

Bill No. SB 1788

Barcode 124028

CHAMBER ACTION

Senate

House

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The Committee on Commerce and Consumer Services (Saunders)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

288.857 Travel To and Commerce With Terrorist Nations

Act.--

(1) POPULAR NAME.--This act may be cited as the

"Travel To and Commerce With Terrorist Nations Act."

(2) LEGISLATIVE INTENT.--The Legislature finds that
travel to and commerce with nations designated by the United
States Department of State as purveyors of state-sponsored
terrorism serves to subsidize the terrorist activities that
caused these nations to be placed on the United States
Department of State list of terrorist nations. The Legislature
finds that there are increased safety concerns associated with
transportation between this state and terrorist nations and

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1 that travel to terrorist nations raises issues related to
2 security and to the prevention of and response to possible
3 terrorist acts. The Legislature further finds that persons or
4 entities who transport persons to terrorist nations may
5 directly impact the economic stability and public security of
6 this state. Therefore, it is the intent of the Legislature to
7 offset costs related to transportation to terrorist nations
8 which originates in this state. The Legislature finds that
9 certain Florida residents who avail themselves of programs and
10 services administered by the State of Florida are currently
11 engaging in travel and commerce activities that subsidize
12 terrorist nations. In an effort to minimize potential
13 subsidies to terrorist nations for terrorist activities, as
14 well as to combat fraud and abuse in certain programs and
15 services administered by state government, the Legislature
16 further finds that Florida residents who engage in travel and
17 commerce activities that benefit terrorist nations should be
18 ineligible for certain programs and services administered by
19 state government. The Legislature finds that protecting the
20 agricultural interests of the state can be served by
21 implementing a surcharge on specific agricultural commerce
22 with terrorist nations. Therefore, it is the intent of the
23 Legislature through the passage of this act to discourage
24 Florida residents, particularly those benefiting from the
25 receipt of public funds, from participating in travel and
26 commerce activities that serve to benefit terrorist nations
27 financially, and to further the agricultural and homeland
28 security interests of the state. It is further the intent of
29 the Legislature that any savings or revenues generated as a
30 result of this act be used for critical state priorities such
31 as enhancing homeland security, providing the elderly with

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1 nutrition programs, eradicating citrus canker, and improving
 2 agricultural harvesting techniques. It is not the intent of
 3 the Legislature, through the enactment of this act, to impact
 4 the official business of government employees or the duties of
 5 any personnel of the United States Armed Services, or to
 6 regulate academic freedom or academic program content.

7 (3) DEFINITIONS.--As used in this act, the term:

8 (a) "Terrorist nation" means any state, country, or
 9 nation presently deemed a state sponsor of terrorism by the
 10 United States Department of State. For the purposes of this
 11 act, the Department of Revenue shall be charged with the duty
 12 of documenting those states or nations identified as state
 13 sponsors of terrorism by the United States Department of
 14 State, shall specify in rule those states or nations
 15 designated state sponsors of terrorism by the United States
 16 Department of State, and shall annually update the list of
 17 states or nations designated as state sponsors of terrorism
 18 according to the most current list of state sponsors of
 19 terrorism compiled by the United States Department of State.

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

22 (c) "Charter aircraft" means any form of aircraft
 23 hired for exclusive temporary use by a single traveler or
 24 group of travelers.

25 (d) "Charter transportation" means travel via charter
 26 aircraft or charter vessel when such aircraft or vessel is
 27 hired for exclusive temporary use by a single traveler or
 28 group of travelers.

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

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1 (f) "Directly carries or transports" means to conduct
2 a single continuous charter flight or charter vessel voyage
3 that originates from any location in this state and arrives in
4 a terrorist nation identified pursuant to paragraph (a). For
5 purposes of this definition, temporary stops of less than 8
6 hours shall not disqualify a charter flight or charter vessel
7 voyage from being considered a continuous flight or voyage.

8 (4) SECURITY ASSESSMENT.--

9 (a) It is the intent of the Legislature that every
10 person or entity who directly transports persons via charter
11 aircraft or charter vessel from this state to a terrorist
12 nation is exercising an assessable privilege.

13 (b)1. For exercising such privilege, a security
14 assessment is levied on charter aircraft on each takeoff at
15 the rate of \$100, irrespective of the charter aircraft size,
16 plus an additional charge of \$0.04 per pound of the aircraft's
17 maximum takeoff weight as specified by the aircraft
18 manufacturer. Each such charter company is charged with the
19 responsibility of keeping adequate books and records that will
20 establish chartered flights and destinations.

21 2. For charter vessels exercising such privilege, a
22 security assessment is levied on each assessable transaction
23 or incident, which assessment is due and payable at the rate
24 of 10 percent on the total consideration received or to be
25 received by any person for performing such service. Such
26 security assessment shall be in addition to the total amount
27 of the consideration for the service, shall be charged by the
28 person receiving such consideration, and shall be payable by
29 such person at the time he or she receives such consideration.

30 (c) Any person or entity that directly transports
31 persons via charter aircraft or vessel from this state to a

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1 terrorist nation shall remit the assessment to the Department
 2 of Revenue in a manner prescribed by the department. The
 3 proceeds of the security assessment, less administrative
 4 costs, shall be transferred by the Department of Revenue into
 5 the State Homeland Security Trust Fund. For the purposes of
 6 this act, the term "proceeds of the security assessment" means
 7 all funds collected and received by the department under this
 8 act, including interest and penalties on delinquent
 9 assessments. The amount deducted for the costs of
 10 administration must not exceed 3 percent of the total revenues
 11 collected under this act and may include only those costs
 12 reasonably attributable to the assessment.

13 (d) This security assessment is in addition to other
 14 taxes or assessments, whether levied in the form of excise,
 15 license, or privilege taxes, and is in addition to all other
 16 fees and taxes levied.

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

29 (5) MANDATORY TRAVEL INFORMATION.--Any university or
 30 community college within the State University System or the
 31 Florida Community College System which organizes or directs

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1 the organization of a cultural or educational trip using
2 charter transportation to any terrorist nation shall provide
3 the Department of Education, no later than 30 days after the
4 completion of such trip, with the following information:

5 (a) A report specifying:

6 1. The number of degree-seeking students and
7 nondegree-seeking students participating in the trip.

8 2. The number of employees of the university or
9 community college and the number of persons not employed by
10 the university or community college participating in the trip.

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

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

19 (d) The certificates of incorporation of any entity or
20 entities contracted to organize or facilitate the trip.

21 (e) A statement confirming adherence to all provisions
22 of the United States Department of Treasury Cuban Assets
23 Control Regulations, 31 C.F.R. s. 515.536.

24 (6) PROGRAM ELIGIBILITY DISQUALIFICATION.--Effective
25 January 1, 2006, any Florida resident between 18 and 65 years
26 of age, inclusive, who has established permanent residency in
27 Florida for less than 5 years, and who has not been determined
28 by the Florida Medicaid program to be disabled or pregnant,
29 regardless of immigration or citizenship status, is ineligible
30 to participate in the Refugee Resettlement Program under Title
31 IV of the Immigration and Nationality Act, the Refugee Cash

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1 Assistance program under 45 C.F.R. part 400, or the Refugee
 2 Medical Assistance program under 45 C.F.R. part 400, as
 3 administered by the State of Florida and the Department of
 4 Children and Family Services, and will be ineligible to
 5 receive Medicaid or food stamp benefits, as administered by
 6 the State of Florida and the Department of Children and Family
 7 Services, for a minimum period of 1 year or until the person's
 8 5-year Florida residency threshold is reached, whichever is
 9 greater, upon a determination by the Department of Children
 10 and Family Services that the individual has traveled to a
 11 terrorist nation as defined by the United States Department of
 12 State.

13 (7) USE OF STATE FUNDING.--Effective January 1, 2006,
 14 all state funds derived as a result of the denial or
 15 discontinuance of benefits under this act shall be redirected
 16 to the Department of Elderly Affairs for elderly nutrition
 17 programs. No funds derived under this act may be used to
 18 replace existing funding for and access to programs to which
 19 funds are redirected. All funds secured under this act are
 20 intended to expand funding for and access to the programs to
 21 which funds are redirected.

22 (8) TERRORIST TRAVEL DISCLOSURE FORM.--

23 (a) The Department of Revenue shall develop a
 24 disclosure form to be entitled the "Terrorist Travel
 25 Disclosure Form." The Department of Revenue and the Department
 26 of Agriculture and Consumer Services shall make the Terrorist
 27 Travel Disclosure form available on their respective web
 28 sites. The form shall inform a Florida resident seeking to
 29 travel to an identified terrorist nation of the
 30 disqualification from eligibility for the programs and
 31 services cited in subsection (6) which will result from such

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1 travel. The Terrorist Travel Disclosure Form shall include the
 2 name, mailing address, social security number or alien
 3 resident number, date of birth, place of birth, date on which
 4 Florida residency was established, telephone number and
 5 signature of the individual requesting travel services to a
 6 terrorist nation, and shall contain a sworn statement
 7 attesting to the validity of the application.

8 (b) Effective January 1, 2006, all persons and
 9 corporations subject to the jurisdiction of the State of
 10 Florida who are authorized by the Office of Foreign Assets
 11 Control, United States Department of the Treasury, to provide
 12 terrorist-nation-related travel services to qualifying
 13 individuals must, no later than 15 days after travel has
 14 commenced, submit to the Department of Revenue a completed
 15 terrorist travel disclosure form for each qualifying
 16 individual engaging in terroristnation-related travel. The
 17 Department of Agriculture and Consumer Services shall assess
 18 on a yearly basis all persons and corporations subject to the
 19 jurisdiction of the State of Florida who are authorized by the
 20 Office of Foreign Assets Control, United States Department of
 21 the Treasury, to provide terrorist nation-related travel
 22 services. Such yearly assessment shall be at a level
 23 sufficient to fulfill the cost associated with administering
 24 this regulation. The yearly assessment shall be calculated by
 25 dividing the total administrative cost by the number of
 26 current/active and delinquent/active terrorist nation-related
 27 travel service providers. Such administrative processing
 28 assessment shall be deposited in the General Revenue Fund. The
 29 Department of Revenue may investigate and audit all applicable
 30 and relevant records to enforce this subsection.

31 (9) TERRORIST NATIONS TRAVEL DATABASE.--No later than

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1 January 1, 2006, the Department of Revenue shall create,
2 operate, and maintain a Terrorist Nations Travel Database
3 wherein information contained in terrorist travel disclosure
4 forms and received from authorized travel service providers
5 shall be input and maintained. The database shall be available
6 to any state agency responsible for determining eligibility or
7 the continuation of eligibility for the Refugee Resettlement
8 Program, the Refugee Cash Assistance program, the Refugee
9 Medical Assistance program, Medicaid, or the food stamp
10 program, and for informing program recipients subject to this
11 act of the termination of their eligibility for such programs.
12 The Department of Children and Family Services shall monitor
13 the Terrorist Nations Travel Database on a monthly basis to
14 ensure the compliance of benefit recipients under the Refugee
15 Resettlement Program, the Refugee Cash Assistance program, the
16 Refugee Medical Assistance program, Medicaid, or the food
17 stamp program with the eligibility criteria established in
18 subsection (6).

19 (10) DISCLOSURE OF ELIGIBILITY REQUIREMENTS; PENALTY
20 FOR NONCOMPLIANCE.--No later than January 1, 2006, the
21 Department of Children and Family Services shall include a
22 terrorist travel waiver form in all Request for Assistance
23 application packets that include temporary cash assistance,
24 food stamps, and Medicaid for all applicants under the Refugee
25 Resettlement Program administered by the State of Florida. The
26 terrorist travel waiver form shall inform prospective
27 applicants of the disqualification from eligibility for such
28 programs and the penalties for noncompliance that will result
29 from travel to terrorist countries. The terrorist travel
30 waiver form shall include a sworn statement and agreement,
31 under penalty of perjury, by the benefits applicant that he or

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1 she will inform the Department of Children and Family Services
2 of any travel or intention to travel to a terrorist nation
3 while receiving benefits covered under the Refugee
4 Resettlement Program, the food stamp program, or the Medicaid
5 program. Any Refugee Resettlement Program recipients found to
6 be in violation of the eligibility requirements associated
7 with travel to terrorist nations and who meet the criteria
8 established in subsection (6) shall be ineligible for the
9 Refugee Cash Assistance program, the Refugee Medical
10 Assistance program, Medicaid, and the food stamp program, as
11 administered by the State of Florida, for an indefinite
12 period.

13 (11) TERRORIST COMMERCE SURCHARGE; USE OF FUNDS.--No
14 later than January 1, 2006, the Department of Agriculture and
15 Consumer Services shall levy a 10-percent terrorist commerce
16 surcharge on the final sale price of any beef or dairy cattle
17 transshipped from any Florida airport or seaport for sale to
18 any terrorist nation, including, but not limited to, Brangus,
19 Brafords, Brahma, Hereford, Beef Masters, and Black Angus cow
20 and cattle varieties. Funds derived from the surcharge shall
21 be allocated to the Institute of Food and Agricultural
22 Sciences of the University of Florida for utilization in the
23 Citrus Canker Genome Project and the Citrus Abscission and
24 Mechanical Harvest Project.

25 (12) IMPLEMENTATION REQUIREMENTS.--No later than July
26 1, 2006, the Department of Children and Family Services, the
27 Department of Elderly Affairs, the Agency for Health Care
28 Administration, the Department of Agriculture and Consumer
29 Services, and the Department of Revenue shall submit a report
30 to the Legislature describing the actions necessary to
31 implement this act. The report shall include written comments

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1 from the agencies' federal counterparts as to any requirements
2 necessary to implement the act, including, but not limited to,
3 securing any federal waivers, and recommended action to be
4 taken by the respective agencies, including any fiscal notes.

5 (13) PENALTY.--Any entity providing travel services in
6 violation of any provision of this act shall be subject to a
7 fine in the amount of \$10,000 per violation to be imposed by
8 the Department of Department of Agriculture and Consumer
9 Services. Any entity providing travel services in violation of
10 any provision of this act shall be subject to a fine in the
11 amount of \$10,000 per violation to be imposed by the
12 Department of Revenue

13 (14) EXEMPTIONS.--The provisions of this act do not
14 apply to:

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

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

18 (c) Any person employed with the Federal Government in
19 the performance of his or her official duties.

20 (15) RULEMAKING AUTHORITY.--The Department of
21 Education and the Department of Revenue may adopt rules
22 necessary to administer this act. The Executive Director of
23 the Department of Revenue is authorized, and all conditions
24 are deemed met, to adopt emergency rules under ss. 120.536(1)
25 and 120.54(4) to implement this act. Notwithstanding any other
26 provision of law, such emergency rules shall remain in effect
27 for 6 months after the date of adoption and may be renewed
28 during the pendency of procedures to adopt rules addressing
29 the subject of the emergency rules.

30 Section 2. Subsection (2) of section 559.935, Florida
31 Statutes, is amended to read:

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1 559.935 Exemptions.--

2 (2)(a) Sections 559.928, 559.929, 559.9295, 559.931,
3 and 559.932 shall not apply to:

4 1.(a) Sellers of travel directly issuing airline
5 tickets who have contracted with the Airlines Reporting
6 Corporation for the most recent consecutive 3 years or more
7 under the same ownership and control and who do not offer
8 vacation certificates; or

9 2.(b) Sellers of travel offering vacation certificates
10 who have contracted with the Airlines Reporting Corporation
11 for the most recent consecutive 5 years or more under the same
12 ownership and control.

13 (b) The exemptions provided in this subsection do not
14 apply to a seller of travel authorized by the Office of
15 Foreign Asset Control, United States Department of Treasury,
16 to provide terrorist-nation-related travel services to
17 qualifying individuals.

18 Section 3. If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 invalidity does not affect other provisions or applications of
21 the act which can be given effect without the invalid
22 provision or application, and to this end the provisions of
23 this act are severable.

24 Section 4. This act shall take effect upon becoming a
25 law.

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28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 Delete everything before the enacting clause

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1 and insert:

2 A bill to be entitled
3 An act relating to travel to and commerce with
4 terrorist nations; creating s. 288.857, F.S.;
5 creating the "Travel To and Commerce With
6 Terrorist Nations Act"; providing a popular
7 name; providing legislative intent; providing
8 definitions; providing for the levy of a
9 security assessment on charter transportation
10 for trips originating in this state and
11 arriving in an identified terrorist nation;
12 providing for the rate of the assessment;
13 providing requirements and procedures with
14 respect thereto; requiring any university or
15 community college within the State University
16 System or the Florida Community College System
17 which organizes or directs the organization of
18 a cultural or educational trip using charter
19 transportation to any terrorist nation to
20 provide the Department of Education with
21 specified information; providing standards for
22 disqualification from participation in specific
23 programs and services administered by the state
24 for residents who engage in travel to terrorist
25 nations; providing for the reallocation of
26 state funds derived as a result of the denial
27 or discontinuance of benefits from such
28 programs; requiring the Department of Revenue
29 to develop a terrorist travel disclosure form;
30 providing for contents of the form; providing
31 requirements with respect to completion and

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1 submission of such form; providing for an
2 administrative-processing assessment; providing
3 for calculation and deposit of such assessment;
4 requiring the department to create, operate,
5 and maintain a database for the collection of
6 information contained in such forms; providing
7 for use of the database by state agencies;
8 requiring the Department of Children and Family
9 Services to monitor the database for specified
10 compliance; requiring the Department of
11 Children and Family Services to include a
12 terrorist travel waiver form with specified
13 applications for assistance; providing for
14 contents of the form; providing for a state
15 surcharge on the trade and shipment of cattle
16 to any terrorist nation; providing for the use
17 of funds derived from the terrorist commerce
18 surcharge; requiring a report; providing a fine
19 for a violation of the act; specifying
20 exemptions to the act; providing for the
21 adoption of rules; providing for the adoption
22 of emergency rules; providing that emergency
23 rules shall remain in effect for a specified
24 period; amending s. 559.935, F.S.; providing an
25 exception to exemptions for a seller of travel
26 authorized to provide terrorist-nation-related
27 travel services to qualifying individuals;
28 providing severability; providing an effective
29 date.

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