

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce Committee

BILL: CS/SB 1722

INTRODUCER: Commerce Committee and Senator Joyner

SUBJECT: Travel for Commercial Sexual Purposes

DATE: March 26, 2008      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rogers	Cooper	CM	Fav/CS
2.			CJ	
3.			JU	
4.			JA	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The CS amends the Seller of Travel Act (act)<sup>1</sup> prohibiting the sale of travel for commercial sexual purposes.

Sellers of travel and independent agents will be required, as a condition of annual registration, to submit to the Department of Agriculture and Consumer Services (department) a statement that they do not offer for sale, facilitate, or promote travel services for commercial sexual purposes. Those exempt from the Seller of Travel Act are not required to make this statement.

The department is authorized to deny or refuse to renew the registration of any seller of travel based upon a determination that the seller of travel has engaged in the sale of travel for commercial sexual purposes. The CS defines “commercial sexual activity,” referencing s. 796.07, F.S., which prohibits prostitution.

The CS provides that it is a second-degree felony to offer for sale, promote, advertise, or otherwise facilitate travel for commercial sexual purposes. Additionally, the CS authorizes the

<sup>1</sup> Sections 559.926-559.939, F.S.

court to freeze the assets of a seller of travel or independent agent who violates or is about to violate this restriction.

This CS substantially amends the following sections of the Florida Statutes: 559.927, 559.928, 559.9335, and 559.937.

## II. Present Situation:

### Sellers of Travel

The Seller of Travel Act requires sellers to register with the Department of Agriculture and Consumer Services annually.<sup>2</sup> When a seller of travel registers with the department, a registrant must provide to the department a number of items including, among other items, the registrant's legal business or trade name, mailing address, and business locations, and the full names, addresses, telephone numbers, and social security numbers of its owners or corporate officers and directors and the Florida agent of the corporation.<sup>3</sup>

An independent agent acting on behalf of a seller of travel must also register annually with the department before engaging in business. An independent agent must provide certain information in an affidavit to the department including the independent agent's full name, legal business or trade name, mailing address, telephone number, and social security number, and the name or names and addresses of each seller of travel represented by the independent agent.<sup>4</sup>

The statutes list a number of prohibitions on sellers of travel and violations may result in administrative,<sup>5</sup> civil<sup>6</sup> or criminal penalties.<sup>7</sup> Violations may also be considered an unfair or deceptive act or practice or unfair method of competition in violation of the Florida Deceptive and Unfair Trade Practices Act.<sup>8</sup>

Sellers of travel or their affiliates engaged in selling airline tickets or those offering vacation certificates which have contracted with the Airlines Reporting Corporation (ARC),<sup>9</sup> an airline-owned corporation that offers financial, marketing, ticket distribution, and other services to sellers of travel, are exempt from state regulation.<sup>10</sup>

At present, no seller of travel or independent agent must affirm that they do not engage in the sale of travel for commercial sexual purposes, as a condition of registration with the department.

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<sup>2</sup> Section 559.928, F.S.; as created by ch. 88-363, L.O.F.

<sup>3</sup> Section 559.928(1), F.S.

<sup>4</sup> Section 559.928(3), F.S. Importantly, the statutes do not authorize a registration fee for independent agents. The department reports there are between 5,000 – 6,000 independent agents registered annually.

<sup>5</sup> Section 559.9335, F.S.

<sup>6</sup> Section 559.936, F.S.

<sup>7</sup> Section 559.937, F.S.

<sup>8</sup> Section 559.934, F.S.

<sup>9</sup> See <http://www.arccorp.com/>.

<sup>10</sup> Section 559.935, F.S.

Currently, the department may deny or refuse to renew the registration of any seller of travel or any of its directors, officers, owners, or general partners, if they have:

- Failed to meet the requirements for registration as required;
- Been convicted of a crime involving fraud, dishonest dealing, or any other act of moral turpitude;
- Failed to satisfy a civil fine or penalty arising out of any administrative or enforcement action brought by any governmental agency or private person based upon conduct involving fraud, dishonest dealing, or any violation of the act;
- Criminal, administrative or enforcement proceedings pending against them in any jurisdiction, based upon conduct involving fraud, dishonest dealing, or any other act of moral turpitude; or
- Had a judgment entered against her or him in any action brought by the department or the Department of Legal Affairs.<sup>11</sup>

### **Prostitution and Sex Trafficking**

Currently, s. 796.07(2)(h), F.S., makes it unlawful to aid, abet, or participate in the acts or matters pertaining to prostitution that are prohibited under s. 796.07(2), F.S. Prostitution is defined as “the giving or receiving of the body for sexual activity for hire.” An exception is provided for activity between spouses.

The U.S. Department of State’s *Trafficking in Persons Report*, published in June 2007, states that:

“Sex trafficking is considered the largest specific subcategory of transnational modern-day slavery. Sex trafficking would not exist without the demand for commercial sex flourishing around the world. The U.S. Government adopted a strong position against prostitution in a December 2002 policy decision, which states that prostitution is inherently harmful and dehumanizing and fuels trafficking in persons. Prostitution and related activities...encourage the growth of modern-day slavery by providing a façade behind which traffickers for sexual exploitation operate. Where prostitution is tolerated, there is a greater demand for human trafficking victims and nearly always an increase in the number of women and children trafficked into commercial sex slavery.”<sup>12</sup>

This report goes on to define “sex trafficking” as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 559.927, F.S., to define the term “travel for commercial sexual purposes” as

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<sup>11</sup> Section 559.928(9), F.S.

<sup>12</sup> “Trafficking in Persons Report,” U.S. Department of State, July 2007. See <http://www.state.gov/documents/organization/82902.pdf>.

“...travel, transportation, or vacation services provided for the purposes of enabling the customer to engage in prostitution or engage a prostitute as defined in s. 769.07, F.S., or to engage in a sexual act, sexual contact, sexual touching, or sexual activity, as defined in s. 769.07, F.S., for which anything of value is given to or promised or received by a person.”

**Section 2** amends s. 559.928, F.S., to require the seller of travel and independent agents to submit with their annual registration to the department a statement or affidavit, respectively, that they do not offer for sale, facilitate, or promote travel services for commercial sexual purposes. Those exempt from the Seller of Travel Act are not required to make this statement.

Subsection (9) is amended to authorize the department to deny or refuse to renew the registration of any seller of travel based upon a determination that the seller of travel has engaged in the sale of travel for commercial sexual purposes.

**Section 3** amends s. 559.9335, F.S., to provide that offer of the sale of travel for defined commercial sexual purposes is a violation of the Sellers of Travel Act.

**Section 4** amends s. 559.937, F.S., to prohibit a seller of travel or independent agent to offer for sale, promote, advertise, or otherwise facilitate travel for commercial sexual purposes. A violation of this prohibition is a second-degree felony.

Additionally, this section is amended to authorize a court to freeze the assets of a seller of travel or independent agent violating - or about to violate - this provision of the Sellers of Travel Act. The requirements of the petition by the department to freeze these assets are also specified.

**Section 5** provides an effective date of July 1, 2008.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

Registered sellers of travel and independent agents filing with the department will have the additional responsibility to state in the application or affidavit filed with their annual registration that they do not offer for sale, facilitate, or promote travel services for commercial sexual purposes.

**C. Government Sector Impact:**

The CS provides for a felony charge, and therefore is subject to review by the Criminal Justice Impact Conference (CJIC). CJIC met on March 14, 2008, and estimated that the CS has an insignificant prison bed impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Department of Corrections has noted that because the legislature did not rank the offense (second-degree felony) in a specific severity level, it automatically defaults to a level 4.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**Commerce Committee on March 25, 2008:**

This CS deleted the three different standards of intent the Department of Agriculture and Consumer Services had to address for licensing, civil enforcement, or criminal prosecution. They were:

- “knowingly”;
- “knowingly and intentionally”; and
- “knowingly or intentionally.”

Additionally, the CS clarifies that in addition to sellers of travel, these requirements and penalties apply to independent agents.

**B. Amendments:**

None.