

# STATE OF NEW YORK

7903

## IN SENATE

March 2, 2020

Introduced by Sen. THOMAS -- 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

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 consultant or travel promoter shall operate or do business in this state  
5 except as authorized by this article and without first being registered  
6 by the department of state.

7 2. The department of state shall provide each registered travel  
8 consultant and travel promoter with a unique registration number. Every  
9 registered travel consultant and travel promoter shall print his or her  
10 registration number on all business cards, and shall provide each  
11 customer with a copy of his or her registration number. Every travel  
12 consultant and travel promoter shall conspicuously post his or her  
13 registration number at his or her place of business at a location regu-  
14 larly 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;

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

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

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

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

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1     2. Upon original application for a registration to operate as a travel  
2 consultant or travel promoter, the applicant shall pay an application  
3 fee of one hundred dollars. Upon application for renewal, the registrant  
4 shall pay a renewal processing fee of one hundred dollars.

5     3. Upon filing of an application for a registration, if the secretary  
6 of state shall be satisfied of the good character, competency and integ-  
7 riety of the applicant, and of the principals and officers thereof are  
8 such as to comply with the provisions of this article, he or she shall  
9 thereupon issue a registration to operate as a travel consultant or  
10 travel promoter in accordance with the provisions of this article. The  
11 secretary of state shall transmit such registration to the registrant  
12 and file a copy thereof with the department of state. Such registration  
13 shall remain in full force and effect for a period of two years unless  
14 it is surrendered by the registrant or revoked or suspended as provided  
15 in this article. The secretary of state shall approve or deny every  
16 application for registration within one hundred fifty days from the  
17 filing thereof. The department of state shall notify the applicant of a  
18 denial of registration and the reason for such denial.

19     § 157-d. Registration. 1. Each registration issued pursuant to this  
20 article shall state the address or addresses at which the business is to  
21 be conducted, state fully the name of the registrant, the expiration  
22 date of the registration and the unique registration number assigned to  
23 the registrant. A copy of such registration shall be prominently posted  
24 in each place of business of the registrant. Such registration shall not  
25 be transferable or assignable. Every registration and renewal thereof  
26 shall expire two years after the date of its issuance.

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

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

40     4. The department of state shall post and make available to the public  
41 on its internet website a database searchable by each registered travel  
42 consultant and travel promoter:

43     a. first or last name;

44     b. registration number;

45     c. name of business; or

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

47     The department of economic development shall include on its website a  
48 conspicuously placed link to the department of state's travel consultant  
49 and travel promoter registration database.

50     § 157-e. Grounds for denial, suspension or revocation of registration.  
51 1. The secretary of state shall have the power to suspend or revoke a  
52 registration or, in lieu thereof, to impose a fine not exceeding one  
53 thousand dollars payable to the department of state, or reprimand any  
54 registrant or deny an application for a registration or renewal thereof  
55 upon proof:

1 a. that the applicant or registrant has violated any of the provisions  
2 of this article or the rules and regulations promulgated pursuant there-  
3 to;

4 b. that the applicant or registrant has knowingly practiced fraud,  
5 deceit or misrepresentation; or

6 c. that the applicant or registrant has knowingly made a material  
7 misstatement in the application for or renewal of his or her registra-  
8 tion.

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

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

26 § 2. Section 159 of the general business law, as amended by chapter  
27 754 of the laws of 1990, is amended to read as follows:

28 § 159. Violations and penalties. 1. Except as otherwise provided by  
29 law, any travel consultant [~~who shall violate the terms of section one~~  
30 ~~hundred fifty eight~~] or travel promoter who knowingly violates the  
31 provisions of this article shall be guilty of a misdemeanor, or may be  
32 subject to a civil fine imposed by the department of state in an amount  
33 not to exceed one thousand dollars.

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

37 ~~3-]~~ The district attorney of any county may bring an action in the  
38 name of the people of the state to restrain or prevent any violation of  
39 this article or any continuance of any such violation.

40 [~~4-]~~ 3. Enforcement; penalties. Whenever there shall be a violation of  
41 [~~section one hundred fifty seven-a, one hundred fifty eight or one~~  
42 ~~hundred fifty eight-a of~~] this article, an application may be made by  
43 the attorney general in the name of the people of the state of New York  
44 to a court or justice having jurisdiction by a special proceeding to  
45 issue an injunction, and upon notice to the defendant of not less than  
46 five days, to enjoin and restrain the continuance of such violations;  
47 and if it shall appear to the satisfaction of the court or justice that  
48 the defendant has, in fact, violated this article, an injunction may be  
49 issued by such court or justice, enjoining and restraining any further  
50 violation, without requiring proof that any person has, in fact, been  
51 injured or damaged thereby. In any such proceeding, the court may make  
52 allowances to the attorney general as provided in paragraph six of  
53 subdivision (a) of section eighty-three hundred three of the civil prac-  
54 tice law and rules, and direct restitution. Whenever the court shall  
55 determine that a violation of this article has occurred, the court may  
56 impose a civil penalty of not more than five hundred dollars for each

1 violation. In connection with any such proposed application, the attor-  
2 ney general is authorized to take proof and make a determination of the  
3 relevant facts and to issue subpoenas in accordance with the civil prac-  
4 tice law and rules.

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

13 5. Administrative hearings held pursuant to this section shall be  
14 conducted by the office of administrative hearings of the department of  
15 state pursuant to part four hundred of title nineteen of the New York  
16 state codes, rules and regulations and subject to the rules provided  
17 therein. Any notice issued pursuant to this section shall be served at  
18 least ten days prior to the date set for the administrative hearing.

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

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

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

26 (f) a listing of all travel consultants and travel promoters regis-  
27 tered by the department of state pursuant to article ten-A of the gener-  
28 al business law, and their corresponding registration numbers.

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