

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 attorney general is authorized to take proof and make a determination of the
2 relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

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

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

10 § 3. 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
11 of the laws of 2006, are amended and a new paragraph (f) is added to read as follows:

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

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

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

15 § 4. 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
16 authorized and directed to complete any and all actions necessary to implement the provisions of article 10-A of the general business law, as
17 amended by sections one and two of this act, on the effective date of this act.