARE AVAILABLE WHEN SUCH SPECIAL CONSIDERATIONS ARE NOT IN FACT GRANTED TO MEMBERS OF THE PUBLIC GENERALLY.

7. SELL TRANSPORTATION TO A PERSON OR PERSONS ON A RESERVATION OR CHARTER BASIS FOR SPECIFIED SPACE, FLIGHT OR TIME OR REPRESENT THAT SUCH DEFINITE RESERVATION OR CHARTER IS OR WILL BE AVAILABLE OR HAS BEEN ARRANGED, WITHOUT A BINDING COMMITMENT WITH A CARRIER FOR THE FURNISHING OF SUCH DEFINITE RESERVATION OR CHARTER AS REPRESENTED OR SOLD.

8. SELL OR ISSUE TICKETS OR OTHER DOCUMENTS TO PASSENGERS TO BE EXCHANGED OR USED FOR TRANSPORTATION IF SUCH TICKETS OR OTHER DOCUMENTS WILL NOT BE OR CANNOT BE LEGALLY HONORED BY CARRIERS FOR TRANSPORTATION.

9. MISREPRESENT THE REQUIREMENTS THAT MUST BE MET BY A PERSON OR PERSONS IN ORDER TO QUALIFY FOR CHARTER OR GROUP FARE RATES, UNLESS SUCH MISREPRESENTATION WAS BASED UPON A REASONABLE BELIEF AS TO THE REQUIREMENTS APPLICABLE BASED UPON REPRESENTATIONS MADE BY THE PERSON, COMPANY, CORPORATION, COMMON CARRIER OR OTHER ENTITY OFFERING SUCH CHARTER OR GROUP FARE.

S 158. VIOLATIONS AND PENALTIES. 1. ANY PERSON, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY, OR CORPORATION AND THE SEVERAL MEMBERS, PRINCIPALS, OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES THEREOF, WHO KNOWINGLY AND WILLFULLY MAKES MATERIAL MISSTATEMENTS IN THE APPLICATION FOR A RENEWAL OF A REGISTRATION IN THIS ARTICLE SHALL BE GUILTY OF A MISDEMEANOR, WHICH UPON THE FIRST CONVICTION THEREOF SHALL BE PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH SUCH FINE AND IMPRISONMENT, AND UPON A SECOND OR SUBSEQUENT CONVICTION THEREOF BY A TERM OF IMPRISONMENT NOT TO EXCEED ONE YEAR, OR BY A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS AND NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

2. ANY REGISTRANT WHO SHALL KNOWINGLY AND WILLFULLY FAIL TO SURRENDER HIS OR HER REGISTRATION WITHIN FIVE DAYS OF RECEIPT OF NOTICE OF SUSPEN-

SION, REVOCATION OR NON-RENEWAL THEREOF BY THE SECRETARY, OR THE OFFICER DESIGNATED BY THE SECRETARY TO PRESIDE OVER THE HEARING, PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED FIFTY-SIX-D OF THIS ARTICLE, SHALL BE GUILTY OF A VIOLATION, PUNISHABLE BY A FINE NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS, IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW.

3. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, WHEN IT IS DETERMINED AFTER A HEARING PURSUANT TO SECTION ONE HUNDRED FIFTY-SIX-D OF THIS ARTICLE THAT THE REGISTRANT HAS VIOLATED ONE OR MORE PROVISIONS OF THIS ARTICLE, THE SECRETARY MAY, IN LIEU OF REVOCATION OR SUSPENSION OF SUCH LICENSE, IMPOSE A FINE NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH VIOLATION PAYABLE TO THE DEPARTMENT.

4. EXCEPT AS OTHERWISE PROVIDED BY LAW, ANY TRAVEL CONSULTANT WHO SHALL VIOLATE THE TERMS OF SECTION ONE HUNDRED FIFTY-SEVEN-A OF THIS ARTICLE SHALL BE GUILTY OF A MISDEMEANOR.

5. EXCEPT AS OTHERWISE PROVIDED BY LAW, ANY TRAVEL PROMOTER WHO SHALL KNOWINGLY VIOLATE THE TERMS OF SECTION ONE HUNDRED FIFTY-SEVEN-B OF THIS ARTICLE SHALL BE GUILTY OF A MISDEMEANOR.

6. THE DISTRICT ATTORNEY OF ANY COUNTY MAY BRING AN ACTION IN THE NAME OF THE PEOPLE OF THE STATE TO RESTRAIN OR PREVENT ANY VIOLATION OF THIS ARTICLE OR ANY CONTINUANCE OF ANY SUCH VIOLATION.

7. WHENEVER THERE SHALL BE A VIOLATION OF SECTION ONE HUNDRED FIFTY-SEVEN, ONE HUNDRED FIFTY-SEVEN-A OR ONE HUNDRED FIFTY-SEVEN-B OF THIS ARTICLE, AN APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH VIOLATIONS; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS ARTICLE, AN INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITUTION. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS ARTICLE HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH VIOLATION. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

S 159. SEVERABILITY. IF ANY PROVISION OF THIS ARTICLE OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCES IS HELD INVALID THE INVALIDITY THEREOF SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THE ARTICLE WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE ARE SEVERABLE.

S 2. Paragraphs (d) and (e) of subdivision 3 of section 154 of the economic development law, as added by section 1 of part DD of chapter 59 of the laws of 2006, are amended and a new paragraph (f) is added to read as follows:

(d) all reports and data required to be produced and maintained by this section; [and]

(e) any other data deemed appropriate[.]; AND

(F) A LISTING OF ALL TRAVEL AGENTS REGISTERED BY THE DEPARTMENT OF STATE PURSUANT TO ARTICLE TEN-A OF THE GENERAL BUSINESS LAW, AND THEIR CORRESPONDING REGISTRATION NUMBERS.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided that, effective immediately, the department of state and the secretary of state are authorized and directed to complete any and all actions necessary to implement the provisions of article 10-A of the general business law, as added by section one of this act, on its effective date.