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LEGISLATIVE ACTION

Senate

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House

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Floor: 2/AD/2R

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03/02/2016 11:48 AM

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Senator Richter moved the following:

Senate Amendment (with title amendment)

Delete lines 966 - 1629

and insert:

Section 27. Subsections (1), (7), (8), (10), and (11) and present subsection (13) of section 559.927, Florida Statutes, are amended, present subsections (12) and (13) of that section are redesignated as subsections (13) and (14), respectively, and a new subsection (12) is added to that section, to read:

559.927 Definitions.—For the purposes of this part, the term:



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12 (1) "Accommodations" means any hotel or motel room,
13 condominium or cooperative unit, cabin, lodge, or apartment; any
14 other commercial structure designed for occupancy by one or more
15 individuals; or any lodging establishment as provided by law.
16 The term does not include long-term home rentals covered under a
17 lease pursuant to chapter 83.

18 (7) "Prearranged travel ~~or~~ tourist-related services, ~~or~~
19 ~~tour-guide services~~" includes, but is not limited to, car
20 rentals, lodging, transfers, and ~~sightseeing tours~~ and all other
21 such services that ~~which~~ are reasonably related to air, sea,
22 rail, motor coach, or other medium of transportation, or
23 accommodations for which a purchaser receives a premium or
24 contracts or pays before ~~prior to~~ or after departure. This term
25 ~~These terms~~ also includes ~~include~~ services for which a
26 purchaser, whose legal residence is outside the United States,
27 contracts or pays before ~~prior to~~ departure, and any arrangement
28 by which a purchaser prepays for, receives a reservation or any
29 other commitment to provide services before ~~prior to~~ departure
30 for, or otherwise arranges for travel directly to a terrorist
31 state and which originates in Florida.

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

36 (10) "Satisfactory consumer complaint history" means no
37 unresolved complaints regarding prearranged travel ~~or~~ tourist-
38 related services, ~~or tour-guide services~~ are on file with the
39 department. A complaint is unresolved when a seller of travel
40 does not respond to the department's efforts to mediate the



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41 complaint or a complaint where the department has determined
42 that a violation of this part has occurred and the complaint has
43 not been satisfied by the seller of travel.

44 (11) "Seller of travel" means any resident or nonresident
45 person, firm, corporation, or business entity that who offers
46 ~~for sale, directly or indirectly, at wholesale or retail,~~
47 prearranged travel or, tourist-related services, ~~or tour guide~~
48 ~~services~~ for individuals or groups, including, but not limited
49 to, vacation ~~or tour~~ packages, or vacation certificates in
50 exchange for a fee, commission, or other valuable consideration.
51 The term includes such person, firm, corporation, or business
52 entity who sells a vacation certificate to third-party merchants
53 for a fee, or in exchange for a commission, or who offers such
54 certificates to consumers in exchange for attendance at sales
55 presentations. The term also includes any business entity
56 offering membership in a travel club or travel services for an
57 advance fee or payment, even if no travel contracts or
58 certificates or vacation or tour packages are sold by the
59 business entity. The term does not include third parties who may
60 offer prearranged travel or tourist-related services, but do not
61 participate in travel fulfillment or vacation certificate
62 redemption.

63 (12) "Student tour operator" means any resident or
64 nonresident person, firm, corporation, or business entity that
65 offers, directly or indirectly, prearranged travel or tourist-
66 related services for groups within the educational community,
67 school districts, educators, and students and their families, in
68 exchange for a fee, a commission, or any other valuable
69 consideration.



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70 ~~(13)-(12)~~ "Terrorist state" means any state, country, or
71 nation designated by the United States Department of State as a
72 state sponsor of terrorism.

73 ~~(14)-(13)~~ "Vacation certificate" means any arrangement,
74 plan, program, ~~or~~ vacation package, or advance travel purchase
75 that promotes, discusses, or discloses a destination or
76 itinerary or type of travel, whereby a purchaser ~~for~~
77 ~~consideration paid in advance~~ is entitled to the use of travel,
78 accommodations, or facilities for any number of days, whether
79 certain or uncertain, during the period in which the certificate
80 can be exercised, and no specific date or dates for its use are
81 designated. A vacation certificate does not include prearranged
82 travel ~~or~~, tourist-related services, ~~or tour guide services~~ when
83 a seller of travel remits full payment for the cost of such
84 services to the provider or supplier within 10 business days of
85 the purchaser's initial payment to the seller of travel. The
86 term does not include travel if exact travel dates are selected,
87 guaranteed, and paid for at the time of the purchase.

88 Section 28. Subsections (2) through (8) and present
89 subsection (9) of section 559.928, Florida Statutes, are
90 amended, and a new subsection (9) is added to that section, to
91 read:

92 559.928 Registration.—

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

94 1. Three hundred dollars per year per registrant certifying
95 its business activities under s. 559.9285(1) (a).

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

98 3. Twenty-five hundred dollars per year per registrant



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99 certifying its business activities under s. 559.9285(1)(c).

100 (b) All amounts collected shall be deposited by the Chief
101 Financial Officer to the credit of the General Inspection Trust
102 Fund of the Department of Agriculture and Consumer Services
103 pursuant to s. 570.20, for the sole purpose of administration of
104 this part.

105 (c) The department shall waive the initial registration fee
106 for an honorably discharged veteran of the United States Armed
107 Forces, the spouse of such a veteran, or a business entity that
108 has a majority ownership held by such a veteran or spouse if the
109 department receives an application, in a format prescribed by
110 the department, within 60 months after the date of the veteran's
111 discharge from any branch of the United States Armed Forces. To
112 qualify for the waiver, a veteran must provide to the department
113 a copy of his or her DD Form 214, as issued by the United States
114 Department of Defense, or another acceptable form of
115 identification as specified by the Department of Veterans'
116 Affairs; the spouse of a veteran must provide to the department
117 a copy of the veteran's DD Form 214, as issued by the United
118 States Department of Defense, or another acceptable form of
119 identification as specified by the Department of Veterans'
120 Affairs, and a copy of a valid marriage license or certificate
121 verifying that he or she was lawfully married to the veteran at
122 the time of discharge; or a business entity must provide to the
123 department proof that a veteran or the spouse of a veteran holds
124 a majority ownership in the business, a copy of the veteran's DD
125 Form 214, as issued by the United States Department of Defense,
126 or another acceptable form of identification as specified by the
127 Department of Veterans' Affairs, and, if applicable, a copy of a



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128 valid marriage license or certificate verifying that the spouse
129 of the veteran was lawfully married to the veteran at the time
130 of discharge.

131 (3) Each independent agent shall annually file an
132 application affidavit with the department before ~~prior to~~
133 engaging in business in this state. This application affidavit
134 must include the independent agent's full name, legal business
135 or trade name, mailing address, business address, telephone
136 number, and the name and address of each seller of travel
137 represented by the independent agent. A letter evidencing proof
138 of filing must be issued by the department and must be
139 prominently displayed in the independent agent's primary place
140 of business. Each independent agent must also submit an annual
141 registration fee of \$50. All moneys collected pursuant to the
142 imposition of the fee shall be deposited by the Chief Financial
143 Officer into the General Inspection Trust Fund of the Department
144 of Agriculture and Consumer Services for the sole purpose of
145 administering this part. As used in this subsection, the term
146 "independent agent" means a person who represents a seller of
147 travel by soliciting persons on its behalf; who has a written
148 contract with a seller of travel which is operating in
149 compliance with this part and any rules adopted thereunder; who
150 does not receive a fee, commission, or other valuable
151 consideration directly from the purchaser for the seller of
152 travel; who does not at any time have any unissued ticket stock
153 or travel documents in his or her possession; and who does not
154 have the ability to issue tickets, vacation certificates, or any
155 other travel document. The term "independent agent" does not
156 include an affiliate of the seller of travel, as that term is



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157 used in s. 559.935(3), or the employees of the seller of travel
158 or of such affiliates.

159 (4) A ~~Any~~ person applying for or renewing a local business
160 tax receipt to engage in business as a seller of travel must
161 exhibit a current registration certificate from the department
162 before the local business tax receipt may be issued or reissued.

163 (5) Each contract, advertisement, certificate, or travel
164 document of a seller of travel must include the phrase "... (NAME
165 OF FIRM)... is registered with the State of Florida as a Seller
166 of Travel. Registration No....."

167 ~~(6) Each advertisement of a seller of travel must include~~
168 ~~the phrase "Fla. Seller of Travel Reg. No....."~~

169 ~~(6)-(7)~~ A ~~No~~ registration is not ~~shall be~~ valid for any
170 seller of travel transacting business at any place other than
171 that designated in its application, unless the department is
172 first notified in writing in advance of any change of location.
173 A ~~Nor shall the~~ registration is not ~~be~~ valid for an affiliate of
174 the seller of travel who engages in the prearranged travel and
175 tourist business. A registration issued under this part may
176 ~~shall~~ not be assignable, and the seller of travel may ~~shall~~ not
177 be permitted to conduct business under more than one name except
178 as registered. A seller of travel desiring to change its
179 registered name or location or designated agent for service of
180 process at a time other than upon renewal of registration shall
181 notify the department of such change.

182 ~~(7)-(8)~~ Applications under this section are ~~shall be~~ subject
183 to ~~the provisions of~~ s. 120.60.

184 ~~(8)-(9)~~ The department may deny, ~~or~~ refuse to renew, or
185 revoke the registration of any seller of travel based upon a



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186 determination that the seller of travel, or any of its
187 directors, officers, owners, or general partners while acting on
188 behalf of the seller of travel:

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

191 (b) Has been convicted of a crime involving fraud, theft,
192 embezzlement, dishonest dealing, or any other act of moral
193 turpitude or any other act arising out of conduct as a seller of
194 travel;

195 (c) Has not satisfied a civil fine or penalty arising out
196 of any administrative or enforcement action brought by any
197 governmental agency or private person based upon conduct
198 involving fraud, theft, embezzlement, dishonest dealing, or any
199 violation of this part; or

200 ~~(d) Has pending against her or him any criminal,~~
201 ~~administrative, or enforcement proceedings in any jurisdiction,~~
202 ~~based upon conduct involving fraud, dishonest dealing, or any~~
203 ~~other act of moral turpitude; or~~

204 ~~(d)~~ (e) Has had a judgment entered against her or him in any
205 action brought by the department or the Department of Legal
206 Affairs pursuant to ss. 501.201-501.213 or this act part.

207 (9) The department may deny or refuse to renew the
208 registration of any seller of travel based upon a determination
209 by the department that the seller of travel, or any of the
210 seller's directors, officers, owners, or general partners has
211 pending against him or her while acting on behalf of the seller
212 of travel any criminal, administrative, or enforcement
213 proceedings in any jurisdiction, based upon conduct involving
214 fraud, theft, embezzlement, or dishonest dealing, or any other



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215 act of moral turpitude.

216 Section 29. Section 559.9281, Florida Statutes, is created
217 to read:

218 559.9281 Student tour operators.-

219 (1) The Department of Agriculture and Consumer Services
220 shall establish a process for sellers of travel to apply to be,
221 and be listed as, approved student tour operators to serve
222 students in all primary and secondary school districts within
223 the state.

224 (2) The department shall adopt rules to implement this
225 section, including the establishment of the application
226 procedures and minimum standards for those persons wishing to be
227 approved as student tour operators under this section. At a
228 minimum, a student tour operator must be registered and approved
229 by the department as a seller of travel under s. 559.928,
230 maintain security requirements provided under s. 559.929, and be
231 current on all state and local business taxes.

232 (3) The department shall maintain a list of approved
233 student tour operators to serve students in all primary and
234 secondary school districts within the state. The department
235 shall update this list at least annually and shall provide, as
236 created and updated, a current version of the list to the
237 Department of Education.

238 (4) The Department of Education shall publish and maintain
239 a current version of the list in a prominent location on its
240 website.

241 Section 30. Subsections (2) through (6) of section 559.929,
242 Florida Statutes, are amended to read:

243 559.929 Security requirements.-



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244 (2) The bond must be filed with the department on a form
245 adopted by department rule and must be in favor of the
246 department for the use and benefit of a consumer ~~traveler~~ who is
247 injured by the fraud, misrepresentation, breach of contract, or
248 financial failure, or any other violation of this part by the
249 seller of travel. Such liability may be enforced by proceeding
250 in an administrative action as specified in subsection (3) or by
251 filing a civil action. ~~However, in such civil action the bond~~
252 ~~posted with the department shall not be amenable or subject to a~~
253 ~~judgment or other legal process issuing out of or from such~~
254 ~~court in connection with such civil action, but such bond shall~~
255 ~~be amenable to and enforceable only by and through~~
256 ~~administrative proceedings before the department. It is the~~
257 ~~intent of the Legislature that such bond be applicable and~~
258 ~~liable only for the payment of claims duly adjudicated by order~~
259 ~~of the department.~~ The bond must be open to successive claims,
260 but the aggregate amount awarded may not exceed the amount of
261 the bond. In addition to the foregoing, a bond provided by a
262 registrant or applicant for registration which certifies its
263 business activities under s. 559.9285(1)(b) or (c) must be in
264 favor of the department, with payment in the following order of
265 priority:

266 (a) The expenses for prosecuting the registrant or
267 applicant in an administrative or civil action under this part,
268 including attorney fees and fees for other professionals, court
269 costs or other costs of the proceedings, and all other expenses
270 incidental to the action.

271 (b) The costs and expenses of investigation before the
272 commencement of an administrative or civil action under this



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273 part.

274 (c) An unpaid administrative fine imposed by final order or
275 an unpaid civil penalty imposed by final judgment under this
276 part.

277 (d) Damages or compensation for a consumer ~~traveler~~ injured
278 as provided in this subsection.

279 (3) A consumer ~~traveler~~ may file a claim against the bond.
280 Such claim, which must be submitted in writing on an affidavit
281 form adopted by department rule, must be submitted to the
282 department within 120 days after an alleged injury has occurred
283 or is discovered to have occurred or a judgment has been
284 entered. The proceedings shall be conducted pursuant to chapter
285 120. For proceedings conducted pursuant to ss. 120.569 and
286 120.57, the agency shall act only as a nominal party.

287 (4) A consumer who is injured by the seller of travel, or
288 the department or another governmental agency acting on behalf
289 of the injured consumer, may bring and maintain an action to
290 recover against the bond.

291 (5) Any indebtedness determined by final order of the
292 department shall be paid by the seller of travel to the
293 department within 30 days after the order is entered for
294 disbursement to the consumer. If the seller of travel fails to
295 make payment within 30 days, the agency shall make a demand for
296 payment upon the surety which includes an institution issuing a
297 letter of credit or depository on a certificate of deposit. Upon
298 failure of a surety to comply with a demand for payment pursuant
299 to a final order, the department may file an action in circuit
300 court to recover payment, up to the amount of the bond or other
301 form of security, pursuant to s. 120.69. If the department



302 prevails, the department may recover court costs and reasonable
303 attorney fees.

304 (6)~~(5)~~ If the seller of travel is currently the subject of
305 an administrative, civil, or criminal action by the department,
306 the Department of Legal Affairs, or the state attorney relating
307 to compliance with this part, the right to proceed against the
308 bond as provided in subsection (3) is suspended until any
309 enforcement action becomes final.

310 (7)~~(6)~~ The department may waive the bond requirement on an
311 annual basis if the seller of travel has had 5 or more
312 consecutive years of experience as a seller of travel in this
313 state in compliance with this part, has not had a civil,
314 criminal, or administrative action instituted against the seller
315 of travel in the vacation and travel business by a governmental
316 agency or an action involving fraud, theft, misappropriation of
317 property, violation of a statute pertaining to business or
318 commerce with a terrorist state, ~~or~~ moral turpitude, or other
319 violation of this part and has a satisfactory consumer complaint
320 history with the department, and certifies its business
321 activities under s. 559.9285. Such waiver may be revoked if the
322 seller of travel violates this part. A seller of travel which
323 certifies its business activities under s. 559.9285(1)(b) or (c)
324 is not entitled to the waiver provided in this subsection.

325 Section 31. Subsections (2) and (17) of section 559.9295,
326 Florida Statutes, are amended to read:

327 559.9295 Submission of vacation certificate documents.—
328 Sellers of travel who offer vacation certificates must submit
329 and disclose to the department with the application for
330 registration, and any time such document is changed, but prior



331 to the sale of any vacation certificate, the following
332 materials:

333 (2) A copy of each promotional brochure, pamphlet, form
334 letter, registration form, or any other written material
335 disseminated in connection with the advertising, promotion, or
336 sale of any vacation certificate. Any such promotional materials
337 that include terms such "free," "awarded," "prize," "absolutely
338 without charge," and "free of charge," or similar words or
339 groups of words, which might reasonably lead a person to believe
340 that he or she may receive, or has been selected to receive,
341 something of value without making full or partial compensation
342 in any form from the recipient must:

343 (a) Clearly and conspicuously display the following
344 disclosure in at least 12-point type: "... (NAME OF FIRM) is
345 registered with the State of Florida as a seller of travel,
346 Registration No.... THIS IS NOT A FREE OFFER. SEE TERMS AND
347 CONDITIONS VIA WWW. (OFFER WEBSITE). COM. RESPONSE TO THIS OFFER
348 DOES NOT GUARANTEE TRAVEL." The offer website referred to in the
349 disclosure must include, and clearly indicate, the terms and
350 conditions for such a vacation certificate offer.

351 (b) Disclose the number of individuals who actually
352 traveled pursuant to the vacation certificate, as opposed to the
353 number of individuals who submitted or otherwise activated the
354 vacation certificate, in the 12 months preceding issuance of the
355 promotional material.

356 ~~(17) Within 10 working days after receipt of any materials~~
357 ~~submitted subsequent to filing an initial registration~~
358 ~~application or any annual renewal thereof, the department shall~~
359 ~~determine whether such materials are adequate to meet the~~



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360 ~~requirements of this section. The department shall notify the~~
361 ~~seller of travel that materials submitted are in substantial~~
362 ~~compliance, or shall notify the seller of travel of any specific~~
363 ~~deficiencies. If the department fails to notify the seller of~~
364 ~~travel of its determination within the period specified in this~~
365 ~~subsection, the materials shall be deemed in compliance;~~
366 ~~however, the failure of the department to send notification in~~
367 ~~either case will not relieve the seller of travel from the duty~~
368 ~~of complying with this section.~~

369

370 Neither the submission of these materials nor the department's
371 response implies approval, recommendation, or endorsement by the
372 department or that the contents of said materials have been
373 verified by the department.

374 Section 32. Section 559.932, Florida Statutes, is amended
375 to read:

376 559.932 Vacation certificate disclosure.—

377 (1) A It shall be unlawful for any seller of travel must to
378 fail to provide each person solicited with a contract that
379 includes which shall include the following information, which
380 shall be in 12-point type, unless otherwise specified:

381 (a) A space for the date, name, address, and signature of
382 the purchaser.

383 (b) The expiration date of the vacation certificate and the
384 terms and conditions of its extension or renewal, if available.

385 (c) The name and business address of any seller of travel
386 who may solicit vacation certificate purchasers for further
387 purchases, and a full and complete statement as to the nature
388 and method of that solicitation.



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389 (d) The total financial obligation of the purchaser which
390 shall include the initial purchase price and any additional
391 charges to which the purchaser may be subject, including, but
392 not limited to, any per diem, seasonal, reservation, or
393 recreational charge.

394 (e) The name and street address of any person who has the
395 right to alter, amend, or add to the charges to which the
396 purchaser may be subject and the terms and conditions under
397 which such charges may be imposed.

398 (f) If any accommodation or facility which a purchaser
399 acquires the right to use pursuant to the vacation certificate
400 is not completed at the time the certificate is offered for
401 sale, the date of availability of each component of the
402 accommodation or facility.

403 (g) By means of a section entitled "terms and conditions":

404 1. All eligibility requirements for use of the vacation
405 certificate, including, but not limited to, age, sex, marital
406 status, group association, residency, or geographic limitations.

407 2. All eligibility requirements for use of any discount or
408 complimentary coupon or ticket.

409 3. A statement as to whether transportation and meals are
410 provided pursuant to use of the certificate.

411 4. Any room deposit requirement, including all conditions
412 for its return or refund.

413 5. The manner in which reservation requests are to be made
414 and the method by which they are to be confirmed.

415 6. Any identification, credential, or other means by which
416 a purchaser must establish her or his entitlement to the rights,
417 benefits, or privileges of the vacation certificate.



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418 7. Any restriction or limitation upon transfer of the
419 vacation certificate or any right, benefit, or privilege
420 thereunder.

421 8. Any other term, limitation, condition, or requirement
422 material to use of the vacation certificate or any right,
423 benefit, or privilege thereunder.

424 (h) In immediate proximity to the space reserved in the
425 contract for the date and the name, address, and signature of
426 the purchaser, the following statement in boldfaced type of a
427 size of 10 points:

428
429 "YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR
430 OBLIGATION WITHIN 30 DAYS FROM THE DATE OF PURCHASE OR RECEIPT
431 OF THE VACATION CERTIFICATE, WHICHEVER OCCURS LATER."

432 "YOU MAY ALSO CANCEL THIS CONTRACT IF ACCOMMODATIONS OR
433 FACILITIES ARE NOT AVAILABLE PURSUANT TO A REQUEST FOR USE AS
434 PROVIDED IN THE CONTRACT."

435 "TO CANCEL THIS AGREEMENT, A SIGNED AND DATED COPY OF A
436 STATEMENT THAT YOU ARE CANCELING THE AGREEMENT SHOULD BE MAILED
437 AND POSTMARKED, OR DELIVERED TO ... (NAME) ... AT ... (ADDRESS) ...
438 NO LATER THAN MIDNIGHT OF (DATE)"

439 ~~"IF YOU DECIDE TO CANCEL, YOU MUST NOTIFY THE SELLER IN~~
440 ~~WRITING OF YOUR INTENT TO CANCEL BY RETURNING THE CERTIFICATE~~
441 ~~AND SENDING NOTICE TO: ... (NAME OF SELLER) ... AT ... (SELLER'S~~
442 ~~ADDRESS)"~~

443 (i) In immediate proximity to the statement required in
444 paragraph (h), the following statement in boldfaced type of a
445 size of 12 ~~10~~ points:

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447 "NO PURCHASER SHOULD RELY UPON REPRESENTATIONS OTHER THAN
448 THOSE INCLUDED IN THIS CONTRACT."

449

450 However, inclusion of this statement shall not impair any
451 purchaser's right to bring legal action based on verbal
452 statements.

453 (j) In immediate proximity to the statement required in
454 paragraph (i), the following statement:

455 "This contract is for the purchase of a vacation
456 certificate and puts all assignees on notice of the consumer's
457 right to cancel under section 559.933, Florida Statutes."

458 (2) If a sale or agreement to purchase a vacation
459 certificate is completed over the telephone, the seller shall
460 inform the purchaser over the telephone that:

461 (a) The purchaser may cancel the contract without any
462 penalty or obligation within 30 days from the date of purchase
463 or receipt of the vacation certificate, whichever occurs later.

464 (b) The purchaser may also cancel the contract if
465 accommodations or facilities are not available upon request for
466 use as provided in the contract.

467 (3) Upon receipt of a copy of a vacation certificate or
468 contract required pursuant to s. 559.9295, the department shall
469 review the vacation certificate or contract for compliance with
470 the disclosures required under this section. The submission of
471 the vacation certificate or contract and the department's
472 response do not imply approval, recommendation, or endorsement
473 by the department or that the contents of the vacation
474 certificate or contract have been verified by the department.

475 Section 33. Section 559.933, Florida Statutes, is amended



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476 to read:

477 559.933 Vacation certificate cancellation and refund
478 provisions.-

479 (1) A ~~It shall be unlawful for any~~ seller of travel or an
480 assignee must honor a purchaser's request to cancel a vacation
481 certificate if such request is made:

482 ~~(1) To fail or refuse to honor a purchaser's vacation~~
483 ~~certificate request to cancel if such request is made:~~

484 (a) Within 30 days after ~~from~~ the date of purchase or
485 receipt of the vacation certificate, whichever occurs later; or

486 (b) At any time accommodations or facilities are not
487 available pursuant to a request for use as provided in the
488 contract, provided that:

489 1. The contract may ~~shall~~ not require notice greater than
490 60 days in advance of the date requested for use;

491 2. If acceptable to the purchaser, comparable alternate
492 accommodations or facilities in a city, or reservations for a
493 date different than that requested, may be provided.

494 (2) A seller of travel or an assignee must ~~To fail to~~
495 refund any and all payments made by the vacation certificate
496 purchaser within 30 days after receipt of the certificate and
497 notice of cancellation made pursuant to this section, if the
498 purchaser has not received any benefits pursuant to the vacation
499 certificate.

500 (3) A seller of travel or an assignee must, if the
501 purchaser has received any benefits pursuant to the vacation
502 certificate, ~~to fail to~~ refund within 30 days after receipt of
503 the certificate and notice of cancellation made pursuant to this
504 section any and all payments made by the purchaser which exceed



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505 a pro rata portion of the total price, representing the portion
506 of any benefits actually received by the vacation certificate
507 purchaser during the time preceding cancellation.

508 (4) If ~~Where~~ any purchaser has received confirmation of
509 reservations in advance and is refused accommodations upon
510 arrival, a seller of travel or an assignee must ~~to fail to~~
511 procure comparable alternate accommodations for the purchaser in
512 the same city at no expense to the purchaser, or ~~to fail to~~
513 fully compensate the purchaser for the room rate incurred in
514 securing comparable alternate accommodations himself or herself.

515 (5) A seller of travel or an assignee may not ~~To~~ collect
516 more than the full contract price from the purchaser.

517 (6) A seller of travel or an assignee may not ~~To~~ sell,
518 assign, or otherwise transfer any interest in a seller of travel
519 business, or ~~to~~ sell, assign, or otherwise transfer to a third
520 party any interest in any vacation certificate unless:

521 (a) The third party agrees in writing to fully honor the
522 rights of vacation certificate purchasers to cancel and to
523 receive an appropriate refund or reimbursement as provided in
524 this section.

525 (b) The third party agrees in writing to comply with all
526 other provisions of this part for as long as the third party
527 continues the sale of vacation certificates or for the duration
528 of the period of validity of outstanding vacation certificates,
529 whichever is longer in time.

530 (c) The seller of travel agrees to be liable for and fully
531 indemnify a purchaser from any loss occasioned by the failure of
532 the third party to honor the purchaser's right to cancel and
533 failure to make prompt and complete refund to the purchaser of



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534 all sums paid to the third party, or occasioned by the third
535 party's failure to comply with the provisions of this part.

536 (7) A seller of travel or an assignee must ~~To fail to~~
537 fulfill the terms of a vacation certificate within 18 months
538 after ~~of~~ the initial payment of any consideration by the
539 purchaser to a seller of travel or third party.

540 Section 34. Section 559.9335, Florida Statutes, is amended
541 to read:

542 559.9335 Violations.—It is a violation of this part for any
543 seller of travel, independent agent, assignee, or other person:

544 (1) To conduct business as a seller of travel without
545 registering annually with the department unless exempt pursuant
546 to s. 559.935.

547 (2) To conduct business as a seller of travel without an
548 annual purchase of a performance bond in the amount set by the
549 department unless exempt pursuant to s. 559.935.

550 (3) Knowingly to make any false statement, representation,
551 or certification in any application, document, or record
552 required to be submitted or retained under this part or in any
553 response to an inquiry or investigation conducted by the
554 department or any other governmental agency.

555 (4) Knowingly to sell or market any ~~number of~~ vacation
556 certificates that exceed the number disclosed to the department
557 pursuant to this section.

558 (5) Knowingly to sell or market vacation certificates with
559 an expiration date of more than 18 months from the date of
560 issuance.

561 ~~(6) Knowingly to require, request, encourage, or suggest,~~
562 ~~directly or indirectly, that payment for the right to obtain a~~



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563 ~~travel contract, certificate, or vacation package must be by~~
564 ~~credit card authorization or to otherwise announce a preference~~
565 ~~for that method of payment over any other when no correct and~~
566 ~~true explanation for such preference is likewise stated.~~

567 (6)~~(7)~~ Knowingly to state, represent, indicate, suggest, or
568 imply, directly or indirectly, that the travel contract,
569 certificate, or vacation package being offered by the seller of
570 travel cannot be purchased at some later time or may not
571 otherwise be available after the initial contact, or that
572 callbacks by the prospective purchaser are not accepted, when no
573 such restrictions or limitations in fact exist.

574 (7)~~(8)~~ To misrepresent ~~in any manner~~ the purchaser's right
575 to cancel and to receive an appropriate refund or reimbursement
576 as provided by this part.

577 (8)~~(9)~~ To sell any vacation certificate the duration of
578 which exceeds the duration of any agreement between the seller
579 and any business entity obligated thereby to provide
580 accommodations or facilities pursuant to the vacation
581 certificate.

582 (9)~~(10)~~ To misrepresent or deceptively represent:

583 (a) The amount of time or period of time accommodations or
584 facilities will be available.

585 (b) The location of accommodations or facilities offered.

586 (c) The price, size, nature, extent, qualities, or
587 characteristics of accommodations or facilities offered.

588 (d) The nature or extent of other goods, services, or
589 amenities offered.

590 (e) A purchaser's rights, privileges, or benefits.

591 (f) The conditions under which the purchaser may obtain a



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592 reservation for the use of offered accommodations or facilities.

593 (g) That the recipient of an advertisement or promotional
594 materials is a winner, or has been selected, or is otherwise
595 being involved in a select group for receipt, of a gift, award,
596 or prize, unless this fact is the truth.

597 (10)~~(11)~~ To fail to inform a purchaser of a nonrefundable
598 cancellation policy before ~~prior to~~ the seller of travel
599 accepting any fee, commission, or other valuable consideration.

600 (11)~~(12)~~ To fail to include, when offering to sell a
601 vacation certificate, in any advertisement or promotional
602 material, the following statement: "This is an offer to sell
603 travel."

604 (12)~~(13)~~ To fail to honor and comply with all provisions of
605 the vacation certificate regarding the purchaser's rights,
606 benefits, and privileges thereunder.

607 (13)~~(14)~~ (a) To include in any vacation certificate or
608 contract any provision purporting to waive or limit any right or
609 benefit provided to purchasers under this part; or

610 (b) To seek or solicit such waiver or acceptance of
611 limitation from a purchaser concerning rights or benefits
612 provided under this part.

613 (14)~~(15)~~ To offer vacation certificates for any
614 accommodation or facility for which there is no contract with
615 the owner of the accommodation or facility securing the
616 purchaser's right to occupancy and use, unless the seller is the
617 owner.

618 (15)~~(16)~~ To use a local mailing address, registration
619 facility, drop box, or answering service in the promotion,
620 advertising, solicitation, or sale of vacation certificates,



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621 unless the seller's fixed business address is clearly disclosed
622 during any telephone solicitation and is prominently and
623 conspicuously disclosed on all solicitation materials and on the
624 contract.

625 (16)~~(17)~~ To use any registered trademark, trade name, or
626 trade logo in any promotional, advertising, or solicitation
627 materials without written authorization from the holder of such
628 trademark, trade name, or trade logo.

629 (17)~~(18)~~ To represent, directly or by implication, any
630 affiliation with, or endorsement by, any governmental,
631 charitable, educational, medical, religious, fraternal, or civic
632 organization or body, or any individual, in the promotion,
633 advertisement, solicitation, or sale of vacation certificates
634 without express written authorization.

635 (18)~~(19)~~ To sell a vacation certificate to any purchaser
636 who is ineligible for its use.

637 (19)~~(20)~~ To sell any ~~number of~~ vacation certificates in
638 excess of exceeding the number of available accommodations
639 ~~disclosed pursuant to this part.~~

640 (20)~~(21)~~ During the period of a vacation certificate's
641 validity, in the event, for any reason whatsoever, of lapse or
642 breach of an agreement for the provision of accommodations or
643 facilities to purchasers, to fail to procure similar agreement
644 for the provision of comparable alternate accommodations or
645 facilities in the same city or surrounding area.

646 (21)~~(22)~~ To offer to sell, at wholesale or retail,
647 prearranged travel or, tourist-related services, ~~or tour-guide~~
648 ~~services~~ for individuals or groups directly to any terrorist
649 state and which originate in Florida, without disclosing such



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650 business activities in a certification filed under s.
651 559.9285(1) (b) or (c).

652 ~~(22)~~~~(23)~~ To violate any state or federal law restricting or
653 prohibiting commerce with terrorist states.

654 ~~(23)~~~~(24)~~ To engage in ~~do~~ any other act that

655
656 ===== T I T L E A M E N D M E N T =====

657 And the title is amended as follows:

658 Delete lines 110 - 133

659 and insert:

660 by such veterans or spouses; amending s. 559.927,
661 F.S.; revising definitions and defining the term
662 "student tour operator"; amending s. 559.928, F.S.;
663 requiring the department to waive the initial seller
664 of travel registration fee for certain veterans, the
665 spouses of such veterans, or certain business entities
666 that have a majority ownership held by such veterans
667 or spouses; requiring independent agents to annually
668 file an application, rather than an affidavit;
669 requiring each advertisement, certificate, and other
670 travel documents to include a specified phrase;
671 deleting a provision requiring an advertisement to
672 include a specified phrase; revising the circumstances
673 under which the department may deny or refuse to renew
674 a registration; authorizing the department to revoke
675 the registration of a seller of travel under certain
676 circumstances; creating s. 559.9281, F.S.; requiring
677 the Department of Agriculture and Consumer Services to
678 establish a process for specified persons to apply to



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679 be, and be listed as, approved student tour operators;
680 requiring the department to adopt rules to establish
681 an application process and standards for persons
682 wishing to be approved as student tour operators;
683 specifying minimum standards for such operators;
684 requiring the department to maintain a list of
685 approved operators; requiring the department to update
686 the list at least annually and to provide a current
687 version of the list to the Department of Education;
688 requiring the Department of Education to publish and
689 maintain such list on its website; amending s.
690 559.929,