STATE OF NEW YORK

3749

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. CYMBROWITZ -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to establishing the failure to refund school-related educational trips, tours or excursions during a declared state of emergency as an illegal act

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

Section 1. The general business law is amended by adding a new section 158-b to read as follows:

§ 158-b. Prohibited practices; state of disaster emergency. Notwithstanding any provision of law, rule or regulation to the contrary, it shall be illegal for any travel consultant, travel promoter, or other entity acting on behalf of a consumer to provide travel services, to fail to provide a full monetary refund, upon request, for a school-related educational trip, tour or excursion cancelled as a result of a declared state of disaster emergency pursuant to article two-B of the executive law.

§ 2. Subdivision 4 of section 159 of the general business law, as added by chapter 754 of the laws of 1990, is amended and a new subdivision 2-a is added to read as follows:

2-a. Except as otherwise provided by law, any travel consultant, travel promoter, or other entity providing travel services who shall violate section one hundred fifty-eight-b of this article shall be guilty of a misdemeanor.

4. Enforcement; penalties. Whenever there shall be a violation of section one hundred fifty-seven-a, one hundred fifty-eight [~~or~~], one hundred fifty-eight-a **or one hundred fifty-eight-b** of this article, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the

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

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continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this article, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this article has occurred, the court may impose a civil penalty of not more than five hundred dollars for each violation**; provided, however, a civil penalty of not more than five thousand dollars may be imposed for a violation of section one hundred fifty-eight-b of this article**. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

§ 3. This act shall take effect immediately.