

# **GUIDE TO U.S. & CANADIAN SELLER OF TRAVEL LAWS**

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## INTRODUCTION AND OVERVIEW

As detailed as it is, this guide provides merely an overview so that you can gain a general understanding of how each law applies to you. It will be important to review each section of this document or refer to the statute for further applicability.

As a general rule, Sellers of Travel laws are consumer protection laws intended to protect consumers who are residents of its state (including Canadian provinces), and the laws apply to any Seller of Travel who sells to residents of the regulating state.

**A Commonly Asked Question:** "I'm running a tour from my area to State X, which has a Sellers of Travel law. Do I have to register in State X?" As a general rule, no. The Sellers of Travel laws generally focus on protecting travel customers who are residents of its state. As a general rule, it's irrelevant that the destination of your tour includes travel to or through a state that has a Sellers of Travel law. See the guide for each state law for its applicability to your activities.

These laws apply to the selling entity. When registration is required, the registration covers the seller of travel's bona fide employees. Separate registration and licensing of employees is not necessary. However, independent contractors and outside sales agents generally must register separately, or be listed as representatives of a registered Seller of Travel (exception: Travel Agents in Rhode Island must have individual licenses).

### Note on the wording in this Guide

To the extent appropriate, wording from each state's statute has been used in this guide. The following are the most notable examples of words that are used in the statutes with a definition somewhat different from common usage of the words:

- "person" in the statutes doesn't exclusively mean person. It refers to the selling entity, and includes a person, sole proprietor, partnership, corporation, etc.
- The most common reference in the state statutes is "seller of travel". However, some statutes refer to "travel charter or tour operators" or "travel agencies". Each statute defines which activities come within the scope of the persons or entities it seeks to regulate, and the definitions differ from state to state. Some are more inclusive, and some are less inclusive than one might expect from the title. For example, not all tour operators are subject to all seller of travel laws, and not only travel agencies with an ARC license are included in the definition of statutes with the title "travel agencies". It is recommended that you review each state section of this guide for applicability to your company's operations.

*This Guide is provided to Tour Operators in the interest of helping you operate more safely and profitably, satisfying all consumer protection requirements applicable to your company. Neither NTA nor Attorney Paul T. Cronin are responsible for its usage.*

*Please recognize that this Guide is not a substitute for legal advice, which can only be given after considering the specifics of your company and its business practices. For legal counsel you may wish to contact Paul T. Cronin, Attorney at law, 354 Waltham Street, Newton, MA 02465.  
Tel: (617) 527-2544; fax: (617) 527-4437. E-mail: pcronin@att.net*

## CALIFORNIA

STATUTORY REFERENCE: California Business and Professions Code, § 17550 *et seq.*

**BACKGROUND:** The California law has been revised several times in recent years, most recently in 2004. The law provides a comprehensive scheme for the regulation of travel promoters, defined as a person who sells, provides, furnishes, contracts for, arranges, or advertises that he or she can or may arrange, or has arranged, wholesale or retail air or sea transportation either separately or in conjunction with other travel services.

### APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

Under the law, those tour companies selling travel to California persons or businesses, including those companies based out of state, must pay an annual \$100 registration fee. In-state companies also must register with the Travel Consumer Restitution Corporation and pay \$275 per location initially, plus assessments to maintain the level of the fund. Out-of-state and in-state sellers of travel will have to do one of the following: place California customer moneys in a trust account; have a special seller of travel bond; participate in a \$1 million consumer protection program that meets the requirements of the law (USTOA is the only plan); or participate in an Attorney General escrow program. Outside sales agents of ARC appointed travel companies may come within the exemption and not have to register and keep trust accounts.

**QUICK REFERENCE:** Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes, if air or sea transportation is sold alone or as part of a package.
- Tour operator selling only through registered travel agencies: yes, same as above.
- Motorcoach carrier providing service to a tour operator: no

### KEY PROVISIONS/REQUIREMENTS:

**Registration:** All sellers of travel who market or sell or arrange air or sea travel in California or to California residents must register with the California Attorney General's (AG) office. Sellers of travel must pay a \$100 registration fee per location to the AG on an annual basis. §17550.20 This includes out of state tour companies who sell packaged travel through California based travel agents. A late fee of \$5 per day, up to a maximum of \$500 is payable until required information is received. All registration numbers must be clearly and conspicuously displayed on all advertising materials. Additionally, registered sellers of travel must provide a copy of their current registration upon request to any other registered seller of travel from

whom it receives passenger funds in payment for transportation or travel services. California-based travel agents cannot remit money to tour operators who are not registered §17550.15(c)(4).

## EXEMPTIONS: §17550.1

The following organizations are exempt from the new state's sellers of travel law:

- A seller of travel who sells only motorcoach and rail transportation
- An air carrier
- An ocean carrier
- A hotel, motel or lodging establishment that arranges transportation for its guests and does not receive any money or other valuable consideration for arranging or providing that transportation.
- A person or organization certified under Part 5, §12140 of Division 2 of the Insurance Code
- Outside sales agents who meet specific requirements. §17550.20(g)

## CONSUMER PROTECTION PROVISIONS

- Travel Consumer Restitution Corporation: §§17550.35 - 17550.59

All sellers of travel whose business locations are in California must participate in the TCRC by paying \$275 per business location initially, and annual/periodic assessments therefor to maintain the TCRC fund at \$1,600,000. The purpose of this fund is to compensate losses of California consumers, financed by California sellers of travel.

- Trust Accounts or Surety Bond: §17550.15

Most sellers of travel must deposit directly into a trust account 100 percent of all sums received from any person or entity for air or sea transportation. In lieu of the trust account required by this law, a bond can be established by an admitted surety insurer in an amount equal to the amount required to be held in the trust account §§17550.11, 17550.15(k). A special bond form from the California Attorney General's office is required.

There are four alternative ways to be exempt from the trust account/bond requirement:

1. Conduct business from locations in California, meeting all of the following requirements: selling only retail, forwarding the passenger funds without offsetting the amount forwarded, be an ARC appointed agent, and in business for three years under the same ownership. §§17550.16(a)(1-6)
2. Sales of travel services furnished by a firm located and providing the transportation services outside of the United States. This requires a disclosure, signed by the customer, that the sale is not protected by the Seller of Travel Law. §17550.16(a)(7)
3. Participate in a Consumer Protection Deposit Plan providing \$1,000,000 consumer security, e.g., the USTOA plan. §17550.16(b)

4. Deposit all customer payments into a Consumer Protection Escrow Plan administered by a federally insured bank as escrow agent. §17550.16(c)

- Written disclosure of specific information to customers: §17550.13

Sellers of travel must provide specific written disclosure of several items to their customers at or before receipt of payment -- including the name of the provider, the purpose of the payment and cancellation provisions. The Seller of Travel authorities provide model language for in-state and out-of-state sellers of travel.

- Delivery of tickets or vouchers upon receiving payment in full: §17550.17

Must issue and deliver the tickets or vouchers to the passenger or his or her designated agent within 3 business days of payment in full. Tickets or vouchers can be personally delivered, turned over to an independent third party delivery service or the U.S. Postal Service for regular delivery. Where delivery of tickets with these time limits is not possible, the seller of travel can forward to a provider or hold in trust accounts.

- Must make prompt refund to passengers when the transportation is not provided, unless funds have been disbursed to suppliers per the contract. §17550.14

Provision of claim forms to customers: If there is a default by a registered seller of travel headquartered in the state, California consumers can make a complaint of up to \$15,000. Claim forms will be provided to the industry so that customers will have easy access to the Consumer Restitution Corporation Fund. §17550.46. Claims must be filed 60 days from when customer became aware of loss. §17550.47

- Educational Travel Organizations §17552 *et seq.*

Organizations offering student travel are subject to the Sellers of Travel law, as well as additional requirements pertaining to student travel arrangements. In brief, they must have a signed contract with the educational institution disclosing an itemized statement of services, costs, relevant insurance coverage pertaining to the program, and information about the educational organization, its program experience and its owners.

#### PENALTIES FOR VIOLATIONS OF THE LAW §17550.19

Doing business without the required registration, or doing business in violation of any requirement of this law results in a misdemeanor or felony offense punishable by up to three years in prison and/or a fine of up to \$25,000 for each violation.

KEY CONTACT FOR REGISTRATION INFORMATION:

Dept. of Justice

Seller of Travel Program

300 South Spring St., Suite 5212

Los Angeles, CA 90013

Phone: 213-897-8065

<http://ag.ca.gov/travel>

## **DELAWARE**

STATUTORY REFERENCE: Delaware Laws, *Title 30 §2301(a)(26)*

KEY PROVISIONS/REQUIREMENTS: This law identifies the occupations requiring licenses to do business in Delaware. It requires a "Travel Agency" to have an occupational license, and defines "Travel Agency" as "a person in the business of operating a full service travel bureau or department which assists in the planning and acquisition of tickets for contemplated trips of its customers by land, sea or air and for related accommodations."

The annual fee for a Travel Agency license is \$225.00 per calendar year. The fee is prorated for the first year of registration, and renewed on January 1 of each year thereafter.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes, if the tour operator:
  - a) meets the definition of "Travel Agency" above, and
  - b) "does business" in Delaware, having either an office in the state or employees working from an office located in the state. Otherwise, no.
- Tour operator selling only through registered travel agencies: Same as above.
- Motorcoach carrier providing service to a tour operator: no

PENALTIES FOR VIOLATIONS OF THE LAW *Title 30, §2119*

Fine up to \$3,000 and/or imprisonment up to two years.

KEY CONTACT FOR REGISTRATION INFORMATION:

Division of Revenue  
820 N. French Street  
Wilmington, DE 19899

Phone: (302) 577-3300

## FLORIDA

STATUTORY REFERENCE: Florida Statutes §§559.926 - 559.939

### OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

Originally enacted in 1988, this law was most recently revised in 2004 and is entitled "Florida Sellers of Travel Act". It applies to sellers of travel, located both inside and outside the state of Florida, who offer travel services to Florida consumers, including, but not limited to travel services or tour-guide services, at wholesale and retail, for individuals or groups, through packages, certificates or other consideration, also including travel clubs, even if no contracts, certificates, vacations or packages are sold by the entity.

Sellers of Travel must register annually, and must maintain financial security in the form of a bond, letter of credit or certificate of deposit, as described below.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes, but see exemption for certain ARC licensed agencies
- Tour operator selling only through registered travel agencies: yes, same as above
- Motorcoach carrier providing service to a tour operator: no

### EXEMPTIONS. §559.935

The following are exempt from the state's Sellers of Travel Law:

- A bona fide employee of a seller of travel who is engaged solely in the business of his employer;
- A common carrier regulated by the federal government, and its employees;
- An intrastate common carrier selling only transportation per its registration or certification;
- Hotels, motels or places of public accommodation when engaged solely in making arrangements for lodging, or sightseeing tours within Florida, provided that the hotel or motel is registered with the Dept. of Business and Professional Regulation per c. 509;
- Persons involved solely in the rental, leasing or sale of residential property, or transportation vehicles;
- Persons who make travel arrangements for themselves, their employees or agents;
- A developer of a timeshare plan or an exchange company, to the extent of activity regulated by c. 721;
- Persons engaged solely in offering diving services, including travel-related services

in conjunction therewith;

The following are exempt from the law's registration and security requirements\*:

- Travel agencies licensed by the ARC for the preceding 3 years under the same ownership and control and who do not offer vacation certificates;
- Travel agencies licensed by the ARC for the preceding 5 years under the same ownership and control;
- An affiliate of an exempt agency (referred to in the preceding two items) that maintains a satisfactory consumer complaint history; §559.935(3);

\* Waiver of Security: After having registered and provided security for five years a Seller in good standing may apply for a waiver of security on an annual basis. §559.929(6)

#### KEY PROVISIONS/REQUIREMENTS:

- **Registration.** §559.928

Each seller of travel shall register annually with the Florida Department of Agriculture and Consumer Services, on registration forms requiring information about the seller's business.

"Outside Agents" must register by filing an "Outside Agent" registration form, showing their affiliation with a registered seller of travel. Outside agents are bound by the substantive provisions of the law, but are exempt from the registration fee and bond requirements.

Registration Fee: \$300 per year.

New registration or renewal may be denied if the seller of travel (or its directors, officers, owners, or general partners) has failed to meet the requirements for registration; has committed fraud, dishonest dealing or other moral turpitude; has violated this law or a rule adopted hereunder; has had a judgment entered against it by the Department, or the Department of Legal Affairs.

- **Advertising.** §§ 19.138.030, 19.138.100

The seller of travel shall not advertise that transportation is available without first determining its availability, i.e., via computer reservation system or written confirmation from the vendor.

The registration number must be conspicuously posted in the place of business and must be included in all advertisements. However, publicly traded companies (those issuing securities per SEC Act of 1934, §12) and their wholly (and majority) owned subsidiaries need not include registration numbers in their ads.

- **Security Requirements.** §559.929

A performance bond, certificate of deposit or irrevocable letter of credit is generally required. It may be waived upon proof of 5 years of satisfactory performance in Florida.

- A. Performance bond of \$25,000; or \$50,000 if seller of travel is offering vacation certificates; issued by a surety company authorized to do business in Florida.
- B. Certificate of deposit or irrevocable letter of credit in a Florida bank in the same amount as the bond.
- C. Waiver of Security. The Department may waive the bond, letter of credit or certificate of deposit on an annual basis if the seller of travel has had 5 or more consecutive years of satisfactory performance as a seller of travel in Florida, and upon satisfactory review of financial records, civil, criminal and administrative action, and consumer relations.

- **Written Disclosure of Specific Information to Customers.** §§559.928(5)

Each contract of a seller of travel must include the phrase: “\_(name of firm)\_ is registered with the State of Florida as a Seller of Travel. Registration No. \_\_\_\_”.

Each advertisement of a seller of travel must include the phrase “Fla. Seller of Travel Reg. No. \_\_\_\_”.

- **Sale of Vacation Certificates.**

This activity is regulated by separate specific sections of the law, §§559.9295, 559.932, 559.933. Extensive documentation of the program must be submitted to the Department for approval prior to advertising or sale of any certificates.

#### VIOLATIONS OF THE LAW §559.9335

It is a violation of the law to conduct business as a seller of travel without registering annually; without the required financial security; to make false statements on registration materials; to misrepresent a requirement for payment by credit card; to misrepresent the price, quality, availability or other characteristics of the accommodations, facilities, services, or amenities; to misrepresent the consumer's right to cancel and receive a refund; or generally to do any other act which constitutes fraud, misrepresentation, or failure to disclose a material fact. Refer to the full text of the law for further details pertaining to the sale of travel services, packages, event tickets and vacation certificates.

## PENALTIES FOR FAILING TO COMPLY WITH THE LAW §§ 559.9355, 559.936, 559.937

- A violation of the seller of travel law shall constitute a deceptive and unfair trade practice per §501.201;
- The Director may impose the following administrative remedies/penalties:
  - Fine, up to \$5,000 per violation;
  - Cease and Desist Order;
  - Refusing to register, or canceling a registration;
  - Placing a registrant on probation;
  - Canceling an exemption granted under §559.935.
- Civil Penalties. The Department may:
  - Institute civil action to recover penalties, damages, injunctions, etc.
  - Seek a civil penalty up to \$5,000 per violation, and for restitution to an injured consumer;
  - Seek a civil penalty under Florida's little FTC Act, up to \$10,000 per violation.
- Criminal Penalties  
A violation of this law is a misdemeanor. Up to 1 year Imprisonment \$1,000 fine.

## KEY CONTACT FOR REGISTRATION INFORMATION:

Department of Agriculture and Consumer Services  
Division of Consumer Services  
P.O. Box 6700  
Tallahassee, FL 32399

Phone: (850) 488-2221

## HAWAII

STATUTORY REFERENCE: Hawaii Revised Statutes, Chapter 468L

### OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

This law is entitled "Travel Agencies". It applies to those who act as an intermediary between a person seeking to purchase travel services and any person seeking to sell travel services.

"Travel services" includes transportation by air, sea or rail; related ground transportation; hotel accommodation; or package tours, whether offered on a wholesale or retail basis. The law has additional provisions applying to "Charter Tour Operators", i.e., those who offer travel including chartered air transportation.

Although the statutory title is "Travel Agencies" and all references in the statute are to "travel agencies", the definition of "travel agency" is sufficiently broad that it would include tour operators, who act as an intermediary between the customer and the ultimate provider.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes
- Tour operator selling only through registered travel agencies: no
- Motorcoach carrier providing service to a tour operator: no

EXEMPTIONS. §468L-1

The following are exempt from the state's Travel Agencies Law:

- An air carrier;
- A hotel

KEY PROVISIONS/REQUIREMENTS:

- **Registration.** §§468L-2, 468L-21

Travel Agency and Charter Tour Operator Registration. Register at the end of each odd-numbered year. \$140 fee for 2 years. If first registration is in an even-numbered year, first year fee is \$95.

Out of State Sellers: Registration for Certificate of Authority to do Business in Hawaii. \$25/yr. fee.

- **Trust Account.** §§468L-5, 468L-23

Travel agencies and charter tour operators must maintain a trust account in a federally insured financial institution located in Hawaii. The account will be established and maintained for the benefit of those paying money to the seller. Payments received for travel services must be deposited in the trust account within five business days.

Withdrawals from the account are permitted for:

- . Payments to the entity directly providing the travel services;
- . Refunds as required by this law;
- . Sales commission;
- . Interest earned and credited to the account;
- . Remaining funds of a purchaser once all travel services have been provided or once tickets or other similar documentation binding upon the ultimate provider of the travel services have been provided.

- **Charter Tour Operator - Additional Security §468L-22**

In addition to the trust account, charter tour operators offering seven or more air charters per year must provide a bond or letter of credit of \$300,000 - \$1,000,000

- **Written Disclosure of Specific Information to Customers. §§468L-4, 468L-6, 468L-7.**

At or prior to receiving any payment, the travel agency must provide a written statement to the customer including the following:

- General Disclosures §468L-4
  - . Name, business address and telephone number of the travel agency;
  - . Amount paid, date of payment, purpose of payment, balance due, if any;
  - . Name and address of the financial institution that maintains the travel agency trust account, and the name of the trust account;
  - . Name of the entity with which the travel agency has arranged travel services and pertinent info, e.g., types of accommodation, dates, times, restrictions, conditions, fees for cancellation, etc.;
  - . Cancellation conditions, and rights and obligations of the parties in the event of cancellation;
- Consumer's Rights Disclosures §468L-7
  - . The Director may develop a form disclosing consumers' rights, for distribution to consumers. Either this form or travel agency's form must be provided to the customer prior to purchase. Topics/rights include:
    - . Conditions, etc. upon consumer's right to receive a refund;
    - . Consumer may rely on information provided by the travel agency regarding

the travel services, including their availability, conditions for obtaining a refund, and the nature or quality of the services.

- . Consumer has the right to have the travel agency fulfill any representation, term or condition of the contract between consumer and agency.
  - . Consumer has the right to a ticket or other documentation, binding upon the ultimate provider of travel services, upon full payment.
  - . Consumer has the right to a refund within 14 days from the date of request, for travel services not performed per the contract. Refund is reduced only by cancellation fees previously disclosed, and amounts paid to ultimate provider per contract, and held by ultimate provider.
- 
- **Airline Awards Disclosure. §468L-6**  
A separate disclosure is specified when selling an airline award, coupon, voucher, etc.

#### PENALTIES FOR FAILING TO COMPLY WITH THE LAW §§467L-3(5), 468L-8 - 468L-12

- The Director may suspend or revoke any registration for any violation of this law.
  - Restitution. A court may assess a seller of travel the amount necessary to make restitution for violation of this law;
  - Injunction. In civil proceedings brought pursuant to this law, the court may also enjoin any activity that violates this law;
  - Consumer Action. Consumer may bring an action for injunctive relief, civil action for damages, and if successful, the court will award three times actual damages, plus costs and attorney's fees.
  - Criminal Penalties. The knowing violation of the trust account provisions of this law are punishable as the criminal offense of theft.
- 
- **Charter Tour Operator Penalties §468L-27(d)**  
Fine up to \$25,000 for the first violation, \$50,000 for the second violation, and \$75,000 for any subsequent violations.

#### KEY CONTACT FOR REGISTRATION INFORMATION:

Travel Agent Licensing Program  
Department of Commerce and Consumer Affairs  
1010 Richards Street  
Honolulu, HI 96813

Phone: (808) 586-3000  
Fax: (808) 586-2689

## ILLINOIS

STATUTORY REFERENCE: Travel Promotion Consumer Protection Act, *815 ILCS 420*.

### BACKGROUND:

The law defines a travel promoter as "a person, including a tour operator, who sells, provides, furnishes, contracts for, arranges or advertises that he or she will arrange wholesale or retail transportation by air, land, sea or navigable stream, either separately or in conjunction with other services." *815 ILCS 420 §2*

### APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

Tour operators that promote sales to Illinois residents must have a customer trust account and provide specified consumer disclosures. See details of each requirement, and types of sellers that qualify for exemption from the law, listed below.

### KEY PROVISIONS/REQUIREMENTS:

Registration is not required as part of the process of complying with this law. Travel promoters that do not qualify for an exemption must establish a bank trust account to hold customer deposits, and must make specified consumer disclosures, specified below.

The law also stipulates that a travel promoter shall not advertise that air or sea transportation is available until the cited transportation is contracted for. This advertising stipulation includes communication with other members of the same partnership, corporation, joint venture, association, organization, group or other entity.

### QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes.
- Tour operator selling only through registered travel agencies: yes.
- Motorcoach carrier providing service to a tour operator: no

### EXEMPTIONS: *815 ILCS 420 §2(a)*

A travel promoter does not include the following:

1. An air carrier;
2. A sea carrier;
3. An officially appointed agent of an air carrier who is a member in good standing of

- the Airline Reporting Corporation (ARC);
- 4. A travel promoter who has in force \$1,000,000 or more of liability insurance coverage for professional errors and omissions and a surety bond or equivalent surety in the amount of \$100,000 or more for the benefit of consumers in the event of a bankruptcy on the part of the travel promoter;
- 5. A riverboat subject to regulation under the Riverboat Gambling Act.

CONSUMER PROTECTION PROVISIONS: *815 ILCS 420 §§ 4,6*

**Trust account:** For those sellers that do not qualify for the exemption...

The travel promoter must deposit 90% of all sums received from customers into a trust account in a federally insured bank or S & L. The travel promoter shall not in any manner encumber the corpus of such account and shall not withdraw money therefrom except: (1) in partial or full payment for the goods or services contracted for by the passengers to the carrier or person providing the other goods or services offered by the travel promoter, or (2) to make the refunds as required by the law. The law does not prohibit the withdrawal of any interest earned and credited to the trust account for the travel promoter, after all services have been provided or the withdrawal at that time of any other sums on deposit in that account.

**Written disclosure:** A written statement clearly and conspicuously setting forth the agreement must be made available to the consumer at the time a travel promoter receives money or other valuable consideration in payment. The statement must include the following: name, address, and phone number of travel promoter, itemized receipt of payment and balance, location and number of trust account, name of carrier contracted and pertinent information for transportation, description of other services, conditions and rights for cancellation for all parties, and conditions and entitlement of purchaser for refund.

PENALTIES FOR FAILING TO COMPLY WITH THE LAW: *815 ILCS 420 §7*

Violation of this law is punishable as a violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, enforceable by the state Attorney General.

KEY CONTACT FOR INFORMATION

Office of the Attorney General  
100 W. Randolph St., 12th Floor  
Chicago, IL 60601                  Phone: (312) 814-3000

## IOWA

STATUTORY REFERENCE: Travel Agencies and Agents, Iowa Code Chapter 9D

### BACKGROUND:

The law defines a travel agency as a person who represents, directly or indirectly, that the person is offering or undertaking by any means or method, to provide travel services for a fee, commission, or other valuable consideration, direct or indirect. A travel agent is defined as a person employed by a travel agency whose principal duties include consulting with and advising persons concerning travel arrangements or accommodations.

### APPLICABILITY TO NTA TOUR OPERATORS:

This law applies to "travel agencies" (broadly defined to mean all sellers of travel) located within and outside of Iowa that offer to sell or sell travel services, if the offer is made or received in Iowa. A travel agency must register with the Iowa Secretary of State before soliciting an Iowa resident, and must renew its registration annually. Current annual fee is \$15 per agency. The registration requires evidence of the agency's financial security, satisfied by furnishing a \$10,000 surety or cash performance bond, or a copy of the agency's ARC bond, if any, or evidence of having \$1,000,000 professional liability and errors and omissions insurance.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes.
- Tour operator selling only through registered travel agencies: yes.
- Motorcoach carrier providing service to a tour operator: no

### KEY PROVISIONS/REQUIREMENTS

- **Registration §9D.2**

Per above, annual registration is required, with \$15 annual fee per agency.

A travel agency that is required to register cannot allow a travel agent employed by the travel agency to do business in Iowa unless the agency has filed the required registration statement.

This law does not require registration for, or prohibit solicitation by mail or telecommunications of a person with whom the travel agency has a previous travel services provider-customer relationship, on at least one prior occasion.



- **Evidence of Financial Security §9D.3**

The travel agency registration must be accompanied by evidence of financial security, satisfied by one of the following:

- a. Surety or cash performance bond in the amount of \$10,000 issued by a surety company authorized to business in Iowa.
- b. Certified copy of the agency's ARC bond;
- c. Proof of having \$1,000,000 professional liability and errors and omissions insurance;
- d. Deposit with the Secretary cash, securities or a statement from a federally insured financial institution guaranteeing the performance of the registrant up to a maximum of \$10,000 or applied to the purposes to which the proceeds of the bond would otherwise be applied.

#### **EXEMPTIONS §9D.5**

This law does not apply to the following:

A bona fide employee of a travel agency who is engaged solely in the business of the agency, and whose principal duties do not include consulting with and advising persons concerning travel arrangements or accommodations.

A direct common carrier of passengers or property regulated by an agency of the federal government or employees of a common carrier when engaged solely in the transportation business of the carrier as identified in the carrier's certificate.

#### **PENALTIES FOR VIOLATION OF THE LAW §9D.4**

Failure to register as required results in the following penalties:

1. Criminal Penalty: serious misdemeanor offense; and
2. Civil Penalty:
  - a. Fine of not less than three times the amount of fee/commission/compensation/profit received from doing business without registration.
  - b. Violation of this law is a violation of the Consumer Fraud Act §714.16.

#### **KEY CONTACT FOR REGISTRATION INFORMATION:**

Office of the Secretary of State  
Hoover Building, 2nd Floor  
1300 E. Walnut Street

Des Moines, IA 50319

Phone: (515) 281-5204      Fax: (515) 242-5953

## **LOUISIANA**

STATUTORY REFERENCE: Louisiana Statutes, §§ 47:354, 17:176.1

BACKGROUND: While the business licensing law has been in effect for many years, the Louisiana legislature enacted a law specifically affecting student travel, effective 2004.

### **KEY PROVISIONS/REQUIREMENTS:**

§47:354 identifies the businesses that must have a license to do business in Louisiana. It requires a "Travel Agency" to have a business license. The annual fee for a Travel Agency license is specified in §47:354(A), and it is based upon gross annual sales volume.

§17:176.1 applies to any agents that plan, organize or promote field trips or extracurricular activities for students that involve travel or lodging expenses. The agent must provide "adequate" insurance and bonding, sufficient to insure recovery of all monetary advances as a result of nonperformance. Each city, parish or other public local school board in the state is required to develop its own rules, procedures and standards for the insurance and bond.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state:  
For the business license, yes, if the tour operator has an office in the state.  
For the student trips, yes.
- Tour operator selling only through registered travel agencies: Same as above.
- Motorcoach carrier providing service to a tour operator: no

## MASSACHUSETTS

STATUTORY REFERENCE: Regulations for the Sale of Travel Services 940 CMR 15

### OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

These regulations were issued by the Massachusetts Attorney General pursuant to the Massachusetts Consumer Protection Act, *M.G.L. chapter 93A §2(c)*. They apply to sellers of travel services, located both inside and outside the state of Massachusetts, that transact business with Massachusetts residents, including, but not limited to, travel agents, tour operators, ocean cruise companies, charter companies, provider of travel certificates, and operators of vacation clubs.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes
- Tour operator selling only through registered travel agencies: yes
- Motorcoach carrier providing service to a tour operator: yes

EXEMPTIONS. 940 CMR 15.01(1)

The following are exempt from the regulations:

- A railway service, taxi cab service, non-charter bus service, non-charter water ferry service, commuter transportation, and local sightseeing service;
- A business limited to renting, leasing or selling transportation vehicles;
- A governmental entity.

KEY PROVISIONS/REQUIREMENTS:

- **Registration. Not required.**
- **Misrepresentations Prohibited.** 940 CMR 15.03
  - . No seller may misrepresent that it can sell/provide a service where it has reason to know that the service is not available, or that it is not in a position to provide it as represented;
  - . No seller may make any representation that may mislead a consumer in any material respect about its services, the price, date, schedule, details of transportation, lodging, substitution policy, insurance, cancellation or refund policy, or billing practices.



- **Written Disclosure of Specific Information to Customers.** 940 CMR 15.04

No seller may fail to disclose information about the travel service where such failure may mislead or deceive a consumer; nor may a seller fail to disclose any fact, the disclosure of which may have influenced the consumer not to enter the transaction.

At or prior to receiving any payment, the seller of travel must provide a written statement to the customer including the following:

- . Name, business address and telephone number of the seller of travel, including the name of the owner(s) if the seller is a business entity;
- . Name, address and telephone number of the provider(s) of any travel package, e.g., tour operator, cruise line, etc.
- . Amount to be paid, date(s) of payment, travel services purchased, balance due, if any;
- . Complete terms of the substitution policy;
- . Complete terms of the cancellation or refund policy;
- . Complete terms of trip cancellation insurance policy offered by the seller;

n.b., . If the consumer is purchasing the travel services in person, the above information must be given orally and in writing;

#### DELIVERY OF TICKETS, VOUCHERS, ITINERARIES 940 CMR 15.05, 15.06, 15.07

Seller must provide customer with tickets, vouchers and itineraries (or other proof of purchase) no later than seven days prior to departure date, when consumer makes full payment at least fourteen days prior to departure date; or three days prior to departure when full payment is made ten days prior to departure; or prior to departure when payment is made less than three days prior to departure.

**Tour Operator Sellers:** Whenever the seller is acting as a tour operator, and seller fails to provide any of the travel services purchased, seller must offer the consumer a choice of one of the following options:

1. Refund in cash the fair market retail value (hereinafter FMV) of any undelivered service, not to exceed the total amount paid by the consumer for the package. Refund to be paid within 30 days of consumer's selection of this option; or
2. Provide a specifically identified substitution travel service of equal or greater FMV, at no additional cost to the consumer; or

3. Provide a specifically identified substitution travel service of lower FMV and refund the FMV difference within 30 days of consumer's selection of this option.

**Travel Agent Sellers:** Whenever the seller is acting as travel agent, seller must:

1. Disclose to the consumer at time of initial payment, the manner in which seller will forward payment to providers, and payment date(s); and
2. Forward payments to providers as represented to consumer; and
3. Provide consumer with written verification of payments to providers within 5 days; and
4. Provide consumer with written verification of any reservation made for consumer within 2 days of making reservation, regardless of whether any payment for the reservation has been made.

#### PENALTIES FOR FAILING TO COMPLY WITH THE REGULATIONS

- When a seller violates any provision of the written/oral disclosures listed above (*per 940 CMR 15.04*), consumer may cancel its purchase of travel services and is entitled to a full refund within 30 days.
- A violation of the seller of travel law constitutes a violation of the Massachusetts Consumer Protection Statute (*M.G.L. c. 93A*). In brief, this law provides that for a willful violation, the court may award up to treble damages, costs and attorney's fees.

#### KEY CONTACT FOR INFORMATION:

Office of the Attorney general  
One Ashburton Place, Room 2010  
Boston, MA 02108

Phone: (617) 727-8400

## MINNESOTA

STATUTORY REFERENCE: Minnesota Statutes §§ 325G.50, 325G.505

### OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

This law applies to Membership Travel Operators, meaning those who offer or sell membership travel contracts for travel arrangements paid for by a fee or periodic payments. The travel arrangements include domestic and foreign transportation and lodging.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: no, unless the tour operator sells its services via a membership travel contract.
- Tour operator selling only through registered travel agencies: same as above
- Motorcoach carrier providing service to a tour operator: no

### KEY PROVISIONS/REQUIREMENTS:

- **Notice to Members** § 325G.50(3)
  1. A copy of the contract must be delivered to the buyer at the time it is signed. It must contain the following notice in bold-face type of a minimum size of 14 points:

**"MEMBERS' RIGHT TO CANCEL**

If you wish to cancel this contract, you may cancel by delivering or mailing a written notice to the membership travel operator. The notice must say that you do not wish to be bound by the contract and must be delivered or mailed before midnight of the third business day after you sign the contract. The notice must be delivered or mailed to: (Insert name and mailing address of membership travel operator). If you cancel, the membership travel operator will return, within ten days of the date on which you give notice of cancellation, any payments you have made. Your right to cancel continues until midnight of the tenth business day after the day on which you are provided with all materials necessary to allow you to make travel arrangements and all materials that explain your rights, obligations, benefits, and restrictions under the contract."

**"MEMBERS' RIGHT TO CANCEL**

If you wish to cancel this contract, you may cancel by delivering or mailing a written notice to the membership travel operator. The notice must say that you do not wish to be bound by the contract and must be delivered or mailed before midnight of the third business day after you sign the contract. The notice must be delivered or mailed to: (Insert name and mailing address of membership travel operator). If you cancel, the membership travel operator will return, within ten days of the date on which you give notice of cancellation, any payments you have made. Your right to cancel continues until midnight of the tenth business day after the day on which you are provided with all materials necessary to allow you to make travel arrangements and all materials that explain your rights, obligations, benefits, and restrictions under the contract."

- 2. For contracts in excess of \$500, the operator must also provide to any prospective purchaser a public offering statement and also orally disclose the contents of the public offering statement before the customer signs the contract. § 325G.505(2)

- **Buyer's Right to Cancel.**

A buyer may cancel the membership travel contract until midnight of the tenth day after the date on which the contract was signed by the buyer. § 325G.50(2). A contract that does not contain the required notice may be canceled by the buyer at any time. § 325G.50(4). For contracts in excess of \$500, the buyer may cancel continues until ten business days after the operator provides the required disclosures.

## MISSOURI

STATUTORY REFERENCE: Missouri Statutes §§ 407.1240 – 407.1252

### OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

This law applies to Travel Club Operators, meaning those who offer or sell membership in travel club for travel arrangements paid for by a fee.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: no, unless the tour operator sells its services via a membership travel club contract.
- Tour operator selling only through registered travel agencies: same as above
- Motorcoach carrier providing service to a tour operator: no

### KEY PROVISIONS/REQUIREMENTS:

- **Registration.**

Operators must register with the office of the Missouri Attorney General and pay a \$50 fee annually. §§ 407.1243, 407.1246

- **Notice to Members: Rescission Statement** § 407.1240(3)

The contract must contain the following notice in bold-face type of a minimum size of 14 points:

"Assuming you have not accessed any travel benefits and have returned to the travel club all materials delivered to the purchaser at closing, you have the right to rescind this transaction for a period of three business days after the date of this agreement. To exercise the right of rescission, you must deliver to the travel club by certified mail within the three-business-day period, return receipt requested, at the address referenced in this contract, a written statement of your desire to rescind this transaction, and all materials that were provided and given to you at the time of the purchase of your travel club membership."

- **Buyer's Right to Cancel.** § 407.1249

Pursuant to the preceding notice, buyers have the right to cancel the travel club contract with an operator that is registered. If the operator is not registered, the buyer has a nonwaivable right to cancel the contract within three years!

- **Security.** §§ 407.1252, 407.1240(4)

Financial security is not required unless the operator has unresolved complaints from customers to the state attorney general. In that event, \$50,000 security bond, corporate guaranty, letter of credit or certificate of deposit is required.

#### PENALTIES FOR VIOLATION OF THIS LAW § 407.1252

Violation is subject to prosecution as a class D felony and subject to penalty of \$10,000.

#### KEY CONTACT FOR INFORMATION:

Office of the Attorney General  
Supreme Court Building  
P.O. Box 899  
Jefferson City, MO 65102

Tel: (573) 751-3321

## NEVADA

STATUTORY REFERENCE:      Seller of Travel Law, NRS 598.305 - 598.395  
                                    Sightseeing Tours Law, NRS 598.405 - 598.525

BACKGROUND: Enacted in 2001, these two laws were revised substantially in 2003. They apply to sellers of travel who:

*Seller of Travel Law:* Applies to sellers who “offer for sale, directly or indirectly, transportation by air, land, rail or water, travel services, vacation certificates or any combination thereof, to a person or group of persons for a fee, commission or other valuable consideration. It includes offering membership in a travel club. “Seller of Travel” does not include a transportation carrier or a hotel that provides or arranges travel services for its patrons or guests. *NRS 598.335.2*

*Sightseeing Tours law:* Applies to “brokers” (sellers) and operators of sightseeing day tours.

### APPLICABILITY TO NTA TOUR OPERATORS:

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes
- Tour operator selling only through registered travel agencies: yes
- Motorcoach carrier providing service to a tour operator: no

### KEY PROVISIONS/REQUIREMENTS:

- **Registration.** Sellers of Travel must register annually and pay a \$25 fee. *NRS 598.365*  
Each agent must file a separate registration form and pay the \$25 fee annually, plus pay \$100 annually to the travel consumer Recovery Fund.
- **Financial Security.** Sellers of Travel must furnish a surety bond, letter of credit, or certificate of deposit (from a NV bank) in the amount of \$50,000. *NRS 598.375*. Alternatively, the Seller may maintain a customer trust account in a bank, credit union or S&L in Nevada and deposit all customer funds in it within two business days after receipt. *NRS 598.361*  
Brokers and operators of sightseeing day tours must furnish a surety bond, letter of credit, or certificate of deposit (from a NV bank) in the amount of \$10,000. *NRS 598.495*
- **Exemption From Financial Security:** The financial security requirements do not apply to ARC appointed travel agencies. *NRS 598.375(8)*
- **Advertising:**

1. The registration number must be included in any advertising in at least 10 point bold type: "Nevada Seller of Travel Registration No. \_\_\_\_\_. NRS 598.366
  2. The seller must display conspicuously at each place of business and on its web site(s) a specified statement that notifies consumers that they may be eligible to recover certain financial damages from the Recovery Fund. NRS 598.367(1)
- **Claims Against the Security and the Recovery Fund:** The financial security and the Recovery Fund are to protect consumers from acts of fraud or misrepresentation, bankruptcy, or breach of contract by the seller of travel. NRS 598.373, NRS 598.385. A consumer or the Division may bring a claim against the security. NRS 598.385

#### PENALTIES FOR VIOLATION OF THIS LAW

Administrative fine of \$100 for the first violation and \$250 for a second or subsequent violation. NRS 598.367(2)

#### KEY CONTACT FOR INFORMATION:

Nevada Consumer Affairs Division

1850 E. Sahara Avenue, Suite 101

Las Vegas, NV 89104

Phone: (702) 486-7370

Email: NCAD@fyiconsumer.org

[www.fyiconsumer.org](http://www.fyiconsumer.org)

## NEW YORK

STATUTORY REFERENCE: General Business Law, Truth in Travel Act, *Art. 10-A §§155-159a*

### BACKGROUND:

In 1974, New York passed its Truth in Travel Act to prohibit fare discounting and rebating, and misrepresentations in travel advertising. In 1990 the law was amended to require sellers of travel to disclose specified booking information to customers.

### APPLICABILITY TO NTA TOUR OPERATORS:

The law does not require a tour operator to register with an administering office. The law defines a "travel promoter" as any person, firm, corporation, partnership or association, other than a common carrier or employee of a common carrier, who is primarily engaged in the direct solicitation of persons, by mail or telephone, for the sale of any travel or vacation investments, goods, products, or services, including, but not limited to travel or tour benefits, real property, interests in real property, time shares, lodging, commodities, or securities.

The law defines a "travel consultant" as any person, firm, corporation, partnership or association, other than a common carrier or employee of a common carrier, who as principal or agent, sells or offers for sale any travel tickets or orders for transportation, or negotiates for or holds himself out by solicitation, advertisement or otherwise as one who sells, provides, furnishes contracts or arranges for such travel tickets or orders for transportation.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes
- Tour operator selling only through registered travel agencies: yes
- Motorcoach carrier providing service to a tour operator: no

### KEY PROVISIONS/REQUIREMENTS:

#### **Prohibited Practices** *Art. 10-A §§157*

- . Knowing misrepresentation of important details of the travel services, vehicles or accommodations, ticketing conditions, fares, etc.;
- . Knowingly give rebates to passengers, or offer to sell or sell travel services at less than the fares specified in the carrier's currently effective tariffs.



## **Written disclosure**

When a person agrees, in response to a solicitation by a travel promoter which is directed to the person individually, to purchase membership in a travel club or to enter into any travel services contract or other agreement to accept transportation, lodging, an interest or investment in a time share plan, travel investments, or other travel services, the travel promoter must provide such purchaser with written disclosure of all limitations and terms of such purchase or agreement within five business days of the date of the agreement.

## **Purchaser cancellation procedure**

After receiving full written disclosure, the purchaser may cancel such an agreement until midnight of the third business day after the disclosure is received by the purchaser, by use of a written notice of the intention of the buyer to not be bound to the agreement. Notice of cancellation, if given by mail, shall be deemed given when deposited in a mailbox, properly addressed and postage prepaid. Tour promoter's written disclosure should include these described purchaser rights.

## **Refunds**

Within ten days after notice of cancellation is given, the travel promoter shall refund to the purchaser concerned any payments made by such purchaser; such refund may be made by crediting the purchaser's charge account if a credit card was used to make a payment and if the travel promoter informs the purchaser in writing that the charge account has been credited.

## **Cited prohibited practices**

The following practices, as indicated for tour promoters, are illegal in the Truth in Travel Act:

1. Knowingly offer free accommodations for more than one person and free travel for one person when the charge for the travel of the additional person or persons is equal to or exceeds what the cost would have been without the tour promoter.
2. Use another tour promoters merchant account number.
3. Knowingly misrepresent the quality or kind of service, such as size of aircraft, time of departure, stops to be made, etc.
4. Knowingly misrepresent the fares and charges or utilize advertising the misrepresents the transportation or services connected to the agreement.
5. Knowingly indicate special reservations are available when such special considerations are not generally granted to the general public.
6. Knowingly selling transportation when a tour promoter has not made a binding commitment with the carrier that was designated in the agreement sold to the purchaser.

7. Knowingly sell or issue tickets that are not usable or legally honored by the indicated carriers in the agreement.
8. Knowingly misrepresent requirements necessary for charter or group fare rates.

## **EXEMPTIONS:**

The following are exempted from the definition of a travel promoter:

- A person, firm, corporation, partnership or association that is an officially appointed agent of a common carrier and meets standards no less than those required on January 1, 1989, for authorized agents of the Airline Reporting Corporation.
- A person, firm, corporation, partnership or association that is a registered member in good standing of the Cruise Lines International Association and who solely solicits and/or sells travel services and products as an officially appointed agent of one or more ocean carriers in the sale of the ocean carrier's travel services pursuant to the agency appointment.
- A broker-dealer registered with the Securities and Exchange Commission or the department of law who is engaged in the sale of securities or commodities or sale or rental of real estate pursuant to its registration.

## **PENALTIES FOR VIOLATION OF THIS LAW**

- The Attorney General or a District Attorney of any county may bring court action to restrain or prevent any violation of the law;
- Punishment for a misdemeanor.

## **KEY CONTACT FOR INFORMATION:**

State of New York  
Department of Economic Development  
Division of Tourism  
One Commerce Plaza  
Albany, NY 12245

Phone: (518) 474-4116  
Fax: (518) 486-6416

## OREGON

### STATUTORY REFERENCE:

1. Seller of Travel Law: Oregon Revised Statutes, chapter 646.185 et seq.
2. Student Travel Services Law: Oregon Revised Statutes, chapter 332.593

### OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

1. The Oregon Sellers of Travel Program is solely a voluntary program to receive certification as a State of Oregon "Certified Association". The key provisions requiring registration and holding customer deposits in a trust account have been repealed.
2. The Student Travel Services Law specifies district school board policies governing student travel services. "Each district school board shall adopt policies governing the solicitation and sale of travel services to students enrolled in kindergarten through grade 12. the policies shall address the solicitation and sale of travel services to students on school property under the jurisdiction of the school district, at activities under the jurisdiction of the school district and at interscholastic activities administered by a voluntary organization approved by the State Board of Education under ORS 339.430."

### QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes
- Tour operator selling only through registered travel agencies: yes
- Motorcoach carrier providing service to a tour operator: no

### KEY PROVISIONS/REQUIREMENTS of the Seller of Travel Law:

- **Registration.** *Formerly §§646.214, 646.216(2), repealed.* Registration is not required.
- **Trust Account.** *Formerly §646.200 (1) Repealed 1997.* Trust Account is not required.
- **Surety Bond or Irrevocable Letter of Credit** §646.185(2)  
Provide a surety bond or irrevocable letter of credit in the amount of \$10,000, or alternatively, be a member in a State of Oregon "Certified Association". §646.185(7)  
The Oregon Chapter of ASTA is the only association that is certified.

### KEY CONTACT FOR REGISTRATION INFORMATION:

Department of Consumer & Business Services  
Division of Finance & Corporate Securities

Seller of Travel Program  
350 Winter Street NE, Room 410  
Salem, OR 97301-3881

Phone: (503) 378-4140  
Fax: (503) 378-4178

## PENNSYLVANIA

STATUTORY REFERENCE: Contract Carrier by Motor Vehicle and Broker, *66 Pa. C.S.A. §2501*

### OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

Pennsylvania requires “contract carriers by motor vehicle” and “brokers” acting in their behalf that offer passenger transportation between points within Pennsylvania to have a license. Those tour operators offering coach tours entirely within Pennsylvania must obtain a broker’s license, and motorcoach operators

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes, if motorcoach transportation is limited to intrastate transportation.
- Tour operator selling only through registered travel agencies: yes, same as above.
- Motorcoach carrier providing service to a tour operator: yes, if services are limited to intrastate transportation.

### KEY PROVISIONS/REQUIREMENTS *66 Pa. C.S.A. §2505*

Intrastate contract carriers by motor vehicle must obtain a contract carrier permit, and any person or corporation that sells, arranges or offers such transportation for sale (e.g., a tour operator) must obtain a broker’s license. The application must be accompanied by a surety bond in the amount of \$10,000.

### PENALTIES FOR FAILING TO COMPLY WITH THE LAW

Fines up to \$1,000 for violation.

### KEY CONTACT FOR REGISTRATION INFORMATION:

Public Utility Commission  
Attn: Bureau of Transportation & Safety  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Phone: (717) 787-3834  
[www.puc.paonline.com](http://www.puc.paonline.com)

## **RHODE ISLAND**

**STATUTORY REFERENCE:** Travel Agencies, General Laws of RI, Chapter 5-52

### **OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:**

The law applies primarily to travel agencies located in the state of Rhode Island, but also applies in part to travel agencies outside the state that advertise to do business in Rhode Island.

Per their definition, "travel agency" means any business entity that maintains a business location or branch office in the state and offers for sale, including advertisements, directly or indirectly, at wholesale or retail, prearranged travel services for individuals or groups, for a fee, commission or other consideration. It includes any business entity offering membership in a travel club.

A "Non-resident travel agency" is one that does not maintain a business location or branch office in the state, but offers travel services for sale or advertises in the state.

**QUICK REFERENCE:** Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes, but out of state operators that do not have a business location in RI need not register, obtain a license, or provide a surety bond.
- Tour operator selling only through registered travel agencies: yes, same as above.
- Motorcoach carrier providing service to a tour operator: no

### **EXEMPTIONS §5-52-11**

The following are exempt from this law:

- A group or association conducting 4 or less tours per year\*;
- A school system, fraternal organization or similar type of group conducting a tour for its members, without remuneration\*; \*Provided that exempt groups shall register with the Rhode Island Department of Business Regulation and give each member of the group that the group is not licensed, bonded or regulated by this chapter;
- A licensed travel agent or manager;
- A direct common carrier regulated by the federal government, and its employees;
- An intrastate common carrier, selling only transportation, and its employees;
- A hotel, motel or places of public accommodation when engaged solely in

- making arrangements for lodging, or sightseeing tours within the state;
- Persons involved solely in the rental, leasing or sale of residential property, or transportation vehicles;
- Persons who make travel arrangements for themselves, their employees or agents;

## KEY PROVISIONS/REQUIREMENTS:

- Registration.** §§ 5-52-4(a), (b), (c)

The law requires registration of each travel agency, travel manager, and travel agent. The travel agency's license will designate the name of its principal active officer. All other employees who "arrange the purchase, accommodations or sale of travel services" must have either a travel agent or travel manager license. Each branch office shall be managed by a person holding a valid travel manager license.

Annual Registration Fees: \$100 per agency; \$30 per travel manager or agent.

Non-Resident Travel Agencies are not required to register or be licensed.

- Advertising** § 5-52-4.1(b)

All advertising must include the agency's name and license number.

Non-resident travel agencies. § 5-52-7.3

All advertising must include the following disclaimer: "NOTICE. (name of firm) IS NOT LICENSED OR BONDED AS A TRAVEL AGENCY IN THE STATE OF RHODE ISLAND". However, this requirement does not apply to advertisements which are disseminated or distributed on a national level.

- Surety Bond.** § 5-52-4(e)

Travel agencies must provide a \$10,000 surety company bond, issued by a surety company approved by the Rhode Island Commissioner of Insurance.

- Must Give Notice to Customers of Change in Travel Services.** § 5-52-6

A Travel agency must notify its customers immediately of any change to the travel services purchased. The agency will refund to any person the moneys lost as a result of the agency's breach of this duty of care, within 45 days of the person's request.

## PENALTIES FOR FAILING TO COMPLY WITH THE LAW § 5-52-6.1(b)

- Administrative fine. \$100 - \$500 for each act violating this law or the regulations of the Department of Business Regulation;
- Cease and Desist Order;
- Refusing to register or canceling or suspending the registration;

- Probation;
- Canceling an exemption granted under § 5-52-11

KEY CONTACT FOR REGISTRATION INFORMATION:

Department of Business Regulation  
233 Richmond Street, Suite 230  
Providence, RI 02903-4230                      Phone: (401) 277-3857

## VIRGINIA

STATUTORY REFERENCE: Virginia Travel Club Act.  
Code of Virginia, § 59.1-445 *et seq.* Chapter 36,

### OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

This law applies to Travel Clubs, meaning for-profit organizations that charge either an advance fee or annual charge for membership more than \$100, for the privilege of arranging or obtaining future travel services from the organization.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: no, unless the tour operator sells its services via a Travel Club.
- Tour operator selling only through registered travel agencies: no
- Motorcoach carrier providing service to a tour operator: no

### KEY PROVISIONS/REQUIREMENTS:

- **Registration.** § 59.1-446

Each travel club must register with the Virginia Commissioner of the Department of Agriculture and Consumer Services. Annual registration and renewal fee is \$350.

- **Bond or Letter of Credit.** §§ 59.1-447, 59.1-447.1

Each travel club must file a surety bond or letter of credit with the commissioner in the amount of \$60,000 - \$100,000, depending upon the number of travel contracts with its members. The surety bond must be issued by a company authorized to do business in Virginia. A letter of credit must be issued by a bank insured by the FDIC.

In addition, the travel club must post a fidelity bond in the amount of \$25,000 or the amount of deposits held in escrow, whichever is greater. This bond is to provide security for the escrow account that the travel club is required to maintain.

- **Escrow of Deposits.** § 59.1-447.1

Any deposit made in connection with a travel services agreement shall be held in escrow in a separate bank account in a bank located in Virginia. Deposits must be held in escrow until (a) expiration of the purchaser's cancellation period; (b) delivered to the travel club because of purchaser's default, or (c) refunded to the purchaser.

- **Written Disclosure of Specific Information to Customers. § 59.1-448**

The travel services agreement must disclose all limitations on and terms of the membership, and be provided to the purchaser at the time the agreement is executed. It must include:

- . Name, business address and telephone number of the travel club;
- . Amount due, date of payment, purpose of payment, balance due, if any;
- . Cancellation conditions, and rights and obligations of the parties;
- . Description of the contingencies, limitations or conditions of the agreement.
- . Purchaser's right to cancel the agreement for seven days.

The travel club must also provide any prospective purchaser with a public offering statement, before signing a travel services agreement. The public offering statement is a component of the registration materials, must comply with the extensive terms of § 59.1-448.1

- **Violations of the Law**

- . Failure to comply with any of the requirements for registration, financial security, disclosures, etc. stated above;
- . Offer any type of promotional inducement where the cost of the package equals or exceeds the cost which would have been incurred without the travel club membership.
- . Misrepresent the transportation equipment, travel itinerary, accommodations, services, fares, priorities for reservations;
- . Sell transportation without a binding commitment from the carrier;
- . Sell or issue tickets that will not or can not be honored by the carriers;
- . Misrepresent requirement to qualify for charter or group fares.

#### PENALTIES FOR FAILING TO COMPLY WITH THE LAW

- The Commissioner may hold public and private investigations to determine whether a person has violated this law;
- A violation of this law is a prohibited practice pursuant to the Virginia Consumer Protection Act.

#### KEY CONTACT FOR REGISTRATION INFORMATION:

Department of Agriculture and Consumer Services  
1100 Bank Street, Suite 103  
Richmond, VA 23219

Phone: (804) 786-1243

## WASHINGTON

STATUTORY REFERENCE: Revised Code of Washington, *c.* 19.138

### OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

This law applies to sellers of travel, located both inside and outside the state of Washington, who transact business directly with Washington consumers for any travel services.

In addition, the law includes a provision relating to sellers of “travel related benefits”, e.g., a membership travel club, requiring a specified consumer disclosure in the membership contract explaining the consumer’s right to cancel within seven days. §19.138.320

### QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in the state: yes, if the operator either (a) sells at retail locally or (b) does advertising in local media or primarily directed to Washington residents.
- Tour operator selling only through registered travel agencies: no
- Motorcoach carrier providing service to a tour operator: no

### EXEMPTIONS. §19.138.021(3)(b)

The following are exempt from the state’s Sellers of Travel Law:

- An air carrier; An ocean carrier; A motor carrier;
- A charter party carrier of passengers;
- An auto transportation company;
- A hotel, motel or lodging establishment;
- Direct providers of transportation or accommodations that do not book or arrange any other travel services;
- An affiliate (also including parent or subsidiary) of an exempt entity;
- Sales agents who are employed by a registered seller of travel.

### KEY PROVISIONS/REQUIREMENTS:

- **Applicability: “Transact Business with Washington Consumers”** §19.138.021(9)

This law applies only to sellers that directly offer or sell travel services to Washington consumers. Advertising in national print or electronic media alone does not constitute “transacting business with Washington consumers.” Also, those entities who only wholesale travel services are not “transacting business with Washington consumers” per this law.

Independent contractors and outside sales agents must register as sellers of travel unless:  
a) their principal is registered and b) customer payments are collected in the name of the principal and processed by the principal. §19.138.100(5)

- **Registration.** §§19.138.100-19.138.130

No person, firm, or corporation may act or hold itself out as a seller of travel without first registering and complying with this law.

Outside agents/Independent contractors need not register separately if they represent a registered seller of travel, and all money received is deposited into the registered seller's trust account.

Registration Fee: The annual fee is \$234 for the main business location, plus \$25 for each additional (branch) location. New registration or renewal may be denied if the seller of travel has done any of the following:

- (a) previously had its registration revoked for cause;
- (b) convicted of a felony within the past 5 years involving moral turpitude, or of a misdemeanor concerning fraud or conversion, or suffers a judgment in a civil action involving willful fraud, misrepresentation, or conversion;
- (c) made a false statement of material fact in its application;
- (d) has violated this law or a rule adopted hereunder;
- (e) has failed to display the registration;
- (f) has published or circulated a statement with the intent to deceive, misrepresent or mislead the public;
- (g) has committed a fraud or fraudulent practice in the operation of a travel agency business;
- (h) Further, if the seller of travel is found in violation of the WA Consumer Protection Act by entry of a judgment, or settlement of a claim, the WA Director of Licensing may revoke the seller of travel's registration.

Registration materials and documents issued by the Director of Licensing to enforce this law are available to the public. §19.138.310

- **Advertising.** §§ 19.138.030, 19.138.100

The seller of travel shall not advertise that services are available without first determining availability, i.e., via computer reservation system or written confirmation from the vendor.

The registration number must be conspicuously posted in the place of business and must be included in all advertisements.

- **Trust Accounts and Trust Account Exemptions. §19.138.140**

Those sellers that maintain a surety bond, CD or letter of credit in the amount of \$10,000 - \$50,000 (depending upon sales volume), and those sellers that are members of an approved association that provide ≥ \$1,000,000 professional liability insurance and ≥ \$250,000 consumer protection are exempt from having a trust account or providing other financial security.  
§19.138.140(7)

Other sellers of Travel must maintain a trust account or other approved account in a federally insured financial institution located in WA. The account will be established and maintained for the benefit of those paying money to the seller of travel. §19.138.140(8)

Payments received for travel services must be deposited in the trust account if held by the seller more than five business days. Exemption: when payment is made through ARC, by either cash, debit or credit card.

Withdrawals from the account are permitted for:

- . Payments to the entity directly providing the travel service;
- . Refunds as required by this law;
- . Sales commission;
- . Interest earned and credited to the account;
- . Remaining funds of a purchaser once all travel services have been provided or once tickets or other similar documentation binding upon the ultimate provider of the travel services have been provided; or
- . Reimbursement to the seller of travel for agency operating funds that are advanced for the customer's travel services.

Certain transactions need not comply with the trust account requirement. They include:

1. Transactions in which all of the following apply: (a) payment by credit card; (b) seller of travel does not deposit or otherwise receive payment on the charge; and (c) the carrier or other provider of services processes the credit card charges.
2. Out of State sellers of travel that maintain a trust account consistent with the Washington law AND having transacted over \$5,000,000 of business within the state of Washington during the preceding year may substitute its trust account for the in-state trust account required of other sellers of travel.

- **Written Disclosure of Specific Information to Customers. §19.138.040**

At or prior to receiving any payment, the seller of travel must provide a written statement to the customer including the following:

- . Name, business address and telephone number of the seller of travel;
- . Amount paid, date of payment, purpose of payment, balance due, if any;
- . Registration number of the seller of travel;
- . Name of the vendor and other pertinent info known at time of booking. All info will be provided before or with final documentation;
- . Cancellation conditions, and rights and obligations of the parties in the event of cancellation; or the statement: "Cancellation and change penalties apply to these arrangements. Detail will be provided upon request".
- . A statement in eight point boldface type in substantially the following form:

" If transportation or other services are canceled by the seller of travel, all sums paid to the seller of travel for services not performed in accordance with the contract between the seller of travel and the purchaser will be refunded within thirty days of receiving the funds from the vendor with whom the services were arranged, or if the funds were not sent to the vendor, the funds shall be returned within fourteen days after cancellation by the seller of travel to the purchaser unless the purchaser requests the seller of travel to apply the money to another travel product and/or date."

#### PENALTIES FOR FAILING TO COMPLY WITH THE LAW §§ 19.138.130, 19.138.240

- Suspension. The WA Director of Licensing shall suspend the license or certificate of a person certified by the Dept. of Social and Health Services as a person not in compliance with a (family) support order.
- Fine. The Court may assess a civil penalty of \$500 - \$2,000 per violation;
- Restitution. The Director may assess a seller of travel the amount necessary to make restitution for violation of this law;
- Misdemeanor. A knowing violation, or knowingly giving false information to WA authorities is a gross misdemeanor;
- Civil Action. A person injured by violation of this law may bring a civil action for actual damages, plus court costs and attorneys' fees;

#### KEY CONTACT FOR REGISTRATION INFORMATION:

Department of Licensing  
Sellers of Travel Program  
P.O. Box 9045  
Olympia, WA 98507

Registration forms & info: [www.dol.WA.GOV/PLSS/SOTFRONT.htm](http://www.dol.WA.GOV/PLSS/SOTFRONT.htm)  
Phone: (360) 664-6634

## **WASHINGTON, District of Columbia**

STATUTORY REFERENCE: District of Columbia Code, §47-2836

### **OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:**

This law is not truly a seller of travel law, but applies to tour operators that send tour groups to or through Washington, D.C.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in Washington, D.C.: yes, if the tour is guided and goes to or through Washington, D.C.
- Tour operator selling only through registered travel agencies: yes if the tour is guided and goes to or through Washington, D.C.
- Motorcoach carrier providing service to a tour operator: no

### **KEY PROVISIONS/REQUIREMENTS:**

Tours in the District of Columbia must be guided/escorted by a person licensed as a Guide by the District of Columbia. Guides must wear their D.C. Guide Badge while working. Licenses are issued by the police department for a fee of \$28.00 per annum.

## **BRITISH COLUMBIA**

STATUTORY REFERENCE: Travel Agents Act, RSBC 1996, c. 459, as am.

### **OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:**

This law applies to travel agents and travel wholesalers (tour operators) that have a business location in British Columbia and sell to residents of British Columbia.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in British Columbia:  
Yes, if it has a business location in British Columbia.
- Tour operator selling only through registered travel agencies: no
- Motorcoach carrier providing service to a tour operator: no

### **KEY PROVISIONS/REQUIREMENTS:**

- **Registration.** Registration is required, renewable annually, with a registration fee and a payment to the Travel Assurance Fund, in amounts prescribed by the registrar. §§ 4, 16
- **Financial Security.** Customer deposits are “deemed to be held in trust for the person who paid it” and must not be used as collateral by the travel agent or wholesaler. §7  
Sellers must furnish a financial statements to the registrar, and the registrar may periodically inspect the seller’s records to ensure compliance with the provisions of the law. §§ 22, 23  
If the register finds it necessary to protect customer deposits, it may order the seller to refrain from withdrawing trust funds without approval from the registrar. §27  
The seller has joint and several liability with the supplier to refund a customer who suffers economic loss. §8

### **PENALTIES FOR FAILING TO COMPLY WITH THE LAW: §33**

Fine up to \$5,000 (up to \$25,000 for a corporation) and/or imprisonment up to one year.

### **KEY CONTACT FOR REGISTRATION INFORMATION:**

Registrar of Travel Services  
402 - 4211 Kingsway,  
Burnaby,  
British Columbia,  
V5H 1Z6.

Phone: (604 660 3540)



## ONTARIO

STATUTORY REFERENCE: Travel Industry Act, R.S.O. 1990, c. T-19, as amended  
and Travel Industry Act, 2002, Ontario Regulation 26/05

### OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

The Ontario Regulation was revised extensively in 2005. It applies to sellers of transportation, sleeping accommodation or other service for the use of a traveler. It has provisions that apply to Travel Agents (direct sellers) and travel Wholesalers (who sell via travel agents) that are located in Ontario. It requires registration, substantial filing fees, contribution to a customer security fund, using customer trust accounts, and maintaining financial liquidity in the business.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in Ontario? Yes, if it has a business location in Ontario. *Regs., § 11.*
- Tour operator selling only through registered travel agencies: Yes, if the tour operator has a business location in Ontario.. *Regs., § 18*
- Motorcoach carrier providing service to a tour operator: no

### KEY PROVISIONS/REQUIREMENTS:

- **Registration.** *Regs., §§ 3 - 6*

Registration is required. Fee for registration as a Travel Agent or Travel Wholesaler is \$2,375 plus \$2,375 for each branch office. Renewal fee is \$375 plus \$375 for each branch office.

- **Educational Requirements** (of travel counselors, supervisors/ managers) *Regs., §§ 12 - 16*  
Effective July 1, 2008, travel counselors and supervisors/ managers must satisfy educational requirement and demonstrate knowledge of the Travel Industry Act, 2002 and its Regulations. Current employees are "grandfathered".

- **Financial Security.**

Initial Financial Security. Applicant must provide \$10,000 financial security to the Registrar to be held during the first 24 months of its registration. *Regs, §§ 6, 26*

Trust Account. Sellers must deposit customer deposits into a trust account in a bank in Ontario within 2 days after receiving them. *Regs., §27*

Except for customer refunds, Seller may withdraw funds only after paying suppliers. *Regs. §27*

Alternative to Trust Account. Provide acceptable security to TICO equal to one-sixth of annual sales in Ontario. *Regs., §28*

Compensation Fund. Every registrant must pay a specified sum to the Compensation Fund twice annually. The amount is assessed as a tax on sales. *Regs., §§ 43 - 48*.

Customers may file claims for reimbursement from the Fund based on services not provided, up to \$5,000 per passenger, with a Fund payment cap of \$5,000,000 for a major event. *§ 57*. The Fund does not cover claims based on failure of an end supplier unless the end supplier is an airline or cruise line. *§ 59*.

- **Financial Reporting Requirements**

Financial Statements and Liquidity Requirements. Registrants must furnish audited financial statements to the Registrar including sales and income statement, balance sheet, and trust account reconciliation. Annual statements for sellers with < \$10,000,000 annual sales, semi-annual statements < \$20,000,000 annual sales, quarterly statements for sellers with > \$20,000,000 annual sales. *§15, Regs., § 24*.

Business Records & Banking Records. Registrants must keep Business Records showing customer sales & booking info, and Banking Records showing all banking transactions for 6 years, and have them available for inspection by the Registrar at any time. *§16, Regs., § 37*.

Working Capital Requirements. \$5,000 if registrant had annual sales in Ontario < \$500,000, with an increasing scale up to \$100,000 for annual sales > \$20,000,000. *Regs., § 24*

- **Advertising and Consumer Disclosures**

Advertising must include registrant's name, address, and Registration Number. *Regs., §38*.

Before reserving travel services, seller must disclose to the customer:

Price and terms, Limitations on transfer or cancellation, Availability of out-of-province health insurance and trip cancellation insurance, documents the customer will need, and a copy of the brochure. *Regs., §§ 33, 36*

Upon Sale, seller must provide a statement to the customer detailing payment and travel details. Wholesaler will provide a similar statement to travel agent. *Regs., §34, 38, 41*

Post-Sale, Seller must notify customer of change in condition of accommodations, and offer the customer a choice of a refund or a comparable alternative package. Wholesaler must notify seller/customer of changes to schedule, ship, accommodations or standard of accommodations, price increase > 7%, change in travel document requirements. *Regs., §40*

Upon sale & payment > 21 days before departure, wholesaler shall forward tickets, vouchers, itinerary, etc. to agent/customer > 14 days before departure. *Regs., §36*

**EXEMPTIONS:** *Regs., §2*

1. A public carrier (bus company) (if no other travel services are sold);
2. An agent appointed by a public carrier holding a license under the Public Vehicles Act (if no other travel services are sold);
3. A public carrier who sells one day tours (if no other travel services are sold);
4. A person who sells guide services within Ontario (if no other travel services are sold);
5. A person who sells sightseeing services within Ontario (if no other travel services are sold);
6. Teachers in elementary or secondary schools, universities, etc. who:
  - i. arrange one day tours for students, or arrange travel services through a registered travel agent as part of the curriculum;
  - ii. has the approval of the board of education or principal to make the arrangements;
  - iii. receives no direct or indirect personal gain or profit from so doing.
7. Not for Profit Corporations, religious organizations, amateur sports teams, unincorporated associations that sell or provide overland travel services to members, and:
  - i. travel services are sold or provided only to members of the club;
  - ii. the bus or car remains at the destination and provides return transportation;
  - iii. trip destination is within 2000 km of the departure point;
  - iv. The corporation exists primarily for educational, cultural or athletic purposes;
  - v. Funds received by the club for the travel services are deposited into a trust account;
  - vi. The corporation, its members and employees receive no gain or profit other than participating in the travel services.
8. End suppliers of accommodation that also provide local travel services purchased from another person;
9. End suppliers of accommodation (excluding air, cruise, bus) that also provide local travel services purchased from another person provided they do not collect >25% of the money more than 30 days before travel.

**PENALTIES FOR FAILING TO COMPLY WITH THE LAW: §§ 31**

• **Administrative Penalties**

The Director of the Ministry of Consumer and Commercial Relations may:

- . Apply to a judge to appoint a receiver to take possession and control of a registrant's business;
- . Exclude its directors officers, employees and agents from the premises;
- . Manage the business,

- . Order a freeze on customer trust accounts;
- . Notify the Registrar of Deeds to register a notice against the land of the registrant (seller of travel);
- . Initiate criminal proceedings for violating the Travel Industry Act.

- **Criminal Penalties**

Each person who violates the Act, and every director or officer of a corporation who knowingly concurs in furnishing false information, failing to comply with an order, or otherwise violates the Act, is liable to a fine up to \$50,000 and/or two years imprisonment; And where a corporation is convicted, the maximum penalty against the corporation is a fine of \$250,000.

**KEY CONTACT FOR REGISTRATION INFORMATION:**

Travel Industry Council of Ontario; Phone: 1-888-451-8426

For contact co-ordinates, see its website at <<http://www.tico.on.ca>>.

## QUEBEC

STATUTORY REFERENCE: Travel Agents Act / Loi Sur les Agents de Voyages  
L.R.Q, c. A-10, as am.  
and Regulation Respecting Travel Agents (per the Act)

### OVERVIEW/APPLICABILITY TO NTA TOUR OPERATOR MEMBERS:

This law applies to sellers located in Québec that offer to provide reservation of lodging accommodations or booking transportation on any means of transport. It requires registration, filing fees, contribution to a customer security fund, using customer trust accounts, and maintaining financial liquidity in the business.

QUICK REFERENCE: Does the law apply to the following operators?

- Tour operator selling directly to customers residing in Québec: Yes, if the tour operator is located in Québec.
- Tour operator selling only through registered travel agencies: Yes, if the tour operator is located in Québec.
- Motorcoach carrier providing service to a tour operator: no

### KEY PROVISIONS/REQUIREMENTS:

- **Registration.**

Sellers must register and pay an annual registration fee, set in 1994 and adjusted annually per the Consumer Price Index for Canada. 1994 fees were \$340 for a retail travel agent, \$675 for a wholesale travel agent, and \$1015 for a carrier, plus \$150 for each additional location. *Regs, §§ 4, 5.*

Each registrant must be a Canadian citizen or a landed immigrant and not a principal in a firm that declared bankruptcy, or was convicted of fraudulent activities, or had committed an offence against the Travel Agents Act within the past five years. *Regs, §6.*

- **Financial Security.**

Trust Account. The travel agent must deposit all customer funds in a trust account in a bank in Québec, and the travel agent shall act as trustee. *§33, Regs, §§ 21 - 27.*

The travel agent may withdraw funds from the trust account to pay suppliers, to reimburse himself for expenditures and service charges incurred on behalf of the customer, to refund the customer, and to collect the gross income after paying all suppliers. *Regs, §23.*

The trust account must never be overdrawn, and may not be used to pay travel agent's operating expenses. *Regs, §§ 25, 26.*

## Security.

Individual Security. Upon initial application, a retail travel agent must furnish \$10,000 security, a wholesale travel agent must furnish \$35,000 security, and a carrier must furnish \$100,000 security. For renewal, the amount of security is based on level of sales. *Regs*, §§ 29 - 36. The form of security may be a security contract, check/money order/draft, or bearer-bond guaranteed by the Government of Canada. *Regs*, §30.

Collective Security. In addition to providing individual security, each travel agent must contribute to the collective security fund in the following amount: Retail travel agent \$750, Wholesale travel agent \$2,500. Supplemental assessments may be necessary to maintain the fund. A travel agent may apply for refund of its initial contribution 2 years after ceasing operations as a travel agent without having caused disbursements from the fund. *Regs*, §§ 37 - 43.

- **Financial Reporting Requirements**

Financial Statements and Liquidity Requirements. Registrants must furnish financial statements prepared by an accountant belonging to a professional corporation recognized by the Professional Code. New applicants must show surplus working capital. On application for renewal, applicants must furnish an annual financial statement, trust account statement, and a treasury statement showing surplus working capital. *Regs*, §6.

## Business Records

Trust Account. Seller must keep a record of the trust account in total and by customer. *Regs*, §17.

- **Advertising and Consumer Disclosures**

Seller must specify “Québec Licensee” and specify the total cost prominently. *Regs*, §14

Information before taking deposit. Specify terms & conditions for refund of customer payments for cancellation or trip interruption. *Regs*, §§ 15, 16.

Receipts. Seller must provide a receipt showing payments, balance due, description of services to be rendered, and conditions of the customer trust account. *Regs*, §18.

Travel Documents. Seller must provide travel documents to the customer at least 7 days prior to departure. *Regs*, §19.

Cancellation by Travel Agent. Except for force majeure, ≥7 days notice required. *Regs*, §20.

## EXEMPTIONS

- . Hotel-Keepers (for lodgings accommodations), and Carriers (for travel services); §2
- . Sellers that occasionally make travel arrangements, for travel within Québec for a duration

- not exceeding 72 hours; §3
- . An entity that receives no remuneration for performing the operations, and no expenditure, participation or contribution is made for the performance of such operations by the person who benefits by them" §3

## PENALTIES FOR FAILING TO COMPLY WITH THE LAW:

- **Administrative Penalties**

. The President of the Office de la Protection du Consommateur may confer on a provisional administrator the temporary administration of the seller's business. §13.

- **Criminal Penalties**

For conviction of doing business without a license or violating trust account rules, a fine of \$2,000 - \$10,000 for a first offense and a fine of \$4,000 - \$20,000 for subsequent conviction. §39

For conviction of violating any other section of the law, a fine of \$500 - \$2,500 for a first offense and a fine of \$1,000 - \$5,000 for each subsequent conviction. §40.

## KEY CONTACT FOR REGISTRATION INFORMATION:

Office of Consumer Protection (i.e. Office de la protection du consommateur),  
400, Boulevard Jean-Lesage, Bureau 450,  
Quebec City, G1K 8W4.  
Phone: (418-644-3575)