

By the Committee on Commerce; and Senator Baker

577-04364-10

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1 A bill to be entitled
2 An act relating to sellers of travel; amending s.
3 559.935, F.S.; providing that exemptions do not apply
4 to sellers of travel of specified services to
5 terrorist nations; providing a definition; providing
6 for application of the act; providing an effective
7 date.

8
9 WHEREAS, on April 14, 2009, the United States District
10 Court for the Southern District of Florida in *ABC Charters,*
11 *Inc., et al., v. Charles H. Bronson*, in his official capacity as
12 Commissioner of Agriculture (No. 08-21865-CIV.) reported at 2009
13 WL 1010435 (S.D.Fla.), 21 Fla. L. Weekly Fed. E 653, entered a
14 declaratory judgment in favor of plaintiff, ABC Charters, Inc.,
15 holding that the amendments to the Florida Sellers of Travel Act
16 made by Senate Bill 1310, chapter 2008-214, Laws of Florida, are
17 unconstitutional, and

18 WHEREAS, the Federal District Court found that the 2008
19 Travel Act Amendments are unconstitutional insofar as they are
20 preempted by federal law and violate the Federal Government's
21 foreign affairs power, the Foreign Commerce Clause, and the
22 Interstate Commerce Clause, and

23 WHEREAS, the Court also permanently enjoined the Florida
24 Department of Agriculture and Consumer Services from enforcing
25 the 2008 Travel Act Amendments, but also held that the Florida
26 Sellers of Travel Act otherwise remains unaffected by the
27 Court's Order, and

28 WHEREAS, the Court confined its order to the injunction
29 against enforcement of the 2008 legislation, which amended the

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30 Florida Sellers of Travel Act and gave leave to the Florida
31 Legislature to act in accordance with the Court's order in
32 respect to future proposed amendments to the Florida Sellers of
33 Travel Act, and

34 WHEREAS, the Legislature finds that the enforceability of
35 the Florida Sellers of Travel Act, as it existed prior to the
36 enactment of the 2008 Travel Act Amendments, remains a
37 responsibility of the Department of Agriculture and Consumer
38 Services, and

39 WHEREAS, the Legislature finds that sellers of travel who
40 provide services to persons traveling directly from Florida to a
41 "Terrorist Nation" should, at a minimum, be required to register
42 with the Florida Department of Agriculture and Consumer Services
43 and be subject to the same fees and bonding requirements that
44 are applicable to other sellers of travel, as well as the same
45 requirements related to the submission of information, the
46 disclosure of information, and the maintenance of records, and

47 WHEREAS, the Legislature further finds it necessary to
48 amend the Florida Sellers of Travel Act to ensure that sellers
49 of travel who provide services to persons traveling directly
50 from Florida to a "Terrorist Nation" are not exempt from having
51 to meet such requirements under the Florida Sellers of Travel
52 Act, as it existed prior to the 2008 Travel Act Amendments, and

53 WHEREAS, the Legislature recognizes that by precluding
54 sellers of travel who provide services to persons traveling
55 directly from Florida to a "Terrorist Nation" from claiming an
56 exemption, such sellers of travel will be effectively denied an
57 exemption that may be available to other sellers of travel, and
58 that might otherwise be available to them but for the fact that

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59 they provide travel services to persons traveling directly from
60 Florida to a "Terrorist Nation," and

61 WHEREAS, notwithstanding the aforementioned recognition,
62 the Legislature further finds that, in order to protect
63 consumers and to provide a modicum of safety to its citizens, it
64 is necessary and altogether prudent and rational to distinguish
65 sellers of travel who provide services to persons traveling
66 directly from Florida to a "Terrorist Nation" from other sellers
67 of travel in regard to the availability of exemptions from
68 registration and that to do so creates a small burden upon them
69 and does not infringe upon or conflict in any way with federal
70 policy or regulation of such sellers of travel, NOW, THEREFORE,

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. Subsection (7) is added to section 559.935,
75 Florida Statutes, to read:

76 559.935 Exemptions.—

77 (7) The exemptions provided in this section shall not apply
78 to a seller of travel offering or selling pre-arranged travel,
79 tourist-related services, or tour-guide services to any person
80 traveling directly from Florida to a terrorist nation.

81 "Terrorist nation" 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. This act shall take effect July 1, 2010, and
85 applies to part XI of chapter 559, Florida Statutes, the Florida
86 Sellers of Travel Act, as it existed prior to July 1, 2008,
87 except that this act shall also apply to any sections of part XI

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88 of chapter 559, Florida Statutes, amended on or after July 1,
89 2008, other than sections of part XI of chapter 559, Florida
90 Statutes, amended or created by chapter 2008-214, Laws of
91 Florida.