

By the Committee on Education; and Senator Diaz de la Portilla

304-2557-04

1                                   A bill to be entitled  
2           An act relating to charter travel to terrorist  
3           states; creating s. 288.857, F.S.; providing a  
4           short title; providing legislative intent;  
5           providing definitions; providing for the levy  
6           of a security assessment of charter  
7           transportation for trips originating in this  
8           state and arriving in an identified terrorist  
9           state; providing for the rate of the  
10          assessment; providing requirements and  
11          procedures with respect thereto; requiring any  
12          university or community college within the  
13          State University System or the Florida  
14          Community College System that organizes or  
15          directs the organization of a cultural or  
16          educational trip utilizing charter  
17          transportation to any terrorist state to  
18          provide the Department of Education with  
19          specified information; specifying exemptions to  
20          the act; providing for the adoption of rules;  
21          providing the adoption of emergency rules;  
22          providing for length of effectiveness of such  
23          rules; requiring assessment to be accompanied  
24          by form prescribed by the Department of  
25          Revenue; providing severability; providing an  
26          effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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30           Section 1.   Section 288.857, Florida Statutes, is  
31   created to read:

1           288.857 Security assessment for chartered  
2 transportation to terrorist states.--

3           (1) SHORT TITLE.--This act may be cited as the  
4 "Commerce with Terrorist States Act."

5           (2) LEGISLATIVE INTENT.--The Legislature finds that  
6 there are increased safety concerns associated with  
7 transportation between this state and terrorist states and  
8 that travel to terrorist states raises issues related to  
9 security and to the prevention of a response to possible  
10 terrorist acts. The Legislature further finds that persons or  
11 entities who transport persons to terrorist states may  
12 directly impact the economic stability and public security of  
13 this state. Therefore, it is the intent of the Legislature to  
14 offset costs related to transportation to terrorist states  
15 which originates in this state. It is not the intent of the  
16 Legislature to impact the official business of government  
17 employees or the duties of any personnel of the United States  
18 Armed Services.

19           (3) DEFINITIONS.--As used in this section, the term:

20           (a) "Terrorist state" means any state, country, or  
21 nation presently deemed a state sponsor of terrorism by the  
22 United States Department of State. For the purposes of this  
23 act, the Department of Revenue shall document those states or  
24 nations identified as state sponsors of terrorism by the  
25 United States Department of State, shall specify in rule those  
26 states or nations deemed state sponsors of terrorism by the  
27 United States Department of State, and shall annually update  
28 the list of states or nation to the most current list of the  
29 United States Department of State.

30           (b) "Assessable transaction or incident" means payment  
31 by a passenger for travel on a charter vessel.

1           (c) "Charter aircraft" means any form of aircraft  
2 hired for exclusive temporary use by a single traveler or  
3 group of travelers.

4           (d) "Charter transportation" means travel via charter  
5 aircraft or charter vessel when the aircraft or vessel is  
6 hired for exclusive temporary use by a single traveler or  
7 group of travelers.

8           (e) "Charter vessel" means any form of watercraft  
9 hired for exclusive temporary use by a single traveler or  
10 group of travelers.

11           (f) "Directly carries or transports" means to conduct  
12 a single continuous charter flight or charter vessel voyage  
13 that originates from any location in this state and arrives in  
14 a terrorist state identified under paragraph (a). For purposes  
15 of this definition, temporary stops of less than 8 hours do  
16 not disqualify a charter flight or charter vessel voyage from  
17 being considered a continuous flight or voyage.

18           (4) SECURITY ASSESSMENT.--

19           (a) It is the intent of the Legislature that every  
20 person or entity who directly transports persons via charter  
21 aircraft or charter vessel from this state to a terrorist  
22 state is exercising an assessable privilege.

23           (b)1. For exercising this privilege, a security  
24 assessment is levied on charter aircraft on each take-off at  
25 the rate of \$100, irrespective of the charter aircraft size,  
26 and an additional charge of \$0.04 per thousand pounds of  
27 landed aircraft weight.

28           2. For charter vessels exercising this privilege, a  
29 security assessment is levied on each assessable transaction  
30 or incident, which assessment is due and payable at the rate  
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1 of 10 percent on the total consideration received or to be  
2 received by any person for performing the service.

3 (c) The security assessment shall be in addition to  
4 the total amount of the consideration for the service, shall  
5 be charged by the person receiving the consideration, and  
6 shall be payable by the person at the time he or she receives  
7 the consideration. The person shall remit the assessment to  
8 the Department of Revenue. The proceeds of the security  
9 assessment, less the administrative costs, shall be  
10 transferred by the Department of Revenue into the State  
11 Homeland Security Trust Fund. For the purposes of this  
12 section, "proceeds" of the assessment means all funds  
13 collected and received by the department hereunder, including  
14 interest and penalties on delinquent fees. The amount deducted  
15 for the costs of administration must not exceed 3 percent of  
16 the total revenues collected hereunder and may include only  
17 those costs reasonably attributable to the fee.

18 (d) This security assessment is in addition to other  
19 taxes or assessments, whether levied in the form of excise,  
20 license, or privilege taxes, and is in addition to all other  
21 fees and taxes levied.

22 (e) The Department of Revenue shall administer,  
23 collect, and enforce the security assessment authorized under  
24 this section according to the same procedures used in the  
25 administration, collection, and enforcement of the general  
26 state sales tax imposed under chapter 212, except as provided  
27 in this section. The provisions of chapter 212 regarding the  
28 authority to audit and make assessments, keeping of books and  
29 records, and interest and penalties on delinquent fees apply.  
30 The fee shall not be included in the computation of estimated  
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1 taxes under s. 212.11, nor shall the dealer's credit for  
2 collecting taxes or fees in s. 212.12 apply to this fee.

3 (5) MANDATORY TRAVEL INFORMATION.--Any university or  
4 community college within the State University System or the  
5 Florida Community College System that organizes or directs the  
6 organization of a cultural or educational trip using charter  
7 transportation to any terrorist state shall provide the  
8 Department of Education, no later than 30 days before the  
9 commencement of the trip, the following information:

10 (a) A passenger list of individuals participating in  
11 the trip, including the name and address of each individual  
12 and the enrollment or employment status of each individual in  
13 the applicable state university or community college.

14 (b) A detailed itinerary of the trip being organized,  
15 including hotel and restaurant accommodations, planned  
16 excursions, and scheduled meetings with governmental  
17 authorities or individuals or organizations not affiliated  
18 with the government of the host nation.

19 (c) A complete accounting of all costs associated with  
20 the trip and a complete accounting of the use or deposit of  
21 all moneys received in payment for the trip.

22 (d) The certificates of incorporation of any entity or  
23 entities contracted to organize or facilitate the trip or the  
24 names and other pertinent identifying information with respect  
25 to any third-party entity or entities being contracted to  
26 organize or facilitate the trip.

27 (6) EXEMPTIONS.--The provisions of this act do not  
28 apply to:

29 (a) Any person operating by contract with a federal  
30 authority or an authority of the State of Florida.

31 (b) Any person in performance of active military duty.

1           (7) RULEMAKING AUTHORITY.--The Department of Education  
2 and the Department of Revenue may adopt rules to administer  
3 this section.

4           Section 2. The executive director of the Department of  
5 Revenue may, and all conditions are deemed met, adopt  
6 emergency rules under sections 120.536(1) and 120.54(4),  
7 Florida Statutes, to implement this section. Notwithstanding  
8 any other law, the emergency rules shall remain effective for  
9 6 months after the date of adoption and may be renewed during  
10 the pendency of procedures to adopt rules addressing the  
11 subject of the emergency rules.

12           Section 3. Payment of the assessment shall be  
13 accompanied by the form as the Department of Revenue may  
14 prescribe.

15           Section 4. If any provision of this act or its  
16 application to any person or circumstance is held invalid, the  
17 invalidity does not affect other provisions or applications of  
18 the act which can be given effect without the invalid  
19 provision or application, and to this end the provisions of  
20 this act are severable.

21           Section 5. This act shall take effect January 1, 2005.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                    COMMITTEE SUBSTITUTE FOR  
3                                    SB 2614  
4           Requires the Department of Revenue to annually update the list  
5           of terrorist states specified under the bill.  
6           Provides that payment by a passenger for travel on a charter  
7           vessel will constitute an assessable transaction or incident  
8           for purposes of the bill's provisions.  
9           Provides, with respect to charter aircraft, that a security  
10          assessment will be levied on each take-off at a rate of \$100,  
11          with an additional charge based on the weight of the aircraft.  
12          Provides for administrative costs to be retained by the  
13          Department of Revenue in connection with collecting security  
14          assessments and provides a cap for those costs.  
15          Provides that proceeds of the assessment will include all  
16          funds collected and received by the Department of Revenue,  
17          including interest and penalties.  
18          Requires the Department of Revenue to administer, collect and  
19          enforce the security assessment according to procedures set  
20          forth in chapter 212, F.S., with certain exceptions.  
21          Requires universities and colleges to provide travel  
22          information only to the Department of Education, not to the  
23          Department of Law Enforcement.  
24          Deletes rulemaking authority for the Department of Business  
25          and Professional Regulation.  
26          Permits the Department of Revenue to adopt emergency rules to  
27          implement the section in accordance with applicable law.  
28          Provides for the Department of Revenue to adopt a form to  
29          accompany payment of the security assessment.  
30          Changes the effective date of the bill from July 1, 2004 to  
31          January 1, 2005.