

By Senator Baker

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1                   A bill to be entitled  
2           An act relating to sellers of travel; amending s. 559.927,  
3           F.S.; revising the definition of "prearranged travel,  
4           tourist-related services, or tour-guide services";  
5           defining "certifying party" and "terrorist state";  
6           amending s. 559.928, F.S.; revising provisions relating to  
7           registration as a seller of travel; revising registration  
8           fees; revising conditions for denial of or refusal to  
9           renew the registration of any seller of travel by the  
10          Department of Agriculture and Consumer Services; creating  
11          s. 559.9285, F.S.; requiring a seller of travel to  
12          annually certify to the department the scope of its  
13          business activities by filing a disclosure statement;  
14          categorizing certifying parties; requiring the department  
15          to specify by rule the form of certification; specifying  
16          required certification information; amending s. 559.929,  
17          F.S.; revising requirements with respect to the  
18          performance bond that must accompany registration or an  
19          application for registration as a seller of travel;  
20          specifying amounts of bonds for certification categories;  
21          eliminating alternative means of satisfying security  
22          requirements; providing for priority of payment with  
23          respect to such bonds; revising conditions under which the  
24          department may annually waive the bond; precluding  
25          specified certification categories from waiver of bond;  
26          amending s. 559.9335, F.S.; providing that it is a  
27          violation of the Florida Sellers of Travel Act to offer to  
28          sell travel or provide any travel-related service to a  
29          purchaser traveling to or from any terrorist state without

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30 disclosing such business activities in a certification  
31 filed with the department and to violate any state or  
32 federal law restricting or prohibiting commerce with  
33 terrorist states; amending s. 559.935, F.S.; revising  
34 provisions that exempt certain sellers of travel and  
35 affiliates thereof from specified registration, security,  
36 disclosure, and recordkeeping requirements; revising  
37 conditions under which the department may revoke such  
38 exemptions; amending s. 559.9355, F.S.; imposing an  
39 administrative fine for each act or omission directly or  
40 indirectly pertaining to an offer to sell travel or  
41 provide any travel-related service to purchasers traveling  
42 to or from any terrorist state; amending s. 559.936, F.S.;  
43 authorizing the department to seek a specified civil  
44 penalty for each act or omission directly or indirectly  
45 pertaining to an offer to sell travel or provide any  
46 travel-related service to a purchaser traveling to or from  
47 any terrorist state; amending s. 559.937, F.S.; providing  
48 a criminal penalty for a violation of the Florida Sellers  
49 of Travel Act which directly or indirectly pertains to an  
50 offer to sell travel or provide any travel-related service  
51 to a purchaser traveling to or from any terrorist state;  
52 providing an effective date.

53  
54 Be It Enacted by the Legislature of the State of Florida:

55  
56 Section 1. Subsections (2) through (5), (7) through (10),  
57 and (11) of section 559.927, Florida Statutes, are renumbered as  
58 subsections (3) through (6), (8) through (11), and (13),

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59 | respectively, subsection (6) is renumbered as subsection (7) and  
60 | amended, and new subsections (2) and (12) are added to that  
61 | section, to read:

62 |       559.927 Definitions.--For the purposes of this part, the  
63 | term:

64 |       (2) "Certifying party" means a seller of travel registering  
65 | under s. 559.928 or a seller of travel who is exempt under s.  
66 | 559.935(2) or (3).

67 |       (7)~~(6)~~ "Prearranged travel, tourist-related services, or  
68 | tour-guide services" includes, but is not limited to, car  
69 | rentals, lodging, transfers, and sightseeing tours and all other  
70 | such services which are reasonably related to air, sea, rail,  
71 | motor coach, or other medium of transportation, or accommodations  
72 | for which a purchaser receives a premium or contracts or pays  
73 | prior to or after departure. These terms also include services  
74 | for which a purchaser, whose legal residence is outside the  
75 | United States, contracts or pays prior to departure, and any  
76 | arrangement by which a purchaser prepays for, receives a  
77 | reservation or any other commitment to provide services prior to  
78 | departure for, or otherwise arranges for travel to or from a  
79 | terrorist state directly from Florida or through one or more  
80 | intermediate states, countries, or nations.

81 |       (12) "Terrorist state" means any state, country, or nation  
82 | designated by the United States Department of State as a state  
83 | sponsor of terrorism.

84 |       Section 2. Subsections (1), (2), and (9) of section  
85 | 559.928, Florida Statutes, are amended to read:

86 |       559.928 Registration.--

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87 (1) Each seller of travel shall annually register with the  
88 department, providing: its legal business or trade name, mailing  
89 address, and business locations; the full names, addresses,  
90 telephone numbers, and social security numbers of its owners or  
91 corporate officers and directors and the Florida agent of the  
92 corporation; a statement whether it is a domestic or foreign  
93 corporation, its state and date of incorporation, its charter  
94 number, and, if a foreign corporation, the date it registered  
95 with the State of Florida, and occupational license where  
96 applicable; the date on which a seller of travel registered its  
97 fictitious name if the seller of travel is operating under a  
98 fictitious or trade name; the name of all other corporations,  
99 business entities, and trade names through which each owner of  
100 the seller of travel operated, was known, or did business as a  
101 seller of travel within the preceding 5 years; a list of all  
102 authorized independent agents, including the agent's trade name,  
103 full name, mailing address, business address, telephone numbers,  
104 and social security number; the business location and address of  
105 each branch office and full name and address of the manager or  
106 supervisor; the certification required under s. 559.9285; and  
107 proof of purchase of adequate bond ~~or establishment of a letter~~  
108 ~~of credit or certificate of deposit~~ as required in this part. A  
109 certificate evidencing proof of registration shall be issued by  
110 the department and must be prominently displayed in the seller of  
111 travel's primary place of business.

112 (2) (a) Registration fees shall be as follows:

113 1. Three hundred dollars ~~\$300~~ per year per registrant  
114 certifying its business activities under s. 559.9285(1) (a).

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115        2. One thousand dollars per year per registrant certifying  
116 its business activities under s. 559.9285(1) (b).

117        3. Twenty-five hundred dollars per year per registrant  
118 certifying its business activities under s. 559.9285(1) (c).

119        (b) All amounts collected shall be deposited by the Chief  
120 Financial Officer to the credit of the General Inspection Trust  
121 Fund of the Department of Agriculture and Consumer Services  
122 pursuant to s. 570.20, for the sole purpose of administration of  
123 this part.

124        (9) The department may deny or refuse to renew the  
125 registration of any seller of travel based upon a determination  
126 that the seller of travel, or any of its directors, officers,  
127 owners, or general partners:

128        (a) Has failed to meet the requirements for registration as  
129 provided in this part;

130        (b) Has been convicted of a crime involving fraud,  
131 dishonest dealing, or any other violation punishable as a crime  
132 under state or federal law ~~or any other act of moral turpitude;~~

133        (c) Has not satisfied a civil fine or penalty arising out  
134 of any administrative or enforcement action brought by any  
135 governmental agency or private person based upon conduct  
136 involving fraud, dishonest dealing, or any violation of this  
137 part;

138        (d) Has pending against her or him any criminal,  
139 administrative, or enforcement proceedings in any jurisdiction,  
140 based upon any violation of state or federal law ~~conduct~~  
141 ~~involving fraud, dishonest dealing, or any other act of moral~~  
142 ~~turpitude; or~~

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143 (e) Has had a judgment entered against her or him in any  
144 action brought by the department or the Department of Legal  
145 Affairs pursuant to ss. 501.201-501.213 or this part.

146 Section 3. Section 559.9285, Florida Statutes, is created  
147 to read:

148 559.9285 Certification of business activities.--

149 (1) Each certifying party, as defined in s. 559.927(2):

150 (a) Which does not offer for sale, directly or indirectly,  
151 at wholesale or retail, prearranged travel, tourist-related  
152 services, or tour-guide services for individuals or groups to or  
153 from any terrorist state;

154 (b) Which only offers for sale, directly or indirectly, at  
155 wholesale or retail, prearranged travel, tourist-related  
156 services, or tour-guide services for individuals or groups to or  
157 from any terrorist state but engages in no other business  
158 dealings or commerce with any terrorist state; or

159 (c) Which offers for sale, directly or indirectly, at  
160 wholesale or retail, prearranged travel, tourist-related  
161 services, or tour-guide services for individuals or groups to or  
162 from any terrorist state and also engages in any other business  
163 dealings or commerce with any terrorist state,

164  
165 shall annually certify its business activities by filing a  
166 disclosure statement with the department that accurately  
167 represents the scope of the seller's business activities  
168 according to the criteria provided in either paragraph (a),  
169 paragraph (b), or paragraph (c).

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170       (2) The department shall specify by rule the form of each  
171 certification under this section, which shall include the  
172 following information:

173       (a) The legal name, any trade names or fictitious names,  
174 mailing address, physical address, telephone number or numbers,  
175 fax number or numbers, all Internet and electronic contact  
176 information, and registration number, if applicable, of the  
177 certifying party.

178       (b) Each terrorist state with which the certifying party  
179 engages in any business or commerce.

180       (c) Each intermediate state, country, or nation through  
181 which the certifying party engages in any business or commerce  
182 with any terrorist state.

183       (d) The legal name, any trade names or fictitious names,  
184 mailing address, physical address, telephone number or numbers,  
185 fax number or numbers, and all Internet and electronic contact  
186 information of every other entity with which the certifying party  
187 engages in business or commerce that is related in any way to the  
188 certifying party's business or commerce with any terrorist state.

189       (e) The type of all prearranged travel, tourist-related  
190 services, or tour-guide services the certifying party offers for  
191 sale to individuals or groups traveling to, from, or within any  
192 terrorist state and the frequency with which such services are  
193 offered.

194       Section 4. Section 559.929, Florida Statutes, is amended to  
195 read:

196       559.929 Security requirements.--

197       (1) An application must be accompanied by a performance  
198 bond in an amount set by the department under paragraph (a),

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199 ~~paragraph (b), or paragraph (c) not to exceed \$25,000, or in the~~  
200 ~~amount of \$50,000 if the seller of travel is offering vacation~~  
201 ~~certificates.~~ The surety on such bond shall be a surety company  
202 authorized to do business in the state.

203 (a) Each seller of travel which certifies its business  
204 activities under s. 559.9285(1)(a) shall provide a performance  
205 bond in an amount not to exceed \$25,000, or in the amount of  
206 \$50,000 if the seller of travel is offering vacation  
207 certificates.

208 (b) Each seller of travel which certifies its business  
209 activities under s. 559.9285(1)(b) shall provide a performance  
210 bond in an amount not to exceed \$100,000, or in the amount of  
211 \$150,000 if the seller of travel is offering vacation  
212 certificates.

213 (c) Each seller of travel which certifies its business  
214 activities under s. 559.9285(1)(c) shall provide a performance  
215 bond in an amount not to exceed \$250,000, or in the amount of  
216 \$300,000 if the seller of travel is offering vacation  
217 certificates.

218 ~~(2) In lieu of the performance bond required in this part,~~  
219 ~~a registrant or applicant for registration may establish a~~  
220 ~~certificate of deposit or an irrevocable letter of credit in a~~  
221 ~~Florida banking institution in the amount of the performance~~  
222 ~~bond. The department shall be the beneficiary to this certificate~~  
223 ~~of deposit, and the original shall be filed with the department.~~  
224 ~~Any such letter of credit shall provide that the issuer will give~~  
225 ~~the department not less than 120 days written notice prior to~~  
226 ~~terminating or refusing to renew the letter of credit.~~



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227        ~~(2)(3)~~ The bond, ~~letter of credit, or certificate of~~  
228 ~~deposit~~ shall be in favor of the department for the use and  
229 benefit of any traveler who is injured by the fraud,  
230 misrepresentation, breach of contract, financial failure, or  
231 violation of any provision of this part by the seller of travel.  
232 Such liability may be enforced either by proceeding in an  
233 administrative action as specified in subsection ~~(3)~~ (4) or by  
234 filing a judicial suit at law in a court of competent  
235 jurisdiction. However, in such court suit the bond, ~~letter of~~  
236 ~~credit, or certificate of deposit~~ posted with the department  
237 shall not be amenable or subject to any judgment or other legal  
238 process issuing out of or from such court in connection with such  
239 lawsuit, but such bond, ~~letter of credit, or certificate of~~  
240 ~~deposit~~ shall be amenable to and enforceable only by and through  
241 administrative proceedings before the department. It is the  
242 intent of the Legislature that such bond, ~~letter of credit, or~~  
243 ~~certificate of deposit~~ shall be applicable and liable only for  
244 the payment of claims duly adjudicated by order of the  
245 department. The bond, ~~letter of credit, or certificate of deposit~~  
246 shall be open to successive claims, but the aggregate amount may  
247 not exceed the amount of the bond, ~~letter of credit, or~~  
248 ~~certificate of deposit~~. In addition to the foregoing, a bond  
249 provided by a registrant or applicant for registration which  
250 certifies its business activities under s. 559.9285(1)(b) or (c)  
251 shall be in favor of the department, with payment in the  
252 following order of priority:

253        (a) All expenses for prosecuting the registrant or  
254 applicant in any administrative or civil action, including fees  
255 for attorneys and other professionals, court costs or other costs

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256 of the proceedings, and all other expenses incidental to the  
257 action.

258 (b) All costs and expenses of investigation prior to the  
259 commencement of an administrative or civil action.

260 (c) Any unpaid administrative fine imposed by final order  
261 or any unpaid civil penalty imposed by final judgment.

262 (d) Damages or compensation for any traveler injured as  
263 provided in this subsection.

264 (3)~~(4)~~ Any traveler may file a claim against the bond,  
265 ~~letter of credit, or certificate of deposit~~ which shall be made  
266 in writing to the department within 120 days after an alleged  
267 injury has occurred or is discovered to have occurred. The  
268 proceedings shall be held in accordance with ss. 120.569 and  
269 120.57.

270 (4)~~(5)~~ In any situation in which the seller of travel is  
271 currently the subject of an administrative, civil, or criminal  
272 action by either the department, the Department of Legal Affairs,  
273 or the state attorney concerning compliance with this part, the  
274 right to proceed against the bond, ~~letter of credit, or~~  
275 ~~certificate of deposit~~, as provided in subsection (3) ~~(4)~~, shall  
276 be suspended until after any enforcement action becomes final.

277 (5)~~(6)~~ The department may waive the bond, ~~letter of credit,~~  
278 ~~or certificate of deposit~~ requirement on an annual basis if the  
279 seller of travel has had 5 or more consecutive years of  
280 experience as a seller of travel in Florida in compliance with  
281 this part, has not had any civil, criminal, or administrative  
282 action instituted against the seller of travel in the vacation  
283 and travel business by any governmental agency or any action  
284 involving fraud, theft, misappropriation of property, or

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285 violation of any statute pertaining to business or commerce with  
286 any terrorist state, ~~moral turpitude,~~ and has a satisfactory  
287 consumer complaint history with the department, and certifies its  
288 business activities under s. 559.9285. Such waiver may be revoked  
289 if the seller of travel violates any provision of this part. A  
290 seller of travel which certifies its business activities under s.  
291 559.9285(1) (b) or (c) shall not be entitled to the waiver  
292 provided in this subsection.

293 Section 5. Subsection (2) of section 559.9335, Florida  
294 Statutes, is amended, subsections (22), (23), and (24) are  
295 renumbered as subsections (24), (25), and (26), respectively, and  
296 new subsections (22) and (23) are added to that section, to read:

297 559.9335 Violations.--It is a violation of this part for  
298 any person:

299 (2) To conduct business as a seller of travel without an  
300 annual purchase of a performance bond ~~or establishment of a~~  
301 ~~letter of credit or certificate of deposit~~ in the amount set by  
302 the department unless exempt pursuant to s. 559.935.

303 (22) To offer to sell travel or provide any travel-related  
304 service to purchasers traveling to or from any terrorist state  
305 without disclosing such business activities in a certification  
306 filed under s. 559.9285(1) (b) or (c).

307 (23) To violate any state or federal law restricting or  
308 prohibiting commerce with terrorist states.

309 Section 6. Subsections (2), (3), and (4) of section  
310 559.935, Florida Statutes, are amended to read:

311 559.935 Exemptions.--

312 (2) Sections 559.928, 559.929, 559.9295, 559.931, and  
313 559.932 shall not apply to:

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314 (a) Sellers of travel directly issuing airline tickets who  
315 have contracted with the Airlines Reporting Corporation for the  
316 most recent consecutive 3 years or more under the same ownership  
317 and control, ~~and~~ who do not offer vacation certificates, and who  
318 annually certify their business activities under s.  
319 559.9285(1) (a); or

320 (b) Sellers of travel offering vacation certificates who  
321 have contracted with the Airlines Reporting Corporation for the  
322 most recent consecutive 5 years or more under the same ownership  
323 and control and who annually certify their business activities  
324 under s. 559.9285(1) (a).

325  
326 This exemption does not apply to sellers of travel certifying  
327 their business activities under s. 559.9285(1) (b) or (c).

328 (3) Sections 559.928, 559.929, 559.9295, 559.931, and  
329 559.932 shall also not apply to a seller of travel that is an  
330 affiliate of an entity exempt pursuant to subsection (2) subject  
331 to the following conditions:

332 (a) In the event the department finds the affiliate does  
333 not have a satisfactory consumer complaint history or the  
334 affiliate fails to respond to a consumer complaint within 30  
335 days, the related seller of travel exempt pursuant to subsection  
336 (2) shall be liable for the actions of the affiliate, subject to  
337 the remedies provided in ss. 559.9355 and 559.936.

338 (b) In the event the department is unable to locate an  
339 affiliate, the related seller of travel exempt pursuant to  
340 subsection (2) shall be fully liable for the actions of the  
341 affiliate, subject to the remedies provided in ss. 559.9355 and  
342 559.936.

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343 (c) In order to obtain an exemption under this subsection,  
344 the affiliate shall file an affidavit of exemption on a form  
345 prescribed by the department and shall certify its business  
346 activities under s. 559.9285(1)(a). The affidavit of exemption  
347 shall be executed by a person who exercises identical control  
348 over the seller of travel exempt pursuant to subsection (2) and  
349 the affiliate. Failure to file an affidavit of exemption or  
350 certification under s. 559.9285(1)(a) prior to engaging in seller  
351 of travel activities shall subject the affiliate to the remedies  
352 provided in ss. 559.9355 and 559.936.

353 (d) Revocation by the department of an exemption provided  
354 to a seller of travel under subsection (2) shall constitute  
355 automatic revocation by law of an exemption obtained by an  
356 affiliate under the subsection.

357 (e) This subsection shall not apply to:

358 1. An affiliate that independently qualifies for another  
359 exemption under this section ~~s. 559.935~~.

360 2. An affiliate that sells, or offers for sale, vacation  
361 certificates.

362 3. An affiliate that certifies its business activities  
363 under s. 559.9285(1)(b) or (c).

364 (f) For purposes of this section, an "affiliate" means an  
365 entity that meets the following:

366 1. The entity has the identical ownership as the seller of  
367 travel that is exempt under subsection (2).

368 2. The ownership controlling the seller of travel that is  
369 exempt under subsection (2) also exercises identical control over  
370 the entity.

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371 3. The owners of the affiliate hold the identical  
372 percentage of voting shares as they hold in the seller of travel  
373 that is exempt under subsection (2).

374 (4) The department may revoke the exemption provided in  
375 subsection (2) or subsection (3) if the department finds that the  
376 seller of travel does not have a satisfactory consumer complaint  
377 history, has been convicted of a crime involving fraud, theft,  
378 misappropriation of property, or deceptive or unfair trade  
379 practices, has been in violation of any statute pertaining to  
380 business or commerce with any terrorist state, ~~or moral~~  
381 ~~turpitude,~~ or has not complied with the terms of any order or  
382 settlement agreement arising out of an administrative or  
383 enforcement action brought by a governmental agency or private  
384 person based on conduct involving fraud, theft, misappropriation  
385 of property, deceptive or unfair trade practices, or a violation  
386 of any statute pertaining to business or commerce with any  
387 terrorist state ~~moral turpitude.~~

388 Section 7. Section 559.9355, Florida Statutes, is amended  
389 to read:

390 559.9355 Administrative remedies; penalties.--

391 (1) The department may enter an order doing one or more of  
392 the following if the department finds that a person has violated  
393 or is operating in violation of any of the provisions of this  
394 part or the rules or orders issued thereunder:

395 (a) Issuing a notice of noncompliance pursuant to s.  
396 120.695.

397 (b) Imposing an administrative fine not to exceed \$5,000  
398 for each act or omission.

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399        (c) Imposing an administrative fine not to exceed \$10,000  
400 for each act or omission directly or indirectly pertaining to an  
401 offer to sell travel or provide any travel-related service to  
402 purchasers traveling to or from any terrorist state.

403        (d)~~(e)~~ Directing that the person cease and desist specified  
404 activities.

405        (e)~~(d)~~ Refusing to register or canceling or suspending a  
406 registration.

407        (f)~~(e)~~ Placing the registrant on probation for a period of  
408 time, subject to such conditions as the department may specify.

409        (g)~~(f)~~ Canceling an exemption granted under s. 559.935.

410        (2) The administrative proceedings which could result in  
411 the entry of an order imposing any of the penalties specified in  
412 subsection (1) are governed by chapter 120.

413        (3) The department has the authority to adopt rules  
414 pursuant to chapter 120 to implement this section and ss.  
415 559.928, 559.929, 559.934, and 559.935.

416        Section 8. Subsections (3) through (6) of section 559.936,  
417 Florida Statutes, are renumbered as subsections (4) through (7),  
418 respectively, and a new subsection (3) is added to that section,  
419 to read:

420        559.936 Civil penalties; remedies.--

421        (3) The department may seek a civil penalty of up to  
422 \$10,000 for each act or omission directly or indirectly  
423 pertaining to an offer to sell travel or provide any travel-  
424 related service to a purchaser traveling to or from any terrorist  
425 state.

426        Section 9. Section 559.937, Florida Statutes, is amended to  
427 read:

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428           559.937 Criminal penalties.-- Any person or business that  
429 ~~which~~ violates this part:

430           (1) Commits a misdemeanor of the first degree, punishable  
431 as provided in s. 775.082 or s. 775.083.

432           (2) Which violation directly or indirectly pertains to an  
433 offer to sell travel or provide any travel-related service to a  
434 purchaser traveling to or from any terrorist state, commits a  
435 felony of the third degree, punishable as provided in s. 775.082  
436 or s. 775.083.

437           Section 10. This act shall take effect July 1, 2008.