

6068

2015-2016 Regular Sessions

I N   S E N A T E

October 16, 2015

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Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the general business law, in relation to travel agreements

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

1     Section 1. Subdivision 1 of section 157-a of the general business law,  
2 as added by chapter 754 of the laws of 1990, is amended to read as  
3 follows:  
4     1. When a person agrees, in response to a solicitation by a travel  
5 promoter which is directed to the person individually, to purchase  
6 membership in a travel club or to enter into any travel services  
7 contract or other agreement to accept transportation, lodging, an inter-  
8 est or investment in a time share plan, travel investments, or other  
9 travel services, the travel promoter must provide such purchaser with  
10 written OR ELECTRONIC disclosure of all limitations on and terms of such  
11 purchase or agreement [within five business days of the date of the  
12 agreement] AT THE TIME OR PRIOR TO THE RECEIPT OF PAYMENT. Such disclo-  
13 sure shall clearly and conspicuously include:  
14     a. the name, business address and telephone number of the travel  
15 promoter;  
16     b. the amount due, the date of payment, the purpose of the payment and  
17 an itemized statement of the balance due, if any;  
18     c. the name of the carrier with which the travel promoter has  
19 contracted to provide the transportation, the type and size of carrier  
20 to be used, and the date, time and place of each departure;  
21     d. a detailed description of any other services provided in conjunc-  
22 tion with the transportation;  
23     e. conditions, if any, upon which the travel services contract between  
24 the travel promoter and the traveler may be cancelled, and the rights  
25 and obligations of all parties in the event of such cancellation;

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

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1 f. the conditions, if any, upon which the travel services contract  
2 between the travel promoter and the carrier or other service provider  
3 may be cancelled, and the rights and obligations of all parties in the  
4 event of such cancellation; and

5 g. a description of all contingencies, limitations and/or conditions  
6 of the agreement.

7 S 2. The general business law is amended by adding a new section 157-b  
8 to read as follows:

9 S 157-B. ADDITIONAL PROHIBITIVE PRACTICES BY TRAVEL CONSULTANTS. A  
10 TRAVEL CONSULTANT SHALL NOT RECEIVE PAYMENT FOR TRAVEL OR SERVICES  
11 CONNECTED THEREWITH UNLESS AT THE TIME OR PRIOR TO THE RECEIPT OF  
12 PAYMENT, THE TRAVEL CONSULTANT PROVIDES THE PURCHASER WITH WRITTEN OR  
13 ELECTRONIC DISCLOSURE OF THE TERMS OF THE PURCHASE. SUCH DISCLOSURE  
14 SHALL CLEARLY AND CONSPICUOUSLY INCLUDE:

15 1. THE NAME, BUSINESS ADDRESS AND TELEPHONE NUMBER OF THE TRAVEL  
16 CONSULTANT;

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

19 3. THE NAME OF THE CARRIER WITH WHICH THE TRAVEL CONSULTANT HAS  
20 CONTRACTED TO PROVIDE THE TRANSPORTATION, THE TYPE AND SIZE OF CARRIER  
21 TO BE USED, AND THE DATE, TIME AND PLACE OF EACH DEPARTURE;

22 4. A DETAILED DESCRIPTION OF ANY OTHER SERVICES PROVIDED IN CONJUNC-  
23 TION WITH THE TRANSPORTATION;

24 5. CONDITIONS, IF ANY, UPON WHICH THE SERVICES BETWEEN THE TRAVEL  
25 CONSULTANT AND THE TRAVELER MAY BE CANCELLED, AND THE RIGHTS AND OBLI-  
26 GATIONS OF ALL PARTIES IN THE EVENT OF SUCH CANCELLATION;

27 6. THE CONDITIONS, IF ANY, UPON WHICH THE AGREEMENT BETWEEN THE TRAVEL  
28 CONSULTANT AND THE CARRIER OR OTHER SERVICE PROVIDER MAY BE CANCELLED,  
29 AND THE RIGHTS AND OBLIGATIONS OF ALL PARTIES IN THE EVENT OF SUCH  
30 CANCELLATION; AND

31 7. A DESCRIPTION OF ALL CONTINGENCIES, LIMITATIONS AND/OR CONDITIONS  
32 OF THE AGREEMENT.

33 S 3. Subdivisions 1 and 2 of section 159 of the general business law,  
34 as amended by chapter 754 of the laws of 1990, are amended to read as  
35 follows:

36 1. Except as otherwise provided by law, any travel consultant who  
37 shall violate the terms of section one hundred fifty-eight of this arti-  
38 cle shall be guilty of a misdemeanor PROVIDED, HOWEVER, THAT WHERE SUCH  
39 VIOLATION RESULTS IN FIVE THOUSAND DOLLARS OR MORE OF FINANCIAL LOSS TO  
40 A CONSUMER, SUCH VIOLATION SHALL CONSTITUTE A CLASS E FELONY.

41 2. Except as otherwise provided by law, any travel promoter who shall  
42 knowingly violate the terms of section one hundred fifty-eight-a of this  
43 article shall be guilty of a misdemeanor PROVIDED, HOWEVER, THAT WHERE  
44 SUCH VIOLATION RESULTS IN FIVE THOUSAND DOLLARS OR MORE OF FINANCIAL  
45 LOSS TO A CONSUMER, SUCH VIOLATION SHALL CONSTITUTE A CLASS E FELONY.

46 S 4. Subdivision 4 of section 159 of the general business law, as  
47 added by chapter 754 of the laws of 1990, is amended to read as follows:

48 4. Enforcement; penalties. Whenever there shall be a violation of  
49 section one hundred fifty-seven-a, ONE HUNDRED FIFTY-SEVEN-B, one  
50 hundred fifty-eight or one hundred fifty-eight-a of this article, an  
51 application may be made by the attorney general in the name of the  
52 people of the state of New York to a court or justice having jurisdic-  
53 tion by a special proceeding to issue an injunction, and upon notice to  
54 the defendant of not less than five days, to enjoin and restrain the  
55 continuance of such violations; and if it shall appear to the satisfac-  
56 tion of the court or justice that the defendant has, in fact, violated

1 this article, an injunction may be issued by such court or justice,  
2 enjoining and restraining any further violation, without requiring proof  
3 that any person has, in fact, been injured or damaged thereby. In any  
4 such proceeding, the court may make allowances to the attorney general  
5 as provided in paragraph six of subdivision (a) of section eighty-three  
6 hundred three of the civil practice law and rules, and direct restitu-  
7 tion. Whenever the court shall determine that a violation of this arti-  
8 cle has occurred, the court may impose a civil penalty [of not more than  
9 five hundred dollars] BASED ON THE AMOUNT OF FINANCIAL LOSS TO THE  
10 CONSUMER WHOSE AGREEMENT WAS THE SUBJECT OF SUCH PROCEEDING for each  
11 violation. In connection with any such proposed application, the attor-  
12 ney general is authorized to take proof and make a determination of the  
13 relevant facts and to issue subpoenas in accordance with the civil prac-  
14 tice law and rules.

15 S 5. This act shall take effect on the sixtieth day after it shall  
16 have become a law and shall apply to all proceedings for violations of  
17 article 10-A of the general business law beginning on and after such  
18 effective date.