

HB 767

2015

1 A bill to be entitled

2 An act relating to tour-guide services; amending s.
3 559.927, F.S.; revising definitions; providing that
4 the term "seller of travel" does not include a
5 provider of tour-guide services; conforming related
6 definitions; amending s. 559.935, F.S.; exempting
7 providers of tour-guide services from regulation under
8 chapter 559, F.S.; amending ss. 559.9285, 559.9335,
9 and 559.937, F.S.; conforming provisions to changes
10 made by the act; providing an effective date.

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

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14 Section 1. Subsections (3), (6), (7), (8), (10), (11), and
15 (13) of section 559.927, Florida Statutes, are amended to read:
16 559.927 Definitions.—For the purposes of this part, the
17 term:

18 (3) "Contract" means any contract, certificate,
19 reservation request or confirmation form, membership application
20 or use agreement, license, or reservation confirmation whereby
21 the purchaser obtains the right to benefits and privileges of
22 the prearranged travel or tourist service, or to a vacation
23 certificate, or any such other document, writing, or form
24 committing the seller of travel to provide travel services or
25 privileges pertaining to reservations, ~~tour or~~ travel
26 arrangements, and accommodations.

27 (6) "Offer for sale" means direct or indirect
 28 representation, claim, or statement or making an offer or
 29 undertaking, by any means or method, to arrange for, provide, or
 30 acquire travel reservations or accommodations;; tickets for
 31 domestic or foreign travel by air, rail, ship, or other medium
 32 of transportation;; or hotel and motel accommodations ~~or~~
 33 ~~sightseeing tours~~ by a seller of travel who maintains a business
 34 location in Florida or who offers to sell to persons in Florida.

35 (7) "Prearranged travel or tourist-related services, ~~or~~
 36 ~~tour guide services~~" includes, but is not limited to, car
 37 rentals, lodging, and transfers, ~~and sightseeing tours~~ and all
 38 other such services which are reasonably related to air, sea,
 39 rail, motor coach, or other medium of transportation, or
 40 accommodations for which a purchaser receives a premium or
 41 contracts or pays prior to or after departure. These terms also
 42 include services for which a purchaser, whose legal residence is
 43 outside the United States, contracts or pays prior to departure,
 44 and any arrangement by which a purchaser prepays for, receives a
 45 reservation or any other commitment to provide services prior to
 46 departure for, or otherwise arranges for travel directly to a
 47 terrorist state and which originates in Florida.

48 (8) "Purchaser" means the purchaser of, or person
 49 otherwise entitled to receive, prearranged travel or tourist-
 50 related services, ~~or tour guide services,~~ for a fee or
 51 commission, or a person who has acquired a vacation certificate
 52 for personal use.

53 (10) "Satisfactory consumer complaint history" means no
54 unresolved complaints regarding prearranged travel or~~7~~ tourist-
55 related services,~~or tour-guide services~~ are on file with the
56 department. A complaint is unresolved when a seller of travel
57 does not respond to the department's efforts to mediate the
58 complaint or a complaint where the department has determined
59 that a violation of this part has occurred and the complaint has
60 not been satisfied by the seller of travel.

61 (11) "Seller of travel" means any resident or nonresident
62 person, firm, corporation, or business entity who offers for
63 sale, directly or indirectly, at wholesale or retail,
64 prearranged travel or~~7~~ tourist-related services,~~or tour-guide~~
65 ~~services~~ for individuals or groups, including, but not limited
66 to, vacation ~~or tour~~ packages~~7~~, or vacation certificates in
67 exchange for a fee, commission, or other valuable consideration.
68 The term includes any business entity offering membership in a
69 travel club or travel services for an advance fee or payment,
70 even if no travel contracts or certificates or vacation or tour
71 packages are sold by the business entity. The term does not
72 include a provider of tour-guide services.

73 (13) "Vacation certificate" means any arrangement, plan,
74 program, or vacation package that promotes, discusses, or
75 discloses a destination or itinerary or type of travel, whereby
76 a purchaser for consideration paid in advance is entitled to the
77 use of travel, accommodations, or facilities for any number of
78 days, whether certain or uncertain, during the period in which

79 the certificate can be exercised, and no specific date or dates
 80 for its use are designated. A vacation certificate does not
 81 include prearranged travel or tourist-related services, ~~or~~
 82 ~~tour-guide services~~ when a seller of travel remits full payment
 83 for the cost of such services to the provider or supplier within
 84 10 business days after ~~of~~ the purchaser's initial payment to the
 85 seller of travel.

86 Section 2. Subsection (1) and paragraph (d) of subsection
 87 (3) of section 559.9285, Florida Statutes, are amended to read:

88 559.9285 Certification of business activities.—

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

90 (a) Which does not offer for sale, at wholesale or retail,
 91 prearranged travel or tourist-related services, ~~or tour-guide~~
 92 ~~services~~ for individuals or groups directly to any terrorist
 93 state and which originate in Florida;

94 (b) Which offers for sale, at wholesale or retail, only
 95 prearranged travel or tourist-related services, ~~or tour-guide~~
 96 ~~services~~ for individuals or groups directly to any terrorist
 97 state and which originate in Florida, but engages in no other
 98 business dealings or commerce with any terrorist state; or

99 (c) Which offers for sale, at wholesale or retail,
 100 prearranged travel or tourist-related services, ~~or tour-guide~~
 101 ~~services~~ for individuals or groups directly to any terrorist
 102 state and which originate in Florida, and also engages in any
 103 other business dealings or commerce with any terrorist state,
 104

HB 767

2015

105 shall annually certify its business activities by filing a
106 disclosure statement with the department which accurately
107 represents the scope of the seller's business activities
108 according to the criteria provided in paragraph (a), paragraph
109 (b), or paragraph (c).

110 (3) The department shall specify by rule the form of each
111 certification under this section which shall include the
112 following information:

113 (d) The type of all prearranged travel or tourist-related
114 services, ~~or tour guide services~~ that the certifying party
115 offers for sale to individuals or groups traveling directly to
116 any terrorist state and that originate in Florida, and the
117 frequency with which such services are offered.

118 Section 3. Subsection (22) of section 559.9335, Florida
119 Statutes, is amended to read:

120 559.9335 Violations.—It is a violation of this part for
121 any person:

122 (22) To offer to sell, at wholesale or retail, prearranged
123 travel or tourist-related services, ~~or tour guide services~~ for
124 individuals or groups directly to any terrorist state and which
125 originate in Florida, without disclosing such business
126 activities in a certification filed under s. 559.9285(1)(b) or
127 (c).

128 Section 4. Paragraphs (d), (h), and (i) of subsection (1)
129 of section 559.935, Florida Statutes, are amended, and paragraph
130 (j) is added to subsection (1) of that section, to read:

131 559.935 Exemptions.—

132 (1) This part does not apply to:

133 (d) Hotels, motels, or other places of public
 134 accommodation selling public accommodations, or employees of
 135 such hotels, motels, or other places of public accommodation,
 136 when engaged solely in making arrangements for lodging or~~r~~
 137 accommodations,~~or sightseeing tours~~ within the state, or taking
 138 reservations for the traveler with times, dates, locations, and
 139 accommodations certain at the time the reservations are made,
 140 provided that hotels and motels registered with the Department
 141 of Business and Professional Regulation pursuant to chapter 509
 142 are excluded from the provisions of this chapter;

143 (h) A developer of a timeshare plan or an exchange company
 144 approved by the Division of Florida Condominiums, Timeshares,
 145 and Mobile Homes pursuant to chapter 721, but only to the extent
 146 that the developer or exchange company engages in conduct
 147 regulated under chapter 721; ~~or~~

148 (i) Persons or entities engaged solely in offering diving
 149 services, including classes and sales or rentals of equipment,
 150 when engaged in making any prearranged travel-related or
 151 tourist-related services in conjunction with a primarily dive-
 152 related event; or

153 (j) Providers of tour-guide or sightseeing services.

154 Section 5. Subsection (2) of section 559.937, Florida
 155 Statutes, is amended to read:

156 559.937 Criminal penalties.—Any person or business that

HB 767

2015

157 violates this part:

158 (2) Which violation directly or indirectly pertains to an
159 offer to sell, at wholesale or retail, prearranged travel or
160 tourist-related services, ~~or tour-guide services~~ for individuals
161 or groups directly to any terrorist state and which originate in
162 Florida, commits a felony of the third degree, punishable as
163 provided in s. 775.082 or s. 775.083.

164 Section 6. This act shall take effect July 1, 2015.