STATE OF NEW YORK

5986

2017-2018 Regular Sessions

IN SENATE

May 9, 2017

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 agents 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:

Section 1. Section 157 of the general business law is amended by adding three new subdivisions 6, 7 and 8 to read as follows:

6. "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. The term "travel agent" shall not include:

a. any travel promoter or travel consultant who is providing services exclusively for members in a membership organization;

b. any travel promoter or travel consultant who is providing services exclusively for employees or agents of a business entity registered with the department;

c. an employee, who in connection with the business of being the direct supplier of accommodations, also provides other local travel services that are purchased from another person or business;

d. any person engaged solely in the business of renting motor vehicles; or

e. any person, firm, corporation, limited liability company, partnership or association, or employee thereof, which only sells or offers for sale travel services that are provided by such person, firm, corporation, limited liability company, partnership or association, or any affiliate thereof.

7. "Department" means the department of state.

8. "Secretary" means the secretary of state.

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

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

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§ 157-b. Doing business without registration prohibited. 1. 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.

2. The department shall provide each registered travel agent with a unique registration number. Every registered travel agent shall print his or her registration number on all business cards, and shall provide each customer with a copy of his or her registration number. Every travel agent shall conspicuously post his or her registration number at his or her place of business at a location regularly open to the public.

§ 157-c. 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 residence of the applicant;

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

c. 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

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

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 renewal, the registrant shall pay a renewal processing fee of one hundred dollars.

3. 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 to operate as a travel agent in accordance with the provisions of this article. The secretary shall transmit such registration to the registrant and file a copy thereof with the department. Such registration shall remain in full force and effect for a period of two years unless it is surrendered by the registrant or revoked or suspended as provided in this article. The secretary shall approve or deny every application for registration within one hundred fifty days from the filing thereof. The department shall notify the applicant of a denial of registration and the reason for such denial.

§ 157-d. 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. Every registration and renewal thereof shall expire two years after the date of its issuance.

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

3. A registration granted under the provisions of this article may be renewed 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. 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. Every application for the renewal of a registration shall include the informa-

tion, statement, certification and sworn affirmation required by section 3-503 of the general obligations law, unless waived by the department.

4. The department shall post and make available to the public on its internet website a database searchable by each registered travel agent:

a. first or last name;

b. registration number;

c. name of business; or

d. business location, including municipality, county or zip code.

The department of economic development shall include on its website a conspicuously placed link to the department's travel agent registration database.

§ 157-e. 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 knowingly practiced fraud, deceit or misrepresentation; or

c. that the applicant or registrant has knowingly made a material misstatement in the application for or renewal of his or her registration.

2. Every registration and renewal thereof issued pursuant to this article shall remain in full force and effect for a period of two years unless the registration shall have been surrendered, revoked or suspended. 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.

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

§ 3. Section 159 of the general business law is amended by adding three new subdivisions 2-a, 5 and 6 to read as follows:

2-a. Except as otherwise provided by law, any travel agent, who shall knowingly violate the terms of section one hundred fifty-seven-b of this article, shall be guilty of a misdemeanor.

5. Notwithstanding any other provision of law to the contrary, the department, shall, before suspending or revoking a license, notify the registrant in writing that a violation of this article has occurred, and shall afford the registrant an opportunity to be heard in person or by counsel at an administrative hearing. Such notification shall be served personally or by certified mail to the registrant's last known address or in any manner authorized by the civil practice law and rules.

6. Administrative hearings held pursuant to this section shall be conducted by the office of administrative hearings of the department pursuant to part four hundred of title nineteen of the New York state codes, rules and regulations and subject to the rules provided therein.

Any notice issued pursuant to this section shall be served at least ten days prior to the date set for the administrative hearing.

§ 4. 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.

§ 5. 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 amended by sections one, two and three of this act, on the effective date of this act.