

By Senator Clary

4-1350-05

See HB 605

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

1 such form; providing for an administrative
2 processing assessment; providing for
3 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 utilization of the database by state
8 agencies; requiring the Department of Children
9 and Family Services to monitor the database for
10 specified compliance; requiring the Department
11 of 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
17 utilization of funds derived from the terrorist
18 commerce surcharge; requiring a report;
19 providing a fine for violation of the act;
20 specifying exemptions to the act; providing for
21 the adoption of rules; providing for the
22 adoption of emergency rules; providing that
23 emergency rules shall remain in effect for a
24 specified period; providing severability;
25 providing an effective date.

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

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29 Section 1. Section 288.857, Florida Statutes, is
30 created to read:
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1 288.857 Travel To and Commerce With Terrorist Nations
2 Act.--
3 (1) POPULAR NAME.--This act may be cited as the
4 "Travel To and Commerce With Terrorist Nations Act."
5 (2) LEGISLATIVE INTENT.--The Legislature finds that
6 travel to and commerce with nations designated by the United
7 States Department of State as purveyors of state-sponsored
8 terrorism serves to subsidize the terrorist activities which
9 caused these nations to be placed on the United States
10 Department of State list of terrorist nations. The Legislature
11 finds that there are increased safety concerns associated with
12 transportation between this state and terrorist nations and
13 that travel to terrorist nations raises issues related to
14 security and to the prevention of and response to possible
15 terrorist acts. The Legislature further finds that persons or
16 entities who transport persons to terrorist nations may
17 directly impact the economic stability and public security of
18 this state. Therefore, it is the intent of the Legislature to
19 offset costs related to transportation to terrorist nations
20 that originates in this state. The Legislature finds that
21 certain Florida residents who avail themselves of programs and
22 services administered by the State of Florida are currently
23 engaging in travel and commerce activities that subsidize
24 terrorist nations. In an effort to minimize potential
25 subsidies to terrorist nations for terrorist activities, as
26 well as to combat fraud and abuse in certain programs and
27 services administered by state government, the Legislature
28 further finds that Florida residents who engage in travel and
29 commerce activities that benefit terrorist nations should be
30 ineligible for certain programs and services administered by
31 state government. The Legislature finds that protecting the

1 agricultural interests of the state can be served by
2 implementing a surcharge on specific agricultural commerce
3 with terrorist nations. Therefore, it is the intent of the
4 Legislature through the passage of this act to discourage
5 Florida residents, particularly those benefiting from the
6 receipt of public funds, from participating in travel and
7 commerce activities that serve to benefit terrorist nations
8 financially, and to further the agricultural and homeland
9 security interests of the state. It is further the intent of
10 the Legislature that any savings or revenues generated as a
11 result of this act be utilized for critical state priorities
12 such as enhancing homeland security, providing the elderly
13 with nutrition programs, eradicating citrus canker, and
14 improving agricultural harvesting techniques. It is not the
15 intent of the Legislature, through the enactment of this act,
16 to impact the official business of government employees or the
17 duties of any personnel of the United States Armed Services,
18 nor to regulate academic freedom or academic program content.

19 (3) DEFINITIONS.--As used in this act:

20 (a) "Terrorist nation" 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 be charged with the duty
24 of documenting those states or nations identified as state
25 sponsors of terrorism by the United States Department of
26 State, shall specify in rule those states or nations
27 designated state sponsors of terrorism by the United States
28 Department of State, and shall annually update the list of
29 states or nations designated as state sponsors of terrorism
30 according to the most current list of state sponsors of
31 terrorism compiled by the United States Department of State.

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

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

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

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

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

20 (4) SECURITY ASSESSMENT.--

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

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

3 2. For charter vessels exercising such privilege, a
4 security assessment is levied on each assessable transaction
5 or incident, which assessment is due and payable at the rate
6 of 10 percent on the total consideration received or to be
7 received by any person for performing such service. Such
8 security assessment shall be in addition to the total amount
9 of the consideration for the service, shall be charged by the
10 person receiving such consideration, and shall be payable by
11 such person at the time he or she receives such consideration.

12 (c) Any person or entity that directly transports
13 persons via charter aircraft or vessel from this state to a
14 terrorist nation shall remit the assessment to the Department
15 of Revenue in a manner prescribed by the department. The
16 proceeds of the security assessment, less administrative
17 costs, shall be transferred by the Department of Revenue into
18 the State Homeland Security Trust Fund. For the purposes of
19 this act, "proceeds of the security assessment" means all
20 funds collected and received by the department hereunder,
21 including interest and penalties on delinquent assessments.
22 The amount deducted for the costs of administration must not
23 exceed 3 percent of the total revenues collected hereunder and
24 may include only those costs reasonably attributable to the
25 assessment.

26 (d) This security assessment is in addition to other
27 taxes or assessments, whether levied in the form of excise,
28 license, or privilege taxes, and is in addition to all other
29 fees and taxes levied.

30 (e) The Department of Revenue shall administer,
31 collect, and enforce the security assessment authorized under

1 this act pursuant to the same procedures used in the
2 administration, collection, and enforcement of the general
3 state sales tax imposed under chapter 212, except as provided
4 in this act. The provisions of chapter 212 regarding the
5 authority to audit and make assessments, keeping of books and
6 records, and interest and penalties on delinquent assessments
7 apply. The assessment shall not be included in the computation
8 of estimated taxes pursuant to s. 212.11, nor shall the
9 dealer's credit for collecting taxes or fees in s. 212.12
10 apply to this assessment.

11 (5) MANDATORY TRAVEL INFORMATION.--Any university or
12 community college within the State University System or the
13 Florida Community College System that organizes or directs the
14 organization of a cultural or educational trip utilizing
15 charter transportation to any terrorist nation shall provide
16 the Department of Education, no later than 30 days after the
17 completion of such trip, with the following information:

18 (a) A report specifying:

19 1. The number of degree-seeking students and
20 nondegree-seeking students participating in the trip.

21 2. The number of employees of the university or
22 community college and the number of persons not employed by
23 the university or community college participating in the trip.

24 (b) A detailed itinerary of the trip being organized,
25 including hotel and restaurant accommodations, planned
26 excursions, and scheduled meetings with governmental
27 authorities or individuals or organizations not affiliated
28 with the government of the host nation.

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

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

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

6 (6) PROGRAM ELIGIBILITY DISQUALIFICATION.--Effective
7 January 1, 2006, any Florida resident between 18 and 65 years
8 of age, inclusive, who has established permanent residency in
9 Florida for less than 5 years, and who has not been determined
10 by the Florida Medicaid program to be either disabled or
11 pregnant, regardless of immigration or citizenship status, is
12 ineligible to participate in the Refugee Resettlement Program
13 under Title IV of the Immigration and Nationality Act, the
14 Refugee Cash Assistance program under 45 C.F.R. part 400, or
15 the Refugee Medical Assistance program under 45 C.F.R. part
16 400, as administered by the State of Florida and the Florida
17 Department of Children and Family Services, and will be
18 ineligible to receive Medicaid or food stamp benefits, as
19 administered by the State of Florida and the Florida
20 Department of Children and Family Services, for a minimum
21 period of 1 year or until the person's 5-year Florida
22 residency threshold is reached, whichever is greater, upon a
23 determination by the Florida Department of Children and Family
24 Services that the individual has traveled to a terrorist
25 nation as defined by the United States Department of State.

26 (7) UTILIZATION OF STATE FUNDING.--Effective January
27 1, 2006, all state funds derived as a result of the denial or
28 discontinuance of benefits under this act shall be redirected
29 to the Department of Elderly Affairs for elderly nutrition
30 programs. No funds derived under this act may be used to
31 replace existing funding for and access to programs to which

1 funds are redirected. All funds secured under this act are
2 intended to expand funding for and access to the programs to
3 which funds are redirected.

4 (8) TERRORIST TRAVEL DISCLOSURE FORM.--

5 (a) The Department of Department of Agriculture and
6 Consumer Services shall develop a disclosure form to be
7 entitled the "Terrorist Travel Disclosure Form." The form
8 shall inform a Florida resident seeking to travel to an
9 identified terrorist nation of the disqualification from
10 eligibility for the programs and services cited in subsection
11 (6) that will result from such travel. The Terrorist Travel
12 Disclosure Form shall include the name, mailing address,
13 social security number or alien resident number, date of
14 birth, place of birth, date on which Florida residency was
15 established, telephone number and signature of the individual
16 requesting travel services to a terrorist nation, and shall
17 contain a sworn statement attesting to the validity of the
18 application.

19 (b) Effective January 1, 2006, all persons and
20 corporations subject to the jurisdiction of the State of
21 Florida who are authorized by the Office of Foreign Assets
22 Control, United States Department of the Treasury, to provide
23 terrorist nation-related travel services to qualifying
24 individuals must, no later than 15 days after travel has
25 commenced, submit to the Florida Department of Department of
26 Agriculture and Consumer Services a completed terrorist travel
27 disclosure form. The Department of Agriculture and Consumer
28 Services shall assess on a yearly basis all persons and
29 corporations subject to the jurisdiction of the State of
30 Florida who are authorized by the Office of Foreign Assets
31 Control, United States Department of the Treasury, to provide

1 terrorist nation-related travel services. Such yearly
2 assessment shall be at a level sufficient to fulfill the cost
3 associated with administering this regulation. The yearly
4 assessment shall be calculated by dividing the total
5 administrative cost by the number of current/active and
6 delinquent/active terrorist nation-related travel service
7 providers. Such administrative processing assessment shall be
8 deposited in the General Revenue Fund.

9 (9) TERRORIST NATIONS TRAVEL DATABASE.--No later than
10 January 1, 2006, the Department of Department of Agriculture
11 and Consumer Services shall create, operate, and maintain a
12 Terrorist Nations Travel Database wherein information
13 contained in terrorist travel disclosure forms and received
14 from authorized travel service providers shall be input and
15 maintained. The database shall be available to any state
16 agency responsible for determining eligibility or the
17 continuation of eligibility for the Refugee Resettlement
18 Program, the Refugee Cash Assistance program, the Refugee
19 Medical Assistance program, Medicaid, or the food stamp
20 program, and for informing program recipients subject to this
21 act of the termination of their eligibility for such programs.
22 The Department of Children and Family Services shall monitor
23 the Terrorist Nations Travel Database on a monthly basis to
24 ensure the compliance of benefit recipients under the Refugee
25 Resettlement Program, the Refugee Cash Assistance program, the
26 Refugee Medical Assistance program, Medicaid, or the food
27 stamp program with the eligibility criteria established in
28 subsection (6).

29 (10) DISCLOSURE OF ELIGIBILITY REQUIREMENTS; PENALTY
30 FOR NONCOMPLIANCE.--No later than January 1, 2006, the
31 Department of Children and Family Services shall include a

1 terrorist travel waiver form in all "Request for Assistance"
2 application packets that include Temporary Cash Assistance,
3 food stamps, and Medicaid for all applicants under the Refugee
4 Resettlement Program administered by the State of Florida. The
5 terrorist travel waiver form shall inform prospective
6 applicants of the disqualification from eligibility for such
7 programs and the penalties for noncompliance that will result
8 from travel to terrorist countries. The terrorist travel
9 waiver form shall include a sworn statement and agreement,
10 under penalty of perjury, by the benefits applicant that he or
11 she will inform the Department of Children and Family Services
12 of any travel or intention to travel to a terrorist nation
13 while receiving benefits covered under the Refugee
14 Resettlement Program, the food stamp program, or the Medicaid
15 program. Any Refugee Resettlement Program recipients found to
16 be in violation of the eligibility requirements associated
17 with travel to terrorist nations and who meet the criteria
18 established in subsection (6) shall be ineligible for the
19 Refugee Cash Assistance program, the Refugee Medical
20 Assistance program, Medicaid, and the food stamp program, as
21 administered by the State of Florida, for an indefinite
22 period.

23 (11) TERRORIST COMMERCE SURCHARGE; UTILIZATION OF
24 FUNDS.--No later than January 1, 2006, the Department of
25 Agriculture and Consumer Services shall levy a 10-percent
26 terrorist commerce surcharge on the final sale price of any
27 beef or dairy cattle transshipped from any Florida airport or
28 seaport for sale to any terrorist nation, including, but not
29 limited to, Brangus, Braford, Brahma, Hereford, Beef Masters,
30 and Black Angus cow and cattle varieties. Funds derived from
31 the surcharge shall be allocated to the Institute of Food and

1 Agricultural Sciences of the University of Florida for
2 utilization in the Citrus Canker Genome Project and the Citrus
3 Abscission and Mechanical Harvest Project.

4 (12) IMPLEMENTATION REQUIREMENTS.--No later than July
5 1, 2006, the Department of Children and Family Services, the
6 Department of Elderly Affairs, the Agency for Health Care
7 Administration, and the Department of Agriculture and Consumer
8 Services shall submit a report to the Legislature describing
9 the actions necessary to implement this act. The report shall
10 include written comments from the agencies' federal
11 counterparts as to any requirements necessary to implement the
12 act, including but not limited to, securing any federal
13 waivers, and recommended action to be taken by the respective
14 agencies, including any fiscal notes.

15 (13) PENALTY.--Any entity providing travel services in
16 violation of any provision of this act shall be subject to a
17 fine in the amount of \$10,000 per violation to be imposed by
18 the Department of Department of Agriculture and Consumer
19 Services.

20 (14) EXEMPTIONS.--The provisions of this act shall not
21 apply to:

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

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

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

27 (15) RULEMAKING AUTHORITY.--The Department of
28 Education and the Department of Revenue may adopt rules
29 necessary to administer this act. The Executive Director of
30 the Department of Revenue is authorized, and all conditions
31 are deemed met, to adopt emergency rules under ss. 120.536(1).

1 and 120.54(4) to implement this act. Notwithstanding any other
2 provision of law, such emergency rules shall remain in effect
3 for 6 months after the date of adoption and may be renewed
4 during the pendency of procedures to adopt rules addressing
5 the subject of the emergency rules.

6 Section 2. If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 invalidity does not affect other provisions or applications of
9 the act which can be given effect without the invalid
10 provision or application, and to this end the provisions of
11 this act are severable.

12 Section 3. This act shall take effect upon becoming a
13 law.