

STATE OF NEW YORK

462--A

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sen. PERALTA -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding four new
2 sections 157-b, 157-c, 157-d and 157-e to read as follows:

3 § 157-b. Doing business without registration prohibited. 1. No travel
4 agent shall operate or do business in this state except as authorized by
5 this article and without first being registered by the department of
6 state.

7 2. Every registered travel agent shall conspicuously print upon every
8 document created for such agent, the registration number assigned to the
9 travel agent by the department of state. For the purposes of this
10 subdivision, "document" shall include business cards, personalized
11 stationery and every other document created by the travel agent specif-
12 ically for an individual client or customer. Furthermore, every travel
13 agent shall conspicuously post his or her registration number at his or
14 her place of business at a location regularly open to the public.

15 § 157-c. Application for registration. 1. Application for a registra-
16 tion required under this article shall be in writing, under oath, and in
17 the form prescribed by the secretary of state, and shall contain the
18 following:

19 a. The exact name and the residence of the applicant;

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

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1 b. The complete address where the business of the applicant is to be
2 conducted;

3 c. If the applicant has one or more branches, subsidiaries or affil-
4 iates operating in the state, the complete address of each such place of
5 business; and

6 d. The information, statement, certification and sworn affirmation
7 required by section 3-503 of the general obligations law.

8 2. Upon original application for a registration to operate as a travel
9 agent, the applicant shall pay an application fee of one hundred
10 dollars. Upon application for renewal, the registrant shall pay a
11 renewal processing fee of one hundred dollars.

12 3. Upon filing of an application for a registration, if the secretary
13 of state shall be satisfied of the good character, competency and integ-
14 riety of the applicant, and of the principals and officers thereof are
15 such as to comply with the provisions of this article, he or she shall
16 thereupon issue a registration to operate as a travel agent in accord-
17 ance with the provisions of this article. The secretary of state shall
18 transmit such registration to the registrant and file a copy thereof
19 with the department of state. Such registration shall remain in full
20 force and effect for a period of two years unless it is surrendered by
21 the registrant or revoked or suspended as provided in this article. The
22 secretary of state shall approve or deny every application for registra-
23 tion within one hundred fifty days from the filing thereof. The depart-
24 ment of state shall notify the applicant of a denial of registration and
25 the reason for such denial.

26 § 157-d. Registration. 1. Each registration issued pursuant to this
27 article shall state the address or addresses at which the business is to
28 be conducted, state fully the name of the registrant, the expiration
29 date of the registration and the unique registration number assigned to
30 the registrant. A copy of such registration shall be prominently posted
31 in each place of business of the registrant. Such registration shall not
32 be transferable or assignable. Every registration and renewal thereof
33 shall expire one year after the date of its issuance.

34 2. In the event that there shall be any change to the information
35 submitted by the registrant to the department of state, the registrant
36 shall notify the secretary of state in writing within ten business days.

37 3. A registration granted under the provisions of this article may be
38 renewed by the department of state upon application therefor by the
39 registrant, in such form as the department of state may prescribe,
40 accompanied by the non-refundable renewal processing fee. No registrant
41 shall carry on any business subject to this article during any period
42 which may exist between the date of expiration of a registration and the
43 renewal thereof. Every application for the renewal of a registration
44 shall include the information, statement, certification and sworn affir-
45 mation required by section 3-503 of the general obligations law, unless
46 waived by the department of state.

47 4. The department of state shall post and make available to the public
48 on its internet website a database searchable by each registered travel
49 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 its website a
55 conspicuously placed link to the department of state's travel agent
56 registration database.

1 § 157-e. Grounds for denial, suspension or revocation of registration.
2 1. The secretary of state shall have the power to suspend or revoke a
3 registration or, in lieu thereof, to impose a fine not exceeding one
4 thousand dollars payable to the department of state, or reprimand any
5 registrant or deny an application for a registration or renewal thereof
6 upon proof:

7 a. that the applicant or registrant has violated any of the provisions
8 of this article or the rules and regulations promulgated pursuant there-
9 to;

10 b. that the applicant or registrant has knowingly practiced fraud,
11 deceit or misrepresentation; or

12 c. that the applicant or registrant has knowingly made a material
13 misstatement in the application for or renewal of his or her registra-
14 tion.

15 2. Every registration issued pursuant to this article shall remain in
16 full force and effect for a period of two years unless the registration
17 shall have been surrendered, revoked or suspended. The secretary of
18 state shall have authority to reinstate a suspended registration or to
19 issue a new registration to a registrant whose registration shall have
20 been revoked if no fact or condition then exists which would have
21 warranted the secretary of state in refusing originally to issue such
22 registration under this article.

23 3. Whenever the secretary of state shall revoke or suspend a registra-
24 tion issued pursuant to this article, he or she shall immediately
25 execute a written order to that effect. The secretary of state shall
26 file such order in the office of the department of state and shall
27 forthwith serve a copy thereof upon the registrant. Any such order may
28 be reviewed in the manner provided by article seventy-eight of the civil
29 practice law and rules. The use of any registration number of a regis-
30 tration that has been suspended or revoked shall be prohibited after
31 such suspension or revocation.

32 § 2. Section 159 of the general business law, as amended by chapter
33 754 of the laws of 1990, is amended to read as follows:

34 § 159. Violations and penalties. 1. Except as otherwise provided by
35 law, any ~~travel consultant who shall violate the terms of section one~~
36 ~~hundred fifty eight~~ who knowingly violates the provisions of this arti-
37 cle shall be guilty of a misdemeanor, or may be subject to a civil fine
38 imposed by the department of state in an amount not to exceed one thou-
39 sand dollars.

40 2. ~~Except as otherwise provided by law, any travel promoter who shall~~
41 ~~knowingly violate the terms of section one hundred fifty eight-a of this~~
42 ~~article shall be guilty of a misdemeanor.~~

43 ~~3-]~~ The district attorney of any county may bring an action in the
44 name of the people of the state to restrain or prevent any violation of
45 this article or any continuance of any such violation.

46 ~~[4-]~~ 3. Enforcement; penalties. Whenever there shall be a violation of
47 ~~[section one hundred fifty seven-a, one hundred fifty eight or one~~
48 ~~hundred fifty eight-a of]~~ this article, an application may be made by
49 the attorney general in the name of the people of the state of New York
50 to a court or justice having jurisdiction by a special proceeding to
51 issue an injunction, and upon notice to the defendant of not less than
52 five days, to enjoin and restrain the continuance of such violations;
53 and if it shall appear to the satisfaction of the court or justice that
54 the defendant has, in fact, violated this article, an injunction may be
55 issued by such court or justice, enjoining and restraining any further
56 violation, without requiring proof that any person has, in fact, been

1 injured or damaged thereby. In any such proceeding, the court may make
2 allowances to the attorney general as provided in paragraph six of
3 subdivision (a) of section eighty-three hundred three of the civil prac-
4 tice law and rules, and direct restitution. Whenever the court shall
5 determine that a violation of this article has occurred, the court may
6 impose a civil penalty of not more than five hundred dollars for each
7 violation. In connection with any such proposed application, the attor-
8 ney general is authorized to take proof and make a determination of the
9 relevant facts and to issue subpoenas in accordance with the civil prac-
10 tice law and rules.

11 4. Notwithstanding any other provision of law to the contrary, the
12 department of state, shall, before imposing any civil penalty or
13 suspending or revoking a license, notify the registrant in writing that
14 a violation of this article has occurred, and shall afford the regis-
15 trant an opportunity to be heard in person or by counsel at an adminis-
16 trative hearing. Such notification shall be served personally or by
17 certified mail to the registrant's last known address or in any manner
18 authorized by the civil practice law and rules.

19 5. Administrative hearings held pursuant to this section shall be
20 conducted by the office of administrative hearings of the department of
21 state pursuant to part four hundred of title nineteen of the New York
22 state codes, rules and regulations and subject to the rules provided
23 therein. Any notice issued pursuant to this section shall be served at
24 least ten days prior to the date set for the administrative hearing.

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

29 (d) all reports and data required to be produced and maintained by
30 this section; ~~and~~

31 (e) any other data deemed appropriate~~[-]~~; and

32 (f) a listing of all travel agents registered by the department of
33 state pursuant to article ten-A of the general business law, and their
34 corresponding registration numbers.

35 § 4. This act shall take effect on the first of January next succeed-
36 ing the date on which it shall have become a law; provided that, effec-
37 tive immediately, the department of state and the secretary of state are
38 authorized and directed to complete any and all actions necessary to
39 implement the provisions of article 10-A of the general business law, as
40 amended by sections one and two of this act, on the effective date of
41 this act.