

1265

2015-2016 Regular Sessions

I N S E N A T E

January 9, 2015

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:

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 Article 10-A of the general business law is REPEALED and a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

3 ARTICLE 10-A

4 SELLERS OF TRAVEL AGENTS

5 SECTION 155. LEGISLATIVE INTENT.

6 155-A. DEFINITIONS.

7 156. DOING BUSINESS WITHOUT REGISTRATION PROHIBITED.

8 156-A. APPLICATION FOR REGISTRATION.

9 156-B. CONDITIONS PRECEDENT TO REGISTRATION.

10 156-C. REGISTRATION.

11 156-D. GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF REGISTRA-
12 TION.

13 156-E. PREEMPTION.

14 156-F. REGULATIONS.

15 157. TRAVEL AGREEMENTS.

16 157-A. PROHIBITED PRACTICES BY TRAVEL CONSULTANTS.

17 157-B. PROHIBITED PRACTICES BY TRAVEL PROMOTERS.

18 158. VIOLATIONS AND PENALTIES.

19 159. SEVERABILITY.

20 S 155. LEGISLATIVE INTENT. IT IS HEREBY DETERMINED AND DECLARED THAT
21 THE PROMOTION OF TRAVEL, EITHER INDIVIDUALLY OR AS A GROUP, IS NOW OF
22 SUCH VOLUME THAT IT IS IN THE PUBLIC INTEREST TO SUBJECT IT TO THE

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

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1 REGISTRATION BY AND THE SUPERVISION OF THE DEPARTMENT OF STATE FOR THE
2 PURPOSE OF SAFEGUARDING THE PUBLIC AGAINST FRAUD, FALSE ADVERTISING,
3 MISREPRESENTATION AND SIMILAR ABUSES.

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

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

7 2. "DEPARTMENT" MEANS THE DEPARTMENT OF STATE.

8 3. "MERCHANT ACCOUNT NUMBER" MEANS AN IDENTIFYING NUMBER GIVEN BY A
9 FINANCIAL INSTITUTION TO A MERCHANT FOR PURPOSES OF IDENTIFYING THE
10 MERCHANT IN THE PROCESSING OF CREDIT CARDS AND/OR DEBIT CARDS.

11 4. "REGISTRANT" MEANS A TRAVEL AGENT THAT HAS BEEN ISSUED A REGISTRA-
12 TION IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

13 5. "SECRETARY" MEANS THE SECRETARY OF STATE.

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

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

27 THE TERM "TRAVEL AGENT" SHALL NOT INCLUDE:

28 A. ANY AGENT WHO IS PROVIDING SERVICES EXCLUSIVELY FOR MEMBERS IN A
29 MEMBERSHIP ORGANIZATION;

30 B. ANY AGENT WHO IS PROVIDING SERVICES EXCLUSIVELY FOR EMPLOYEES OR
31 AGENTS OF A BUSINESS ENTITY REGISTERED WITH THE DEPARTMENT;

32 C. AN EMPLOYEE, WHO IN CONNECTION WITH THE BUSINESS OF BEING THE
33 DIRECT SUPPLIER OF ACCOMMODATIONS, ALSO PROVIDES OTHER LOCAL TRAVEL
34 SERVICES THAT ARE PURCHASED FROM ANOTHER PERSON OR BUSINESS;

35 D. ANY PERSON ENGAGED SOLELY IN THE BUSINESS OF RENTING MOTOR VEHI-
36 CLES; OR

37 E. ANY PERSON, FIRM, CORPORATION, LIMITED LIABILITY COMPANY, PARTNER-
38 SHIP OR ASSOCIATION, OR EMPLOYEE THEREOF, WHICH ONLY SELLS OR OFFERS FOR
39 SALE TRAVEL SERVICES THAT ARE PROVIDED BY SUCH PERSON, FIRM, CORPO-
40 RATION, LIMITED LIABILITY COMPANY, PARTNERSHIP OR ASSOCIATION, OR ANY
41 AFFILIATE THEREOF.

42 8. "TRAVEL CONSULTANT" MEANS ANY PERSON, FIRM, LIMITED LIABILITY
43 COMPANY, CORPORATION, PARTNERSHIP OR ASSOCIATION, OTHER THAN A COMMON
44 CARRIER OR EMPLOYEE OF A COMMON CARRIER, WHO AS PRINCIPAL OR AGENT,
45 SELLS OR OFFERS FOR SALE ANY TRAVEL TICKETS OR ORDERS FOR TRANSPORTA-
46 TION, OR NEGOTIATES FOR OR HOLDS HIMSELF OR HERSELF OUT BY SOLICITATION,
47 ADVERTISEMENT OR OTHERWISE AS ONE WHO SELLS, PROVIDES, FURNISHES
48 CONTRACTS OR ARRANGES FOR SUCH TRAVEL TICKETS OR ORDERS FOR TRANSPORTA-
49 TION.

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

53 9. "TRAVEL PROMOTER" MEANS ANY PERSON, FIRM, CORPORATION, LIMITED
54 LIABILITY COMPANY, PARTNERSHIP OR ASSOCIATION, OTHER THAN A COMMON
55 CARRIER OR EMPLOYEE OF A COMMON CARRIER, WHO IS PRIMARILY ENGAGED IN THE
56 DIRECT SOLICITATION OF PERSONS, BY MAIL OR TELEPHONE, FOR THE SALE OF

1 ANY TRAVEL OR VACATION INVESTMENTS, GOODS, PRODUCTS OR SERVICES, INCLUD-
2 ING, BUT NOT LIMITED TO TRAVEL OR TOUR BENEFITS, REAL PROPERTY, INTER-
3 ESTS IN REAL PROPERTY, TIME SHARES, LODGING, COMMODITIES OR SECURITIES.
4 FOR PURPOSES OF THIS ARTICLE, A "TRAVEL PROMOTER" DOES NOT INCLUDE:
5 A. A PERSON, FIRM, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP
6 OR ASSOCIATION THAT IS AN OFFICIALLY APPOINTED AGENT OF A COMMON CARRIER
7 AND MEETS STANDARDS NO LESS THAN THOSE REQUIRED FOR AUTHORIZED AGENTS OF
8 THE AIRLINE REPORTING CORPORATION;
9 B. A PERSON, FIRM, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP
10 OR ASSOCIATION THAT IS A REGISTERED MEMBER IN GOOD STANDING OF THE
11 CRUISE LINES INTERNATIONAL ASSOCIATION AND WHO SOLELY SOLICITS AND/OR
12 SELLS TRAVEL SERVICES AND PRODUCTS AS AN OFFICIALLY APPOINTED AGENT OF
13 ONE OR MORE OCEAN CARRIERS IN THE SALE OF THE OCEAN CARRIER'S TRAVEL
14 SERVICES PURSUANT TO THE AGENCY APPOINTMENT; OR
15 C. A BROKER-DEALER REGISTERED WITH THE SECURITIES AND EXCHANGE COMMIS-
16 SION OR THE DEPARTMENT OF LAW WHO IS ENGAGED IN THE SALE OF SECURITIES
17 OR COMMODITIES OR SALE OR RENTAL OF REAL ESTATE PURSUANT TO ITS REGIS-
18 TRATION.
19 10. "TRAVEL SERVICES" MEANS TRANSPORTATION, ACCOMMODATIONS IN LODGINGS
20 SUCH AS HOTELS, MOTELS OR MOTOR COURTS, RENTAL OF MOTOR VEHICLES, OR ANY
21 OTHER SERVICE RELATED TO TRAVEL. FOR PURPOSES OF THIS ARTICLE, "TRAVEL
22 SERVICES" SHALL INCLUDE INVESTMENTS IN TIME SHARES.
23 S 156. DOING BUSINESS WITHOUT REGISTRATION PROHIBITED. 1. NO TRAVEL
24 AGENT SHALL OPERATE OR DO BUSINESS IN THIS STATE EXCEPT AS AUTHORIZED BY
25 THIS ARTICLE AND WITHOUT FIRST BEING REGISTERED BY THE DEPARTMENT.
26 2. EVERY REGISTERED TRAVEL AGENT SHALL CONSPICUOUSLY PRINT UPON EVERY
27 DOCUMENT CREATED FOR SUCH AGENT, THE REGISTRATION NUMBER ASSIGNED TO THE
28 TRAVEL AGENT BY THE DEPARTMENT. FOR THE PURPOSES OF THIS SUBDIVISION,
29 "DOCUMENT" SHALL INCLUDE BUSINESS CARDS, PERSONALIZED STATIONERY AND
30 EVERY OTHER DOCUMENT CREATED BY THE TRAVEL AGENT SPECIFICALLY FOR AN
31 INDIVIDUAL CLIENT OR CUSTOMER. FURTHERMORE, EVERY TRAVEL AGENT SHALL
32 CONSPICUOUSLY POST HIS OR HER REGISTRATION NUMBER AT HIS OR HER PLACE OF
33 BUSINESS AT A LOCATION REGULARLY OPEN TO THE PUBLIC. ANY VIOLATION OF
34 THIS SUBDIVISION SHALL GRANT ANY CUSTOMER OF THE TRAVEL AGENT THE OPTION
35 TO VOID ANY CONTRACT WITH SUCH AGENT WITHOUT PENALTY OR LIABILITY.
36 S 156-A. APPLICATION FOR REGISTRATION. 1. APPLICATION FOR A REGISTRA-
37 TION REQUIRED UNDER THIS ARTICLE SHALL BE IN WRITING, UNDER OATH, AND IN
38 THE FORM PRESCRIBED BY THE SECRETARY, AND SHALL CONTAIN THE FOLLOWING:
39 A. THE EXACT NAME AND THE ADDRESS OF THE APPLICANT;
40 B. THE COMPLETE ADDRESS WHERE THE BUSINESS OF THE APPLICANT IS TO BE
41 CONDUCTED;
42 C. IF THE APPLICANT HAS ONE OR MORE BRANCHES, SUBSIDIARIES OR AFFIL-
43 IATES OPERATING IN THE STATE, THE COMPLETE ADDRESS OF EACH SUCH PLACE OF
44 BUSINESS; AND
45 D. THE INFORMATION, STATEMENT, CERTIFICATION AND SWORN AFFIRMATION
46 REQUIRED BY SECTION 3-503 OF THE GENERAL OBLIGATIONS LAW.
47 2. UPON ORIGINAL APPLICATION FOR A REGISTRATION TO OPERATE AS A TRAVEL
48 AGENT, THE APPLICANT SHALL PAY AN APPLICATION FEE OF ONE HUNDRED
49 DOLLARS. UPON APPLICATION FOR AN ANNUAL RENEWAL, THE REGISTRANT SHALL
50 PAY A RENEWAL PROCESSING FEE OF ONE HUNDRED DOLLARS.
51 S 156-B. CONDITIONS PRECEDENT TO REGISTRATION. UPON FILING OF AN
52 APPLICATION FOR A REGISTRATION, IF THE SECRETARY SHALL BE SATISFIED OF
53 THE GOOD CHARACTER, COMPETENCY AND INTEGRITY OF THE APPLICANT, AND OF
54 THE PRINCIPALS AND OFFICERS THEREOF ARE SUCH AS TO COMPLY WITH THE
55 PROVISIONS OF THIS ARTICLE, HE OR SHE SHALL THEREUPON ISSUE A REGISTRA-
56 TION TO OPERATE AS A TRAVEL AGENT IN ACCORDANCE WITH THE PROVISIONS OF

1 THIS ARTICLE. THE SECRETARY SHALL TRANSMIT SUCH REGISTRATION TO THE
2 REGISTRANT AND FILE A COPY THEREOF IN THE OFFICE OF THE DEPARTMENT. SUCH
3 REGISTRATION SHALL REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF ONE
4 YEAR UNLESS IT IS SURRENDERED BY THE REGISTRANT OR REVOKED OR SUSPENDED
5 AS PROVIDED IN THIS ARTICLE; IF THE SECRETARY SHALL NOT SO FIND, THE
6 SECRETARY SHALL NOT ISSUE SUCH REGISTRATION AND THE SECRETARY SHALL
7 NOTIFY THE APPLICANT OF THE DENIAL IN WRITING. THE SECRETARY SHALL
8 APPROVE OR DENY EVERY APPLICATION FOR REGISTRATION WITHIN ONE HUNDRED
9 FIFTY DAYS FROM THE FILING THEREOF.

10 S 156-C. REGISTRATION. 1. EACH REGISTRATION ISSUED PURSUANT TO THIS
11 ARTICLE SHALL STATE THE ADDRESS OR ADDRESSES AT WHICH THE BUSINESS IS TO
12 BE CONDUCTED, STATE FULLY THE NAME OF THE REGISTRANT, THE EXPIRATION
13 DATE OF THE REGISTRATION AND THE UNIQUE REGISTRATION NUMBER ASSIGNED TO
14 THE REGISTRANT. A COPY OF SUCH REGISTRATION SHALL BE PROMINENTLY POSTED
15 IN EACH PLACE OF BUSINESS OF THE REGISTRANT. SUCH REGISTRATION SHALL NOT
16 BE TRANSFERABLE OR ASSIGNABLE. EVERY REGISTRATION AND RENEWAL THEREOF
17 SHALL EXPIRE ONE YEAR AFTER THE DATE OF ITS ISSUANCE.

18 2. IN THE EVENT THE LOCATION AT WHICH THE BUSINESS IS TO BE CONDUCTED
19 SHALL BE CHANGED, THE REGISTRANT SHALL FORTHWITH NOTIFY THE SECRETARY IN
20 WRITING, WHO SHALL, UPON PAYMENT OF SUCH FEES AS SHALL BE ESTABLISHED BY
21 THE DEPARTMENT THEREFOR, ATTACH TO THE REGISTRATION A RIDER SETTING
22 FORTH SUCH CHANGED LOCATION.

23 3. IN THE EVENT THAT THERE SHALL BE ANY CHANGE IN THE REGISTRANT'S
24 INFORMATION, THE REGISTRANT SHALL NOTIFY THE SECRETARY IN WRITING WITHIN
25 TEN BUSINESS DAYS. EXCEPT FOR SUCH CHANGE MADE ON A RENEWAL APPLICA-
26 TION, THE DEPARTMENT SHALL ESTABLISH AND IMPOSE A FEE FOR THE PROCESSING
27 OF ANY SUCH CHANGE.

28 4. A REGISTRATION GRANTED UNDER THE PROVISIONS OF THIS ARTICLE MAY BE
29 RENEWED BY THE DEPARTMENT UPON APPLICATION THEREFOR BY THE REGISTRANT,
30 IN SUCH FORM AS THE DEPARTMENT MAY PRESCRIBE, ACCOMPANIED BY THE NON-RE-
31 FUNDABLE RENEWAL PROCESSING FEE PURSUANT TO SUBDIVISION TWO OF SECTION
32 ONE HUNDRED FIFTY-SIX-A OF THIS ARTICLE. IN NO EVENT WILL RENEWAL BE
33 GRANTED MORE THAN THIRTY DAYS AFTER THE DATE OF EXPIRATION OF A REGIS-
34 TRATION; PROVIDED, HOWEVER, THAT ANY REGISTRANT WHO IS UNABLE TO RENEW
35 HIS OR HER REGISTRATION BECAUSE OF ACTIVE DUTY SERVICE IN THE ARMED
36 FORCES OF THE UNITED STATES, SHALL BE AUTHORIZED TO SUBMIT AN APPLICA-
37 TION FOR RENEWAL IF SUCH APPLICATION IS SUBMITTED WITHIN THIRTY DAYS OF
38 HIS OR HER RELEASE FROM ACTIVE DUTY. NO REGISTRANT SHALL CARRY ON ANY
39 BUSINESS SUBJECT TO THIS ARTICLE DURING ANY PERIOD WHICH MAY EXIST
40 BETWEEN THE DATE OF EXPIRATION OF A REGISTRATION AND THE RENEWAL THERE-
41 OF. EVERY APPLICATION FOR THE RENEWAL OF A REGISTRATION SHALL INCLUDE
42 THE INFORMATION, STATEMENT, CERTIFICATION AND SWORN AFFIRMATION REQUIRED
43 BY SECTION 3-503 OF THE GENERAL OBLIGATIONS LAW; PROVIDED, HOWEVER, THAT
44 THE DEPARTMENT MAY WAIVE THE REQUIREMENT OF SUCH STATEMENT, REQUIRED BY
45 SUCH SECTION, AS IT MAY DEEM TO BE UNNECESSARY, BUT UNDER NO CONDITION
46 SHALL THE REQUIREMENTS OF SECTION 3-503 OF THE GENERAL OBLIGATIONS LAW
47 BE WAIVED.

48 5. THE DEPARTMENT SHALL POST AND MAKE AVAILABLE TO THE PUBLIC ON ITS
49 INTERNET WEBSITE A DATABASE SEARCHABLE BY EACH REGISTERED TRAVEL AGENT:

50 A. FIRST OR LAST NAME;

51 B. REGISTRATION NUMBER;

52 C. NAME OF BUSINESS; OR

53 D. BUSINESS LOCATION, INCLUDING MUNICIPALITY, COUNTY OR ZIP CODE.

54 THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL INCLUDE ON THE STATE
55 MARKETING INTERNET WEBSITE PURSUANT TO SECTION ONE HUNDRED FIFTY-FOUR OF

1 THE ECONOMIC DEVELOPMENT LAW BY MEANS OF A CONSPICUOUSLY PLACED LINK TO
2 THE DEPARTMENT'S TRAVEL AGENT REGISTRATION DATABASE.

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

8 A. THAT THE APPLICANT OR REGISTRANT HAS VIOLATED ANY OF THE PROVISIONS
9 OF THIS ARTICLE OR THE RULES AND REGULATIONS PROMULGATED PURSUANT THERE-
10 TO;

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

13 C. THAT THE APPLICANT OR REGISTRANT HAS KNOWINGLY MADE A MATERIAL
14 MISSTATEMENT IN THE APPLICATION FOR OR RENEWAL OF HIS OR HER REGISTRA-
15 TION; OR

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

18 2. EVERY REGISTRATION ISSUED PURSUANT TO THIS ARTICLE SHALL REMAIN IN
19 FULL FORCE AND EFFECT FOR A PERIOD OF ONE YEAR UNLESS THE SAME SHALL
20 HAVE BEEN SURRENDERED, REVOKED OR SUSPENDED IN ACCORDANCE WITH THE
21 PROVISIONS OF THIS ARTICLE. THE SECRETARY SHALL HAVE AUTHORITY TO REIN-
22 STATE A SUSPENDED REGISTRATION OR TO ISSUE A NEW REGISTRATION TO A
23 REGISTRANT WHOSE REGISTRATION SHALL HAVE BEEN REVOKED IF NO FACT OR
24 CONDITION THEN EXISTS WHICH WOULD HAVE WARRANTED THE SECRETARY IN REFUS-
25 ING ORIGINALLY TO ISSUE SUCH REGISTRATION UNDER THIS ARTICLE.

26 3. WHENEVER THE SECRETARY SHALL REVOKE OR SUSPEND A REGISTRATION
27 ISSUED PURSUANT TO THIS ARTICLE, THE SECRETARY SHALL IMMEDIATELY EXECUTE
28 A WRITTEN ORDER TO THAT EFFECT. THE SECRETARY SHALL FILE SUCH ORDER IN
29 THE OFFICE OF THE DEPARTMENT AND SHALL FORTHWITH SERVE A COPY THEREOF
30 UPON THE REGISTRANT. ANY SUCH ORDER MAY BE REVIEWED IN THE MANNER
31 PROVIDED BY ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.
32 THE USE OF ANY REGISTRATION NUMBER OF A REGISTRATION THAT HAS BEEN
33 SUSPENDED OR REVOKED SHALL BE PROHIBITED AFTER SUCH SUSPENSION OR REVO-
34 CATION.

35 4. ANY PERSON WHO HAS HAD HIS OR HER REGISTRATION SUSPENDED BY THE
36 DEPARTMENT SHALL BE INELIGIBLE TO APPLY FOR REGISTRATION PURSUANT TO
37 THIS ARTICLE FOR A PERIOD OF ONE YEAR AFTER SUCH SUSPENSION.

38 5. A. THE DEPARTMENT SHALL, BEFORE DENYING AN APPLICATION FOR A REGIS-
39 TRATION OR BEFORE REVOKING OR SUSPENDING ANY REGISTRATION, EXCEPTING A
40 TEMPORARY SUSPENSION, OR IMPOSING ANY FINE OR REPRIMAND, AND AT LEAST
41 FIFTEEN DAYS PRIOR TO THE DATE SET FOR THE HEARING, AND UPON DUE NOTICE
42 TO THE COMPLAINANT OR OBJECTOR, NOTIFY IN WRITING THE APPLICANT FOR OR
43 THE HOLDER OF SUCH REGISTRATION OF ANY CHARGE MADE AND SHALL AFFORD SAID
44 APPLICANT OR REGISTRANT AN OPPORTUNITY TO BE HEARD IN PERSON OR BY COUN-
45 SEL IN REFERENCE THERETO. SUCH WRITTEN NOTICE MAY BE SERVED BY DELIVERY
46 OF SAME PERSONALLY TO THE APPLICANT OR REGISTRANT, OR BY MAILING SAME BY
47 CERTIFIED MAIL TO THE LAST KNOWN BUSINESS ADDRESS OF SUCH APPLICANT OR
48 REGISTRANT.

49 B. THE HEARING ON SUCH CHARGES SHALL BE AT SUCH TIME AND PLACE AS THE
50 DEPARTMENT SHALL PRESCRIBE AND SHALL BE CONDUCTED BY SUCH OFFICER OR
51 PERSON IN THE DEPARTMENT AS THE SECRETARY MAY DESIGNATE, WHO SHALL HAVE
52 THE POWER TO SUBPOENA AND BRING BEFORE THE OFFICER OR PERSON SO DESIG-
53 NATED ANY PERSON IN THIS STATE, AND ADMINISTER AN OATH TO AND TAKE
54 TESTIMONY OF ANY PERSON OR CAUSE HIS DEPOSITION TO BE TAKEN. A SUBPOENA
55 ISSUED UNDER THIS SUBDIVISION SHALL BE REGULATED BY THE CIVIL PRACTICE
56 LAW AND RULES. SUCH OFFICER OR PERSON IN THE DEPARTMENT OF STATE DESIG-

1 NATED TO TAKE SUCH TESTIMONY SHALL NOT BE BOUND BY COMMON LAW OR STATU-
2 TORY RULES OR EVIDENCE OR BY TECHNICAL OR FORMAL RULES OF PROCEDURE.

3 C. IN THE EVENT THAT THE DEPARTMENT SHALL DENY THE APPLICATION FOR, OR
4 REVOKE OR SUSPEND ANY SUCH REGISTRATION, OR IMPOSE ANY FINE OR REPRI-
5 MAND, ITS DETERMINATION SHALL BE IN WRITING AND OFFICIALLY SIGNED. THE
6 ORIGINAL OF SUCH DETERMINATION, WHEN SO SIGNED, SHALL BE FILED IN THE
7 OFFICE OF THE DEPARTMENT AND COPIES THEREOF SHALL BE MAILED TO THE
8 APPLICANT OR REGISTRANT AND TO THE COMPLAINANT WITHIN TWO DAYS AFTER THE
9 FILING THEREOF.

10 D. THE DEPARTMENT, ACTING BY THE OFFICER OR PERSON DESIGNATED TO
11 CONDUCT THE HEARING PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION OR BY
12 SUCH OTHER OFFICER OR PERSON IN THE DEPARTMENT AS THE SECRETARY MAY
13 DESIGNATE, SHALL HAVE THE POWER TO SUSPEND THE REGISTRATION OF ANY
14 REGISTRANT WHO HAS BEEN CONVICTED IN THIS STATE OR ANY OTHER STATE OR
15 TERRITORY OF A FELONY OR OF ANY MISDEMEANOR OR OFFENSE ENUMERATED UNDER
16 SUBDIVISION TWO OF SECTION SEVENTY-FOUR OR UNDER SECTION EIGHTY-FOUR OF
17 THIS CHAPTER FOR A PERIOD NOT EXCEEDING THIRTY DAYS PENDING A HEARING
18 AND A DETERMINATION OF CHARGES MADE AGAINST HIM OR HER. IF SUCH HEARING
19 IS ADJOURNED AT THE REQUEST OF THE REGISTRANT, OR BY REASON OF ANY ACT
20 OR OMISSION BY HIM OR HER OR ON HIS OR HER BEHALF, SUCH SUSPENSION MAY
21 BE CONTINUED FOR THE ADDITIONAL PERIOD OF SUCH ADJOURNMENT.

22 E. THE ACTION OF THE DEPARTMENT IN GRANTING OR REFUSING TO GRANT OR TO
23 RENEW A REGISTRATION UNDER THIS ARTICLE OR IN REVOKING OR SUSPENDING OR
24 REFUSING TO REVOKE OR SUSPEND SUCH A REGISTRATION OR IMPOSING ANY FINE
25 OR REPRIMAND SHALL BE SUBJECT TO REVIEW BY A PROCEEDING INSTITUTED UNDER
26 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES AT THE
27 INSTANCE OF THE APPLICANT FOR SUCH REGISTRATION NUMBER, THE HOLDER OF A
28 REGISTRATION NUMBER SO REVOKED, SUSPENDED, FINED OR REPRIMANDED OR THE
29 PERSON AGGRIEVED.

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

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

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

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

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

54 C. THE NAME OF THE CARRIER WITH WHICH THE TRAVEL PROMOTER HAS
55 CONTRACTED TO PROVIDE THE TRANSPORTATION, THE TYPE AND SIZE OF CARRIER
56 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 MAIL-BOX, 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.

1 5. WITHIN TEN DAYS AFTER NOTICE OF CANCELLATION IS GIVEN, THE TRAVEL
2 PROMOTER SHALL REFUND TO THE PURCHASER CONCERNED ANY PAYMENTS MADE BY
3 SUCH PURCHASER; SUCH REFUND MAY BE MADE BY REACCREDITING THE PURCHASER'S
4 ACCOUNT IF A CREDIT CARD, DEBIT CARD OR ELECTRONIC FUNDS TRANSFER WAS
5 USED TO MAKE A PAYMENT AND IF THE TRAVEL PROMOTER INFORMS THE PURCHASER
6 IN WRITING THAT THE ACCOUNT HAS BEEN REACCREDITED.

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

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

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

17 S 157-A. PROHIBITED PRACTICES BY TRAVEL CONSULTANTS. IT SHALL BE ILLE-
18 GAL FOR ANY TRAVEL CONSULTANT AND, IF SUCH TRAVEL CONSULTANT IS A CORPO-
19 RATION, ANY OFFICER OR DIRECTOR THEREOF, TO ENGAGE IN ANY OR ALL OF THE
20 FOLLOWING ENUMERATED PRACTICES:

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

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

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

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

39 5. KNOWINGLY SELL TRANSPORTATION TO A PERSON OR PERSONS ON A RESERVA-
40 TION OR CHARTER BASIS FOR SPECIFIED SPACE, FLIGHT OR TIME OR KNOWINGLY
41 REPRESENT THAT SUCH DEFINITE RESERVATION OR CHARTER IS OR WILL BE AVAIL-
42 ABLE OR HAS BEEN ARRANGED, WITHOUT A BINDING COMMITMENT WITH A CARRIER
43 FOR THE FURNISHING OF SUCH DEFINITE RESERVATION OR CHARTER AS REPRES-
44 ENTED OR SOLD.

45 6. KNOWINGLY SELL OR ISSUE TICKETS OR OTHER DOCUMENTS TO PASSENGERS TO
46 BE EXCHANGED OR USED FOR TRANSPORTATION IF SUCH TICKETS OR OTHER DOCU-
47 MENTS WILL NOT BE OR CANNOT BE LEGALLY HONORED BY CARRIERS FOR TRANSPOR-
48 TATION.

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

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

55 1. OFFER FREE ACCOMMODATIONS FOR MORE THAN ONE PERSON AND FREE TRAVEL
56 FOR ONE PERSON WHEN THE CHARGE FOR THE TRAVEL OF THE ADDITIONAL PERSON

1 OR PERSONS IS EQUAL TO OR EXCEEDS WHAT WOULD HAVE BEEN PAID FOR THE
2 TOTAL NUMBER OF TRAVEL TICKETS WITHOUT UTILIZING THE TRAVEL SERVICES
3 OFFERED BY THE TRAVEL PROMOTER.

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

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

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

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

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

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

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

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

46 S 158. VIOLATIONS AND PENALTIES. 1. ANY PERSON, PARTNERSHIP, ASSOCI-
47 ATION, LIMITED LIABILITY COMPANY, OR CORPORATION AND THE SEVERAL
48 MEMBERS, PRINCIPALS, OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES THEREOF,
49 WHO KNOWINGLY AND WILLFULLY MAKES MATERIAL MISSTATEMENTS IN THE APPLICA-
50 TION FOR A RENEWAL OF A REGISTRATION IN THIS ARTICLE SHALL BE GUILTY OF
51 A MISDEMEANOR, WHICH UPON THE FIRST CONVICTION THEREOF SHALL BE PUNISHA-
52 BLE BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY A FINE OF NOT
53 MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH SUCH FINE AND IMPRISONMENT,
54 AND UPON A SECOND OR SUBSEQUENT CONVICTION THEREOF BY A TERM OF IMPRI-
55 SONMENT NOT TO EXCEED ONE YEAR, OR BY A FINE OF NOT LESS THAN ONE THOU-

1 SAND DOLLARS AND NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS, OR BY
2 BOTH SUCH FINE AND IMPRISONMENT.

3 2. ANY REGISTRANT WHO SHALL KNOWINGLY AND WILLFULLY FAIL TO SURRENDER
4 HIS OR HER REGISTRATION WITHIN FIVE DAYS OF RECEIPT OF NOTICE OF SUSPEN-
5 SION, REVOCATION OR NON-RENEWAL THEREOF BY THE SECRETARY, OR THE OFFICER
6 DESIGNATED BY THE SECRETARY TO PRESIDE OVER THE HEARING, PURSUANT TO THE
7 PROVISIONS OF SECTION ONE HUNDRED FIFTY-SIX-D OF THIS ARTICLE, SHALL BE
8 GUILTY OF A VIOLATION, PUNISHABLE BY A FINE NOT TO EXCEED TWO HUNDRED
9 FIFTY DOLLARS, IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW.

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

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

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

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

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

46 S 159. SEVERABILITY. IF ANY PROVISION OF THIS ARTICLE OR THE APPLICA-
47 TION THEREOF TO ANY PERSON OR CIRCUMSTANCES IS HELD INVALID THE INVALID-
48 ITY THEREOF SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THE
49 ARTICLE WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR
50 APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE ARE SEVERA-
51 BLE.

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

1 (d) all reports and data required to be produced and maintained by
2 this section; [and]
3 (e) any other data deemed appropriate[.]; AND
4 (F) A LISTING OF ALL TRAVEL AGENTS REGISTERED BY THE DEPARTMENT OF
5 STATE PURSUANT TO ARTICLE TEN-A OF THE GENERAL BUSINESS LAW, AND THEIR
6 CORRESPONDING REGISTRATION NUMBERS.
7 S 3. This act shall take effect on the first of January next succeed-
8 ing the date on which it shall have become a law; provided that, effec-
9 tive immediately, the department of state and the secretary of state are
10 authorized and directed to complete any and all actions necessary to
11 implement the provisions of article 10-A of the general business law, as
12 added by section one of this act, on its effective date.