
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2524

Session of
1976

INTRODUCED BY DAVIES, A. K. HUTCHINSON, FRYER, STAHL, GALLEN,
FREIND, W. D. HUTCHINSON, TRELLO, PETRARCA, STAPLETON,
BRADLEY, MOEHLMANN, CESSAR, BURNS, M. E. MILLER JR., SCHMITT
AND LEDERER, JUNE 14, 1976

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, JUNE 14, 1976

AN ACT

1 Regulating the business of travel promoters, prohibiting certain
2 acts, prescribing certain penalties and providing for certain
3 civil remedies.

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

6 Section 1. Short Title.--This act shall be known and may be
7 cited as the "Travel Promoter Regulation Act."

8 Section 2. Legislative Intent.--The General Assembly finds
9 and declares that certain advertising, sales and business
10 practices of travel promoters have worked financial hardship
11 upon the people of this Commonwealth; that the travel business
12 has a significant impact upon the economy and well-being of this
13 Commonwealth and its people; that problems have arisen which are
14 peculiar to the travel promoter business; and that the public
15 welfare requires regulation of travel promoters in order to
16 eliminate unfair advertising, sales and business practices; to
17 establish standards which will safeguard the people against

1 financial hardship and to encourage competition, fair dealing
2 and prosperity in the travel business.

3 Section 3. Definitions.--As used in this act:

4 "Adequate bond" means a corporate bond of an amount at least
5 equal to the amount required under the contract between the
6 travel promoter and the transportation carrier or company or
7 person providing any other services in conjunction with such
8 transportation.

9 "Advertise" means to make any representation in the
10 solicitation of land, air or sea transportation, either
11 separately or in conjunction with other related services. The
12 term includes, but is not limited to, the distribution or
13 presentation of literature, films, and oral statements.

14 "Passenger" is a person on whose behalf money or other
15 consideration has been given or is to be given to another,
16 including another member of the same partnership, corporation,
17 joint venture, association, organization, group or other entity,
18 for travel by land, air or sea and other related services
19 offered in connection with said travel.

20 "Ticket or voucher" means a writing which is itself good and
21 sufficient to obtain the entire land, air or ocean
22 transportation, or other related services for which the
23 passenger has contracted.

24 "Travel promoter" means a person who sells, provides,
25 furnishes, contracts for, arranges, or advertises that he can or
26 may arrange, or has arranged land, air or sea transportation
27 either separately or in conjunction with other services. Travel
28 promoter does not include: (1) an air carrier, or (2) an ocean
29 carrier, (3) an officially appointed agent of an air carrier,
30 ocean carrier, or other common carrier, or (4) any common

1 carrier. The term also does not include any person who provides
2 the type of services herein otherwise included but who does not
3 receive any compensation for his services from either the
4 passenger or the transportation or service provider.

5 Section 4. Prohibited Practices.--It shall be unlawful for
6 any travel promoter to engage in any of the following enumerated
7 practices:

8 (1) Advertise that transportation or other related services
9 are or may be available unless, prior to the advertisement, such
10 transportation or other services have been contracted for.

11 (2) Knowingly misrepresent the quality or kind of service,
12 type or size of aircraft, vehicle, ship or train, time of
13 departure or arrival, points served, route to be traveled, stops
14 to be made, or total trip-time from point of departure to
15 destination or other services available, reserved or contracted
16 for in connection with any trip or tour.

17 (3) Knowingly misrepresent the fares and charges for
18 transportation or services in connection therewith.

19 (4) Knowingly advertise or otherwise offer for sale or sell
20 transportation or services in connection therewith at less than
21 the rates, fares and charges specified in the currently
22 effective tariffs of the carrier, who is engaged to provide such
23 transportation or services, or knowingly offer or give rebates
24 or other concessions thereon, or knowingly assist or permit a
25 person or persons to obtain such transportation or services at
26 less than such lawful rates, fares and charges.

27 (5) Knowingly misrepresent that special priorities for
28 reservations are available when such special considerations are
29 not in fact granted to members of the public generally.

30 (6) Knowingly sell or issue tickets or other documents to

1 passengers to be exchanged or used for transportation if such
2 tickets or other documents will not be or cannot be legally
3 honored by carriers for transportation.

4 (7) Knowingly misrepresent the requirements that must be met
5 by a person or persons in order to qualify for charter or group
6 fare rates.

7 (8) Offer free or at reduced rates tickets or other services
8 to individuals who are participating in group travel for their
9 aid in inducing others to purchase tickets for transportation or
10 other services.

11 Section 5. Disclosure Upon Receipt of Consideration.--A
12 travel promoter shall not receive money or other valuable
13 consideration in payment for land, air or sea transportation or
14 any other services offered by the travel promoter in conjunction
15 with such transportation unless at the time of such receipt the
16 travel promoter furnishes to the person making such payment a
17 written statement conspicuously setting forth the following
18 information:

19 (1) The name and business address and telephone number of
20 the travel promoter.

21 (2) The amount paid, the date of such payment, the purpose
22 of the payment made, and an itemized statement of the balance
23 due, if any.

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

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

30 (5) The conditions, if any, upon which the contract between

1 the travel promoter and the passenger may be canceled, and the
2 rights and obligations of all parties in the event of such
3 cancellation.

4 (6) The conditions, if any, upon which the contract between
5 the travel promoter and the carrier may be canceled, and the
6 rights and obligations of all parties in the event of such
7 cancellation.

8 (7) A statement in eight point boldface type that upon
9 cancellation of the transportation or other related services
10 through no fault of the passenger, all sums paid to the travel
11 promoter for services not performed in accordance with the
12 contract between the travel promoter and the passenger will be,
13 unless the passenger otherwise advises the travel promoter in
14 writing, promptly refunded by the travel promoter to the
15 passenger or the party who contracted for the passenger.

16 Section 6. Deposit of Funds in Trust or Maintenance of
17 Bond.--(a) Deposit of funds. A travel promoter shall deposit 90%
18 of all sums received for land, air or sea transportation or any
19 other services or goods offered by the travel promoter in
20 conjunction with such transportation in a trust account in a
21 Federally insured bank or savings and loan association.

22 (b) Limitations on withdrawals. The trust account required
23 by this section shall be created and maintained for the benefit
24 of the persons paying money to the travel promoter. The travel
25 promoter shall not in any manner encumber the corpus of such
26 account and shall not withdraw money therefrom except: (1) in
27 partial or full payment for the goods or services contracted for
28 by the passengers to the carrier or person providing the other
29 goods or services offered by the travel promoter; or (2) to make
30 the refunds as required by this act or provided for by written

1 contract between the travel promoter and passengers. This
2 section shall not prevent the withdrawal from such account of
3 any interest earned and credited to the trust account for the
4 sole benefit of the travel promoter after all goods and services
5 have been provided as contracted for or the withdrawal at such
6 time of any other sums on deposit in such account.

7 (c) Bond. In lieu of such trust, an adequate bond shall be
8 maintained by the travel promoter. A copy of such bond shall be
9 filed with the Secretary of the Commonwealth prior to the
10 advertisement of land, air or sea transportation by the travel
11 promoter.

12 Section 7. Bonds.--(a) Right to recover. The people of this
13 Commonwealth and every person injured by the wrongful act of the
14 principal acting in the course and scope of his occupation or
15 business or by any official, agent or employee of such principal
16 acting in the course or scope of his employment or agency, may
17 bring an action on the bond in his own name to recover damages
18 suffered by reason of such willful, malicious or wrongful act. A
19 travel promoter filing such a bond shall maintain the bond in
20 force in the proper amount as a condition of continuing to
21 engage in business.

22 (b) Limitations. No person so injured may recover upon the
23 bond a sum greater than that which such person paid to the
24 principal, provided that this limitation shall not restrict such
25 person from recovering sums greater than those paid to the
26 principal from sources other than the bond. In no event shall
27 the aggregate liability of the surety company for any and all
28 claims which arise under the bond exceed the amount of the bond.

29 Section 8. Cancellation, Refunds and Misrepresentation.--(a)
30 Cancellation and refunds. In the event the transportation or

1 other related services contracted for are canceled through no
2 fault of the passenger, and unless the passenger otherwise
3 advises the travel promoter in writing, the travel promoter
4 shall promptly return to the passenger all moneys paid for
5 services not performed and goods not delivered in accordance
6 with the contract.

7 (b) Misrepresentation. Any misrepresentation with regard to
8 the date, time, place of all departures or arrivals or type of
9 land transport, aircraft or ocean carrier or other related
10 services shall be deemed to be a cancellation necessitating the
11 refund required by this section.

12 Section 9. Issuance of Ticket or Voucher.--If the passenger
13 after making full payment of the fee for land, air or ocean
14 transportation, or related services, requests the ticket or
15 voucher for such transportation or services, the promoter shall
16 issue the ticket or voucher for such land, air or ocean
17 transportation, or services, and deliver such ticket or voucher
18 to the passenger.

19 Section 10. Exclusions.--The provisions of this act shall
20 not apply to any person acting as a travel promoter where the
21 total value of the transportation and related services offered
22 to an individual passenger does not exceed \$50, or the total
23 distance to be traveled does not exceed 300 miles or the total
24 number of passengers involved is ten or less. It shall be
25 unlawful for any person to divide a group into groups of ten or
26 less to avoid the regulatory provisions of this act.

27 Section 11. Damages and Enforcement.--(a) Treble damages. In
28 addition to any other remedies available, any travel promoter
29 who provides services that are substantially different from
30 those advertised shall be liable to the aggrieved passenger for

1 damages equal to three times the difference between the services
2 or transportation advertised and those actually provided.

3 (b) Enforcement. The Bureau of Consumer Protection in the
4 Department of Justice is hereby authorized to institute an
5 action or actions in the court of common pleas of the
6 appropriate county or the Commonwealth Court to restrain
7 violations of this act.

8 Section 12. Criminal Penalties.--Any person violating the
9 provisions of this act shall be guilty of a misdemeanor of the
10 third degree and shall be sentenced in accordance with the
11 provisions of Title 18 (Crimes and Offenses), Chapter 11
12 (relating to the authorized disposition of offenders) of the
13 Pennsylvania Consolidated Statutes. In addition, any person
14 convicted pursuant to this section shall in addition to any fine
15 or penalty be required to make restitution for any amounts of
16 money lost by a passenger.

17 Section 13. Effective Date.--This act shall take effect in
18 60 days.