
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 638 Session of
1995

INTRODUCED BY GLADECK, FICHTER, KING, CARONE, ITKIN, DEMPSEY,
TRELLO, SAYLOR, PETTIT, GEIST, E. Z. TAYLOR, CORNELL, KAISER,
RAYMOND, MELIO, ROONEY, CURRY, YOUNGBLOOD AND BELFANTI,
FEBRUARY 7, 1995

REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT,
FEBRUARY 7, 1995

AN ACT

1 Providing for the regulation of travel promoters; requiring that
2 certain bonds be secured for the benefit of customers;
3 requiring bank deposits; and providing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Travel
8 Promoters Regulation Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Adequate bond." A corporate bond of an amount at least
14 equal to the amount required under the contract between the
15 travel promoter and the transportation carrier or company or
16 person providing other services in conjunction with
17 transportation.

1 "Advertise." To make a representation in the solicitation of
2 air, sea or land transportation. The term includes communication
3 with other members of the same partnership, corporation, joint
4 venture, association, organization, group or other entity.

5 "Air carrier." A transporter of persons by air which is
6 subject to regulation as such by a governmental agency.

7 "Land carrier." A transporter of persons by land which is
8 subject to regulation as such by a governmental agency.

9 "Passenger." A person on whose behalf money or other
10 consideration has been given or is to be given to another,
11 including another member of the same partnership, corporation,
12 joint venture, association, organization, group or other entity,
13 for travel by air, land or sea.

14 "Travel promoter." A person or any business entity whose
15 principal business is to sell, provide, furnish, contract for,
16 arrange or advertise for a fee, commission or salary that the
17 person or business entity can or may arrange, or has arranged,
18 air, land or sea transportation, either separately or in
19 conjunction with other services, including, but not limited to,
20 lodging, food, tour guides or instruction. The term does not
21 include:

- 22 (1) an air carrier;
23 (2) an ocean carrier; or
24 (3) an officially appointed agent of an air carrier or
25 ocean carrier.

26 Section 3. Legislative findings.

27 The General Assembly finds and declares as follows:

- 28 (1) Certain advertising, sales and business practices of
29 travel promoters have worked financial hardship upon the
30 people of this Commonwealth.

1 (2) The travel business has a significant impact upon
2 the economy and well-being of this Commonwealth and its
3 people.

4 (3) Problems have arisen which are peculiar to the
5 travel promoter business.

6 (4) The public welfare requires regulation of travel
7 promoters in order to eliminate unfair advertising, sales and
8 business practices.

9 (5) Standards are needed which will safeguard the people
10 against financial hardship and to encourage competition, fair
11 dealing and prosperity in the travel business.

12 Section 4. Certain advertisement restricted.

13 A travel promoter shall not advertise that air, land or sea
14 transportation, or any combination thereof, is or may be
15 available unless he has, prior to the advertisement, contracted
16 for the transportation advertised with an air, land or sea
17 carrier.

18 Section 5. Information required.

19 A travel promoter shall not receive money or other valuable
20 consideration in payment for air, land or sea transportation or
21 other services offered by the travel promoter in conjunction
22 with this transportation unless, at the time of the receipt of
23 payment, the travel promoter furnishes to the person making the
24 payment a written statement conspicuously setting forth the
25 following information:

26 (1) The name, business address and telephone number of
27 the travel promoter.

28 (2) The amount paid, the date of payment, the purpose of
29 the payment made and an itemized statement of the balance
30 due, if any.

1 (3) The location and number of the trust account or bond
2 required by this act.

3 (4) The name of the carrier with which the travel
4 promoter has contracted to provide the transportation, the
5 type of equipment to be used, and the date, time and place of
6 each departure.

7 (5) The conditions, if any, upon which the contract
8 between the travel promoter and the passenger may be
9 canceled, and the rights and obligations of all parties in
10 the event of a cancellation.

11 (6) The conditions, if any, upon which the contract
12 between the travel promoter and the carrier may be canceled,
13 and the rights and obligations of all parties in the event of
14 a cancellation.

15 (7) A statement in eight-point boldface type that, upon
16 cancellation of the transportation through no fault of the
17 passenger, all sums paid to the travel promoter for services
18 not performed in accordance with the contract between the
19 travel promoter and the passenger will be, unless the
20 passenger otherwise advises the travel promoter in writing,
21 promptly refunded by the travel promoter to the passenger or
22 the party who contracted for the passenger.

23 Section 6. Cancellation and refunds.

24 (a) Refunds.--In the event the transportation contracted for
25 is canceled through no fault of the passenger, and unless the
26 passenger otherwise advises the travel promoter in writing, the
27 travel promoter shall promptly return to the passenger all
28 moneys paid for services not performed and goods not delivered
29 in accordance with the contract.

30 (b) Misrepresentation.--Any material misrepresentation with

1 respect to the date, time, place of all departures or arrivals
2 or type of aircraft or land or ocean carrier or similar
3 occurrence shall be subject to cancellation by the consumer,
4 which will require the refund specified in this section.

5 Section 7. Bond required.

6 (a) Condition of engaging in business.--A travel promoter
7 who elects not to establish a trust account under section 8
8 shall maintain an adequate bond in force in the proper amount as
9 a condition of continuing to engage in business.

10 (b) Damages.--The people of this Commonwealth and every
11 person injured by the wrongful act of the principal acting in
12 the course and scope of his occupation or business, or by any
13 official, agent or employee of a principal acting in the course
14 or scope of his employment or agency, may bring an action on the
15 bond in his own name to recover damages suffered by reason of
16 the willful, malicious or wrongful act.

17 (c) Amount of recovery.--No person so injured may recover
18 upon the bond a sum greater than that which the person paid to
19 the principal. This limitation shall not restrict the person
20 from recovering sums greater than those paid to the principal
21 from sources other than the bond. In no event shall the
22 aggregate liability of the surety company for any and all claims
23 which arise under the bond exceed the amount of the bond.

24 Section 8. Deposit for money paid over.

25 (a) Amount of deposit.--A travel promoter shall deposit 90%
26 of all sums received for air, land or sea transportation or any
27 other services or goods offered by the travel promoter in
28 conjunction with such transportation in a trust account in a
29 State-chartered bank, bank and trust company, savings bank,
30 national bank, a federally chartered or State-chartered savings

1 and loan association or a federally chartered savings bank.

2 (b) Trust account.--The trust account required by this
3 section shall be created and maintained for the benefit of the
4 persons paying money to the travel promoter. The travel promoter
5 shall not in any manner encumber the corpus of the account and
6 shall not withdraw money therefrom except:

7 (1) in partial or full payment for the goods or services
8 contracted for by the passengers to the carrier or person
9 providing the goods or services offered by the travel
10 promoter; or

11 (2) to make the refunds as required by this act or
12 provided for by written contract between the travel promoter
13 and passengers.

14 (c) Withdrawals from account.--This section shall not
15 prevent the withdrawal from the trust account of any interest
16 earned and credited to the trust account for the sole benefit of
17 the travel promoter after all goods and services have been
18 provided as contracted for or the withdrawal at that time of any
19 other sums on deposit in the account.

20 (d) Registration.--A travel promoter shall file a statement
21 with the Attorney General, indicating his name, home address and
22 business address and, where applicable, the name and address of
23 the financial institution and the account number of each trust
24 account opened and any other information required by the
25 Attorney General pursuant to this act. If a travel promoter
26 doing business in this Commonwealth maintains a trust account
27 outside of this Commonwealth, the travel promoter shall file
28 with the Attorney General an irrevocable agreement in writing
29 acceptable to the financial institution in which the trust
30 agreement is maintained, allowing the Attorney General, a

1 district attorney or their representatives, upon written
2 request, to examine and make copies of all records pertaining to
3 the trust account.

4 (e) Bond.--In lieu of a trust account, an adequate bond may
5 be maintained by the travel promoter under section 7.

6 Section 9. Voucher or ticket required.

7 If the passenger, after making full payment of the fee for
8 air or ocean transportation, or any combination thereof,
9 requests the ticket or voucher for the transportation, the
10 promoter shall issue the ticket or voucher for the air, land or
11 ocean transportation, or any combination thereof, and deliver
12 the ticket or voucher to the passenger.

13 Section 10. Offenses.

14 A violation of the provisions of this act constitutes a
15 violation of the act of December 17, 1968 (P.L.1224, No.387),
16 known as the Unfair Trade Practices and Consumer Protection Law.

17 Section 11. Venue.

18 An offense under this act is deemed to have been committed in
19 the county where the promoter's principal place of business is
20 located or at any place where money was collected by, or paid
21 to, the promoter.

22 Section 12. Effective date.

23 This act shall take effect in 90 days.