

STATE OF NEW YORK

141

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

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;

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

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

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

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

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

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

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

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

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

48 a. first or last name;

49 b. registration number;

50 c. name of business; or

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

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

55 § 157-e. Grounds for denial, suspension or revocation of registration.

56 1. The secretary of state shall have the power to suspend or revoke a

1 registration or, in lieu thereof, to impose a fine not exceeding one
2 thousand dollars payable to the department of state, or reprimand any
3 registrant or deny an application for a registration or renewal thereof
4 upon proof:

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

8 b. that the applicant or registrant has knowingly practiced fraud,
9 deceit or misrepresentation; or

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

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

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

30 § 2. Section 159 of the general business law, as amended by chapter
31 754 of the laws of 1990, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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