



**House
Legislative
Analysis
Section**

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REGULATE TRAVEL AGENTS

House Bill 4129 (Substitute H-1) First Analysis (5-16-95)

**Sponsor: Rep. Ilona Varga
Committee: Regulatory Affairs**

THE APPARENT PROBLEM:

It occasionally happens that would-be travelers pay deposits on tours that never take place because the tour promoter fails to pay the necessary airline and hotel deposits. It is also not unheard of for a travel business to fail while customers are on a tour, leaving travelers stranded and scrambling to find and pay for alternative accommodations and transportation home. Sometimes the failure appears due to outright fraud; sometimes it appears due to worsening business problems that the promoter can no longer contain. In any event, the result is that customers are left with vacation plans in ruin and monetary losses of hundreds, sometimes thousands, of dollars each. An incident that occurred in Massachusetts last summer serves to illustrate the nationwide extent of this problem: in the spring of the year, hundreds of high school students, many of whom had saved for a trip to Europe by working after school for many months, were shocked by the closing of the travel agency that had handled the travel arrangements. Similar incidents in Michigan in years past, where travel plans have dissolved and customers have lost deposits, have highlighted the lack of protection afforded by Michigan law. The Consumer Affairs Department of the City of Detroit reports that every summer finds them dealing with another disappointed high school tour group. And, at least once a year, the department gets reports of travel groups involving senior citizens who arrive at an airport to find that tickets have not been ordered or paid for, and the tour operator isn't to be found. Consumer advocates and others have called for legislation to better protect the customers of travel firms.

THE CONTENT OF THE BILL:

The bill would create a new act, the Travel Promotion Act, to regulate the business of travel promotion, and to specify the damages a customer would be entitled to if harmed by a travel promoter's activities. Under the bill, a "travel

promoter" would be a person primarily engaged in soliciting and/or selling tickets for transportation or transportation-related services. A person could not act as a travel promoter unless he or she had obtained at least one of the following: at least \$1 million in errors and omissions insurance; a \$10,000 surety bond or letter of credit, payable to his or her customers; or, at the time payment was received, proof of accreditation in the Airline Reporting Corporation (ARC). However, accreditation in ARC would demonstrate compliance with the provisions of the bill only if the accreditation required bonding equal to or exceeding the bill's \$10,000 surety bond provision. Further, the bill would allow a person harmed by the action or inaction of a travel promoter in violation of the bill to bring an action in a court of competent jurisdiction. The court could award treble damages to the person harmed.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

Tourism is Michigan's second largest industry, and it is important that the state promote standards that protect travel agency customers. According to testimony addressed to the committee by a representative of the American Society of Travel Agents (ASTA), the majority of travel agencies are small businesses and are properly accredited and bonded. However, there are other agencies (often referred to by professional travel agents as "Mabel-at-the Table" operations), which fail because they are managed by individuals who are well-meaning but inexperienced, and who lack proper training in the rudiments of the travel business. Often, free travel fares are the primary reason this type of entrepreneur enters the business. The bonding and insurance provisions of the bill would not only serve

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as a guideline for consumers when trying to identify legitimate travel promoters, they would also serve to discourage those who aren't trained in the sale of travel and transportation-related services from attempting to enter the business.

For:

The damages provision of the bill would provide consumers with some protection from travel "scams" by providing a means for the consumer to recover money lost. The bill would not create an unnecessary bureaucracy by requiring that travel agents be licensed. In testimony before the committee, a representative of the American Society of Travel Agents (ASTA) acknowledged that it is not unreasonable to require a travel promoter to carry a bond or letter of credit in the amount of \$10,000, since that person may receive and disburse thousands of dollars when dealing with customers.

Response:

According to travel industry representatives, the industry is already well regulated, since airlines and cruise lines require a measure of stability from those with whom they do business. For example, full service travel agencies that offer a broad range of travel services, including cruises, tours, car rental, hotel and airline reservations, and travel insurance, must be certified by the Airline Reporting Corporation (ARC) and must carry a bond and exhibit a very high level of financial worth. Another type of travel agency, a "cruise only" agency, must be accredited by the Cruise Lines International Association (CLIA), but is not required to carry a bond or letter of credit. A third type of agency, an agency that sells prepackaged tours, may be accredited by ARC or the National Tour Association and must carry \$1 million in errors and omissions insurance. However, since there will always be people who misappropriate deposits, despite any law to the contrary, perhaps the state should simply enforce existing antifraud and consumer protection laws rather than enact further legislation.

Against:

The bill fails to differentiate between travel promoters and agents such as bus and airline ticket agents. (The bill would define a travel agent or "travel promoter" as a person primarily engaged in soliciting and/or selling tickets for transportation or transportation related services). Therefore, according to the provisions of the bill, travel agency customers could sue an innocent bus or airline ticket agent for damages should a travel promoter

misappropriate customers' funds.

POSITIONS:

A representative of the American Society of Travel Agents (ASTA) testified before the committee on May 10, 1995, in support of the bill. (5-10-95)

The Consumer Affairs Department of the City of Detroit submitted testimony in support of the bill. (3-28-95)

The Michigan Consumer Federation supports the bill. (5-10-95)

AAA of Michigan supports the bill. (5-11-95)

The Lansing Area Travel Agents (LATA) supports the bill. (5-10-95)

The Travel Group, a Lansing travel agency, supports the bill. (5-11-95)

The Department of Commerce is not opposed to the bill. (5-10-95)