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STATE GOVERNMENT
HOUSE FILE 355
DO PASS per amend, 3448 3-20-89
(4874) BY ROYER and HARBOR

Sen. State Govt
DO PASS 4-5-89 (p. 1202)
Passed House, Date 3-30-89 (p. 1145) Passed Senate, Date 5/6/89 (p. 2020)

Vote: Ayes 99 Nays 0 Vote: Ayes 39 Nays 10

Approved Jan 1, 1989

A BILL FOR

1 An Act relating to travel agents and agencies by providing for
2 3448- licensing and regulation, and providing for fees and
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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3448 amendments all-

1 Section 1. NEW SECTION. 120.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Board" means the travel agents examining board,
5 established in section 120.3.

6 2. "License" means a license issued by the board pursuant
7 to this chapter.

8 3. "Travel agency" means a person who represents, directly
9 or indirectly, that the person is able or offering or
10 undertaking by any means or method, to arrange or book travel
11 reservations or accommodations; tickets for domestic or
12 foreign travel by air, rail, ship, bus, or other medium of
13 transportation; or hotel or other lodging accommodations for a
14 fee, commission, or other valuable consideration.

15 4. "Travel agent" means a person employed by a travel
16 agency whose principal duties include consulting with and
17 advising persons concerning travel arrangements or
18 accommodations.

19 Sec. 2. NEW SECTION. 120.2 LICENSE REQUIRED -- PRACTICE
20 LIMITED TO LICENSED TRAVEL AGENCY OR TRAVEL AGENT.

21 After July 1, 1990, a person shall not act as or represent
22 themselves to be a travel agency or travel agent unless the
23 person holds an unsuspended, unrevoked license as a travel
24 agency, or travel agent, as appropriate, issued by the board
25 pursuant to this chapter and rules adopted pursuant to this
26 chapter. The license shall be conspicuously posted in the
27 place of business. Duplicate licenses shall be issued by the
28 board without additional fees to valid license holders
29 operating more than one office.

30 Sec. 3. NEW SECTION. 120.3 TRAVEL AGENTS' EXAMINING
31 BOARD CREDITED.

32 1. A travel agents examining board is created within the
33 professional licensing and regulation division of the
34 department of commerce. The board consists of five members
35 appointed by the governor with the advice and consent of the

1 senate. Each member of the board shall be a travel agent
2 doing business in this state for at least ten years prior to
3 the member's appointment. Members shall be licensed under
4 this chapter. A member of the board shall be a citizen and
5 resident of the state and shall have been a qualified voter in
6 the state for a period of at least one year preceding the
7 member's appointment. A board member shall not hold any other
8 elective or appointive state or federal office. Appointments
9 shall commence and end as provided in section 69.19.

10 2. Members shall be appointed by the governor for
11 staggered terms of four years. A vacancy on the board shall
12 be filled for its unexpired term in the same manner as
13 original appointments are made. The governor may remove a
14 member for cause following a hearing and shall remove a member
15 who no longer meets the qualifications for which the member
16 was appointed. A board member shall serve no more than two
17 terms or eight years, whichever is less. Professional
18 associations or societies of travel agents or travel agencies
19 may recommend the names of potential board members to the
20 governor. However, the governor is not bound by the
21 recommendations. A board member shall not be required to be a
22 member of a professional association or society.

23 Sec. 4. NEW SECTIONS. 120.4 ORGANIZATION OF THE BOARD --
24 MEETINGS -- QUORUM.

25 The board shall elect annually from its members a
26 chairperson and vice chairperson and other officers as needed.
27 The board shall hold at least one meeting each year at the
28 location of the board's principal office, and meetings shall
29 be called at other times by the secretary at the request of
30 the chairperson or four members of the board. A majority of
31 the members constitute a quorum. The affirmative votes of a
32 majority of the members of the board are required for any
33 action other than procedural actions, such as, but not limited
34 to, approval of minutes and adjourning a meeting, which
35 require a majority of a quorum.

1 Sec. 5. NEW SECTION. 120.5 DUTIES OF BOARD -- STAFF.

2 The board shall:

3 1. Enforce this chapter.

4 2. Make rules for the examination of applicants for
5 license as a travel agency or travel agent.

6 3. After public notice, conduct examinations of applicants
7 for licensure.

8 4. Keep a record of its proceedings.

9 5. Adopt an official seal which shall be affixed to all
10 licenses granted.

11 6. Maintain a roster showing the name, place of business,
12 and residence, and the date and number of the license of every
13 licensed travel agency and travel agent in this state.

14 The board may make other rules, not inconsistent with law,
15 as necessary for the proper performance of its duties. The
16 administrator of the professional licensing and regulation
17 division of the department of commerce shall hire and provide
18 staff to assist the board in implementing this chapter.

19 Sec. 6. NEW SECTION. 120.6 RULES -- EDUCATION.

20 The board may adopt rules under chapter 17A which it deems
21 appropriate to administer this chapter. The board may carry
22 on a program of education of travel agent and travel agency
23 practices and related matters.

24 Sec. 7. NEW SECTION. 120.7 EXPENSES OF MEMBERS --
25 COMPENSATION.

26 Members of the board are entitled to be reimbursed for
27 their actual expenses in the performance of duties pertaining
28 to their office within the limits of the funds appropriated to
29 the board. Each member of the board may also be eligible to
30 receive compensation as provided in section 7E.6.

31 Sec. 8. NEW SECTION. 120.8 RECORDS.

32 Copies of records and papers of the board shall be received
33 in evidence in all courts equally and with like effect as
34 originals. Records of the board shall be open to public
35 inspection under reasonable rules prescribed by the board.

1 Sec. 9. NEW SECTION. 120.9 FEES.

2 The board shall set fees for examination and licensing of
3 travel agents and travel agencies. The board shall determine
4 the annual cost of administering an examination and shall set
5 the examination fee accordingly. The board shall set the fees
6 for licenses based upon the administrative costs of sustaining
7 the board. The fees shall include, but are not limited to,
8 the costs for:

- 9 1. Per diem, expenses, and travel for board members.
- 10 2. Office facilities, supplies, and equipment.
- 11 3. Administrative personnel, assistants, and clerical
12 assistance.

13 Sec. 10. NEW SECTION. 120.10 CREDITING OF FEES AND
14 EXPENSES.

15 Fees collected by the board under this chapter shall be
16 paid into the general fund of the state. Expenses incurred by
17 the board under this chapter, including compensation of staff,
18 shall be paid out of the general fund to the extent of the
19 appropriations for this purpose.

20 Sec. 11. NEW SECTION. 120.11 LICENSING ELIGIBILITY.

21 1. A person is eligible to be licensed as a travel agency
22 if all of the following conditions are met:

23 a. The person is eighteen years of age, if a natural
24 person, or all officers and managers are eighteen years of
25 age, if the applicant is a business entity.

26 b. The person, or all officers and managers of the
27 applicant agency, have a good reputation for honesty,
28 truthfulness, and fair dealing, and are competent and
29 financially qualified to conduct the business of a travel
30 agency in a manner which safeguards the interest of the
31 public.

32 c. The person, or all officers and managers, have been
33 travel agents or a travel agency for at least one year prior
34 to the application for a travel agency license during which
35 year the person's time shall have been devoted to sales work

1 within an agency for not less than thirty-five hours per week;
2 or the person furnishes evidence satisfactory to the board
3 that the person has been certified to have completed a course
4 of study leading to qualification as a travel agency at a
5 recognized educational institution. All officers and managers
6 of a business entity applicant shall satisfy the eligibility
7 and examination requirements.

8 d. The person submits an application to the board on a
9 form provided by the board, and successfully completes the
10 required written examination.

11 2. A natural person is eligible to be licensed as a travel
12 agent if all of the following conditions are met:

13 a. The person is at least eighteen years of age.

14 b. The person has a good reputation for honesty,
15 truthfulness, and fair dealing and is competent to act as a
16 travel agent in a manner which safeguards the interest of the
17 public.

18 c. The person submits an application to the board on a
19 form provided by the board, and successfully completes the
20 required written examination.

21 3. The board may issue a travel agent apprentice permit to
22 a natural person, without examination, but the apprentice must
23 otherwise be qualified by reason of age and reputation, to
24 assist in the performance of a travel agency while under the
25 strict supervision of that travel agency or of a travel agent,
26 for whose performance that travel agency or travel agent shall
27 be liable as if that performance was undertaken by that travel
28 agency or travel agent. An apprentice permit shall be valid
29 for a period of six months from the date of issue and may be
30 renewed upon proper application to the director. The fee for
31 an apprentice permit and for each renewal shall be established
32 by the board.

33 Sec. 12. NEW SECTION. 120.12 BOND CONDITION OF AGENCY
34 LICENSE -- PENALTY FOR UNLICENSED PRACTICE, SIMPLE
35 MISDEMEANOR.

1 1. A travel agency shall deliver and file with the board
2 before a license is issued or reissued, a surety company bond,
3 written by a company recognized and approved by the division
4 of insurance, and approved by the board with respect to its
5 form, manner of execution, and sufficiency, to the state of
6 Iowa, in the principal sum of ten thousand dollars, except
7 that the liability of the surety on the bond shall be limited
8 to indemnify the claimant only for the claimant's actual
9 damages. The bond shall not limit or impair any right of
10 recovery otherwise available pursuant to law nor shall the
11 amount of the bond be relevant in determining the amount of
12 damage or other relief to which a claimant is entitled. The
13 bond shall be accessible only after all other legal remedies
14 have been exhausted. The board may provide by rule for
15 alternative means of financial assurance in place of a surety
16 bond.

17 2. After July 1, 1990, a person who engages in the
18 business of conducting a travel agency or acts as a travel
19 agent without obtaining a license as provided by this chapter,
20 is guilty of a simple misdemeanor.

21 Sec. 13. NEW SECTION. 120.13 WRITTEN EXAMINATIONS.

22 1. Examinations for licensure shall be given as often as
23 deemed necessary by the board, but no less than one time per
24 year. To obtain a license, an applicant must pass a written
25 examination authorized by the board and administered by the
26 board or persons designated by the board. The examination
27 shall be of scope and wording sufficient in the judgment of
28 the board to establish the competency of the applicant to act
29 as a travel agent or to operate a travel agency in a manner to
30 protect the interests of the public. An examination for a
31 travel agency shall be of a more exacting nature than that for
32 a travel agent and require higher standards of knowledge of
33 the travel agency industry. All examinations shall be in
34 writing and the identity of the persons taking the
35 examinations shall be concealed as far as possible until after

1 the examination papers have been graded.

2 2. The board shall issue a license to a person who meets
3 the eligibility standards of this chapter.

4 3. The written examination required of an applicant for a
5 travel agency or a travel agent's license shall demonstrate
6 that the applicant possesses satisfactory knowledge in the
7 board's judgment of, at minimum, the following subjects:

8 a. Reading.

9 b. Writing.

10 c. Spelling.

11 d. Elementary arithmetic.

12 e. Geography.

13 f. The general means and methods to arrange or book travel
14 reservations or accommodations.

15 g. The state and federal statutes and regulations relating
16 to travel agents, travel agency industry, and the travel
17 industry.

18 4. A person who fails to pass the written examination once
19 may immediately apply to take the next available examination
20 upon payment of the required fee. The board may require that
21 an applicant present evidence of further study and
22 preparation, prior to permitting a reexamination. An
23 applicant who has failed an examination may request in writing
24 information from the board concerning the applicant's
25 examination grade and subject areas or questions which the
26 applicant failed to answer correctly, except that if the board
27 administers a uniform, standardized examination, the board is
28 only required to provide the examination grade and other
29 information concerning the applicant's examination results
30 which is available to the board.

31 Sec. 14. NEW SECTION. 120.14 RENEWALS.

32 Licenses shall expire in multiyear intervals as determined
33 by the board. Licensed travel agencies and licensed travel
34 agents shall renew their licenses and pay a renewal fee in the
35 manner and amount prescribed by the board. A person who fails

1 to renew a license by the expiration date shall be allowed to
2 do so within thirty days following its expiration, but the
3 board may assess a reasonable penalty.

4 Sec. 15. NEW SECTION. 120.15 LICENSE RENEWAL -- CON-
5 DITIONS -- SANCTIONS.

6 The board may refuse to renew a license for any of the
7 grounds set forth in section 120.18. The board shall promptly
8 notify the licensee in writing by certified mail of its intent
9 to refuse to renew the license. The licensee shall be
10 permitted to honor commitments already made to its customers
11 provided that no new commitments are incurred, unless new
12 commitments are completely bonded to ensure that the public is
13 protected from loss of moneys paid to the licensee.

14 Sec. 16. NEW SECTION. 120.16 NONRESIDENT LICENSES.

15 The board may adopt rules to provide for the licensure of
16 nonresidents. Nonresident rules shall require the nonresident
17 to pay a fee established by the board for an initial travel
18 agency license or for an initial travel agent license as
19 applicable, and may provide for licensure without examination
20 if reciprocity is extended to Iowa residents, and if the
21 nonresident applicant meets all other requirements of this
22 chapter.

23 Sec. 17. NEW SECTION. 120.17 REQUIRED BUSINESS
24 PRACTICES.

25 1. A travel agency shall fulfill substantially any
26 promise, guarantee, or representation regarding any trip which
27 it makes to a person with whom the travel agency contracts for
28 such a trip, if that promise, guarantee, or representation is
29 in writing by an employee of the travel agency, or in
30 advertising or literature displayed by the travel agency, or
31 read or shown to a person by the travel agency. A travel
32 agency shall refund to a person with whom it contracts for a
33 trip, moneys lost by that person as a result of a failure to
34 fulfill substantially any such promise, guarantee, or
35 representation; the refund shall be made within thirty days

1 from the date it is requested and shall not be contingent on
2 the travel agency's first recovering the amount sought from
3 any other party which was allegedly responsible for the
4 failure. This section does not restrict the right of a travel
5 agency to refuse a refund and to require ordinary civil
6 adjudication of the dispute. This section does not limit the
7 right of the travel agency to recover from, or be indemnified
8 by any other party which was responsible for the failure of
9 all or part of the moneys it refunded to the customer pursuant
10 to this section.

11 2. A licensed travel agency, within thirty days after
12 issuance of a license, shall file with the board a list of
13 names and addresses of licensed agents employed by that travel
14 agency. Notice of any change in such employees shall be given
15 to the board within ten days after the change.

16 3. A licensed travel agency shall maintain a fixed office
17 within this state.

18 Sec. 18. NEW SECTION. 120.18 DISCIPLINARY ACTIONS.

19 1. The board may refuse to issue or renew a license
20 required under this chapter for one or any combination of
21 causes stated in subsection 2. The board shall notify the
22 applicant in writing of the reasons for the refusal and shall
23 advise the applicant of the applicant's right to file an
24 administrative appeal under chapter 17A.

25 2. The board may deny a license or license renewal,
26 suspend or revoke a license, or limit the scope of practice of
27 a person, for any one or any combination of the following
28 causes:

29 a. Fraud or bribery in securing a license issued under
30 this chapter.

31 b. Failure to display the license as provided in this
32 chapter.

33 c. Violation of a provision of this chapter or a rule
34 adopted under this chapter.

35 d. Publication or circulation of a statement with the

1 intent to deceive, misrepresent, or mislead the public.

2 e. Knowingly making misleading, deceptive, untrue, or
3 fraudulent representations in the operation and conduct of a
4 travel agency business, including, but not limited to, use of
5 intentionally misleading advertising or use of untruthful or
6 improbable statements in advertisements, or engaging in
7 unethical conduct or practice harmful or detrimental to the
8 public. Proof of actual injury need not be established.

9 f. Aiding or abetting a person not licensed in this state
10 in the business of conducting a travel agency.

11 g. Professional incompetency.

12 h. Conviction of a felony related to the profession or
13 occupation of the licensee or conviction of a felony that
14 would affect the licensee's ability to practice the profession
15 of travel agent or to operate a travel agency. A copy of the
16 record of conviction or plea of guilty is conclusive evidence.

17 i. Fraud or misrepresentation as to skill or ability.

18 3. After the filing of a complaint the proceeding shall be
19 conducted in accordance with chapter 17A. Upon a finding by
20 the hearing officer that the grounds provided in subsection 2
21 for disciplinary action are met, the board may, singly or in
22 combination, censure or place the person named in the
23 complaint on probation on terms and conditions the board deems
24 appropriate for a period not to exceed five years, or may
25 suspend the person's license, for a period not to exceed three
26 years, or may revoke the license.

27 4. If a person recovers any amount in settlement of a
28 claim or toward satisfaction of a judgment against a licensed
29 travel agency or travel agent involving the breach of section
30 120.17 the license of that travel agency or travel agent shall
31 be automatically revoked and the travel agency or travel agent
32 shall not be eligible to receive a new license until they have
33 repaid in full. A discharge of bankruptcy or receivership
34 does not relieve a person from the penalties of this section.

35 Sec. 19. NEW SECTION. 120.19 PROCEDURE FOR DISCIPLINARY

1 ACTIONS AND COMPLAINTS.

2 A person may file charges with the board against a travel
3 agent, travel agency, or a person engaging in the business
4 without a license, or the board may initiate charges. The
5 charges shall be in writing, sworn to if by a complainant
6 other than the board, and filed with the board. Unless the
7 charges are dismissed by the board as unfounded or trivial,
8 the board may request the department of inspections and
9 appeals to conduct an investigation into the charges. The
10 department of inspections and appeals shall report its
11 findings to the board, and the board shall hold a hearing
12 within sixty days after the date on which the charges are
13 filed. The board shall fix the time and place for the hearing
14 and shall cause a copy of the charges, together with a notice
15 of the time and place fixed for the hearing, to be served on
16 the accused at least thirty days before the date fixed for the
17 hearing. If personal service cannot be effected, service may
18 be effected by publication. At the hearing, the accused has
19 the right to appear personally or by counsel, to cross-examine
20 witnesses against the accused, and to produce evidence and
21 witnesses in defense. After the hearing, the board may
22 suspend or revoke a licensee's license. The board may restore
23 the license to a person whose license has been revoked.
24 Application for the restoration of a license shall be made in
25 a manner the board prescribes.

26 Sec. 20. NEW SECTION. 120.20 ATTORNEY GENERAL TO ASSIST
27 -- WITNESSES.

28 The board is entitled to the counsel and services of the
29 attorney general or assistance as the attorney general
30 designates. The board may compel the attendance of witnesses,
31 pay witness fees and mileage, take testimony and affidavits,
32 and administer oaths concerning any matter within its
33 jurisdiction.

34 Sec. 21. NEW SECTION. 120.21 UNLAWFUL PRACTICE.

35 A person who uses the words "travel agent", "travel

1 broker", "travel agency", or any word, letters, or figures
2 indicating or tending to imply that the person using them is a
3 travel agent or travel agency, without having a valid license
4 for that status issued pursuant to this chapter, is guilty of
5 a simple misdemeanor.

6 Sec. 22. NEW SECTION. 120.22 INJUNCTION.

7 In addition to any other remedies, and on the petition of
8 the board or any person, a person violating a provision of
9 this chapter or a rule adopted under this chapter may be
10 restrained and permanently enjoined from committing or
11 continuing the violations.

12 Sec. 23. NEW SECTION. 120.23 SCOPE OF CHAPTER -- EX-
13 EMPTIONS.

14 This chapter does not prohibit a school system, fraternal
15 organization, regents institution, state agency, local
16 government, or similar type of group from conducting a tour if
17 the tour is conducted without remuneration in any form and
18 does not include the general public, except that such groups
19 when conducting a tour shall register with the board and give
20 to each member of the group a written notice deemed
21 appropriate by the board, to include a warning that the group
22 is not licensed, bonded, or regulated by this chapter. This
23 chapter does not apply to direct common carriers or employees
24 of direct common carriers when engaged in the business of
25 their employers.

26 Sec. 24. The first members appointed to the travel agents
27 examining board are exempt from the examination requirements
28 of section 120.13. Of the members first appointed, one shall
29 be appointed for a term of one year, one shall be appointed
30 for a term of two years, one for a term of three years, and
31 two for terms of four years.

32

EXPLANATION

33 This bill provides for the licensure and regulation of the
34 business of travel agencies and travel agents under the
35 professional licensing and regulation division of the

1 department of commerce with an appointed board. Travel
2 agencies are obligated to substantially fulfill a promise,
3 guarantee, or representation regarding a trip which it makes
4 to a customer if the promise, guarantee, or representation is
5 in writing or contained in advertising or literature used by
6 the agency. The agency is required to refund within thirty
7 days moneys lost by a customer as a result of a failure to
8 fulfill substantially any such promise, guarantee, or
9 representation. A ten thousand dollar surety bond is a
10 precondition of licensure for a travel agency and secures
11 payment of any proven claim for relief for breach of a
12 promise, guarantee, or representation. Engaging in the
13 business of a travel agency without a license is a simple
14 misdemeanor. The bill also contains general organizational
15 and procedural provisions to establish the travel agents
16 examining board and its authority to supervise the travel
17 industry and enforce the proposed new chapter. Certain
18 exemptions are provided for school systems, fraternal
19 organizations, regents institutions, state agencies, local
20 governments, and similar groups which conduct tours.

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HOUSE FILE 355

H-3448

1 Amend House File 355 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 120.1 DEFINITIONS.

5 1. "Applicant" means a person applying for
6 registration under this chapter.

7 2. "Customer" means a person who is offered or who
8 purchases travel services.

9 3. "Initial solicitation" means the first contact
10 initiated by the travel agency or travel agent by
11 mail, telephone, or other form of telecommunication,
12 of a person with whom the travel agency does not have
13 a previous travel services provider-customer
14 relationship.

15 4. "Registrant" means a person registered pursuant
16 to this chapter.

17 5. "Secretary" means the secretary of state.

18 6. "Travel agency" means a person who represents,
19 directly or indirectly, that the person is offering or
20 undertaking by any means or method, to provide travel
21 services for a fee, commission, or other valuable
22 consideration, direct or indirect.

23 7. "Travel agent" means a person employed by a
24 travel agency whose principal duties include
25 consulting with and advising persons concerning travel
26 arrangements or accommodations.

27 8. "Travel services" means arranging or booking
28 vacation or travel packages, travel reservations or
29 accommodations, tickets for domestic or foreign travel
30 by air, rail, ship, bus, or other medium of
31 transportation, or hotel or other lodging
32 accommodations. Travel services include travel
33 related prizes or awards for which the customer must
34 pay a fee or, in connection with the prize or award,
35 expend moneys for the direct or indirect monetary
36 benefit of the person making the award, in order for
37 the customer to collect or enjoy the benefits of the
38 prize or award.

39 Sec. 2. NEW SECTION. 120.2 REGISTRATION
40 REQUIRED.

41 1. a. A travel agency doing business in this
42 state shall register with the secretary of state as a
43 travel agency if it or its travel agent conducts the
44 initial solicitation of an Iowa resident by mail,
45 telephone, or other form of telecommunications.

46 b. A travel agency required to register under
47 paragraph "a" shall not permit a travel agent employed
48 by the travel agency to do business in this state
49 unless the agency has filed the required registration
50 statement.

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1 2. A travel agent shall not knowingly do business
2 in this state unless and until the travel agency
3 employing the travel agent has registered with the
4 secretary of state as a travel agency if the travel
5 agency or any of the agency's travel agents conduct
6 the initial solicitation of an Iowa resident by mail,
7 telephone, or other form of telecommunications.

8 3. This section does not require registration for,
9 or prohibit, solicitation by mail or
10 telecommunications of a person with whom the travel
11 agency has a previous travel services provider-
12 customer relationship, having previously arranged
13 travel related services for that customer on at least
14 one prior occasion.

15 4. "Doing business" in this state, for purposes of
16 this chapter, means any of the following:

17 a. Offering to sell or selling travel services, if
18 the offer is made or received within the state.

19 b. Offering to arrange, or arranging, travel
20 services for a fee or commission, direct or indirect,
21 if the offer is made or received in this state.

22 c. Offering to, or awarding travel services as a
23 prize or award, if the offer or award is made in or
24 received in this state.

25 5. An applicant shall complete the registration
26 statement form provided by the secretary. The
27 registration statement must be accompanied by the
28 required bond or evidence of financial responsibility
29 and the registration fee. The registration statement
30 shall include all of the following:

31 a. The name and signature of an officer or partner
32 of a business entity or the names and signatures of
33 the principal owner and operator if the agency is a
34 sole proprietorship.

35 b. The name, address, and telephone number of the
36 applicant and the name of all travel agents employed
37 by the applicant travel agency.

38 c. The name, address, and telephone number of any
39 person who owns or controls, directly or indirectly,
40 ten percent or more of the applicant.

41 d. If the applicant is a foreign corporation or
42 business, the name and address of the corporation's
43 agent in this state for service of process.

44 e. A copy of all solicitation materials to be used
45 or proposed for use within the state.

46 f. Any additional information required by rule
47 adopted by the secretary pursuant to chapter 17A.

48 The application shall be accompanied by a written
49 irrevocable consent to service of process. The
50 consent must provide that actions in connection with

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1 doing business in this state may be commenced against
2 the registrant in the proper jurisdiction in this
3 state in which the cause of action may arise, or in
4 which the plaintiff may reside, by service of process
5 on the secretary as the registrant's agent and
6 stipulating and agreeing that such service of process
7 shall be taken and held in all courts to be as valid
8 and binding as if service of process had been made
9 upon the person according to the laws of this or any
10 other state. The consent to service of process shall
11 be in such form and supported by such additional
12 information as the secretary may by rule require.

13 An annual registration fee as established by the
14 secretary by rule is required at the time the
15 registration statement is filed with the secretary,
16 and on or before the anniversary date of the effective
17 date of registration for each subsequent year. The
18 registration fee shall be established at a rate deemed
19 reasonably necessary by the secretary to support the
20 administration of this chapter. If a registrant fails
21 to pay the annual registration fee, the registration
22 lapses and becomes ineffective.

23 A registrant shall submit to the secretary
24 corrections to the information supplied in the
25 registration statement, within ninety days of a change
26 in facts or circumstances, which facts or
27 circumstances would be required to be reported in the
28 initial registration statement.

29 The secretary may revoke or suspend a registration
30 for cause subject to the contested case provisions of
31 chapter 17A.

32 Sec. 3. NEW SECTION. 120.3 EVIDENCE OF FINANCIAL
33 SECURITY.

34 1. An application for a travel agency must be
35 accompanied by a surety or cash performance bond in
36 conformity with rules adopted by the secretary in the
37 principal amount of ten thousand dollars. The bond
38 shall be issued by a bond company approved to issue
39 bonds in this state by the commissioner of insurance.

40 2. The bond shall be payable to the state for the
41 use and benefit of either:

42 a. A person who is injured by the fraud,
43 misrepresentation, or financial failure of the travel
44 agency or a travel agent employed by the travel
45 agency.

46 b. The state on behalf of a person or persons
47 under paragraph "a".

48 The bond shall be conditioned such that the
49 registrant will pay any judgment recovered by a person
50 in a court of this state in a suit for actual damages,

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Page 4

1 including reasonable attorney's fees, or for
2 rescission or other equitable relief, resulting from a
3 cause of action involving the sale or offer of sale of
4 travel services. The bond shall be open to successive
5 claims, but the aggregate amount of the claims paid
6 shall not exceed the principal amount of the bond.

7 3. If a registrant has contracted with the
8 airlines reporting corporation or the passenger
9 network services corporation, or similar organizations
10 approved by the secretary of state with equivalent
11 bonding requirements for participation, in lieu of the
12 bond required by subsection 1, the registrant may file
13 with the secretary a certified copy of the official
14 approval and appointment of the applicant from the
15 airlines reporting corporation or the passenger
16 network services corporation.

17 4. In lieu of any bond or guarantee required to be
18 provided by this section, a registrant may do any of
19 the following:

20 a. File with secretary proof of professional
21 liability and errors and omissions insurance in an
22 amount of at least one million dollars annually.
23 b. Deposit with the secretary cash, securities, or
24 a statement from a federally insured financial
25 institution guaranteeing the performance of the
26 registrant up to a maximum of ten thousand dollars to
27 be held or applied to the purposes to which the
28 proceeds of the bond would otherwise be applied.

29 Sec. 4. NEW SECTION. 120.4 PENALTIES.

30 1. a. A person required to register as a travel
31 agency, or an owner of ten percent or more of a travel
32 agency, required to register by this chapter, which
33 fails to register, fails to make required corrections
34 to its registration statement, or fails to pay the
35 required fee on or before thirty days after the fee
36 becomes due, commits a serious misdemeanor.

37 b. A person who is a travel agent employed by a
38 travel agency which fails to register or which fails
39 to include the travel agent in the registration
40 statement or a subsequent correction, commits a simple
41 misdemeanor if that person initially solicits a
42 resident of this state by mail or telecommunications,
43 knowing that the travel agency has failed to perform
44 any act required by this chapter.

45 2. If a person required to be registered or listed
46 upon a registration statement by this chapter receives
47 money, as a fee, commission, compensation, or profit
48 in connection with doing business in this state in
49 violation of section 120.2, the person, in addition to
50 the criminal penalty in subsection 1, shall be liable

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Page 5

1 for a civil penalty of not less than three times the
2 sum so received, as may be determined by the court,
3 which penalty may be recovered in a court of competent
4 jurisdiction by an aggrieved person, or by the
5 attorney general for the benefit of an aggrieved
6 person or class of persons.

7 3. A violation of this chapter is also a violation
8 of section 714.16.

9 Sec. 5. NEW SECTION. 120.5 EXEMPTIONS.

10 1. This chapter does not apply to:

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

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

21 2. A travel agency is subject to this chapter,
22 notwithstanding that the customer's name was obtained
23 from the customer as part of a promotion where the
24 customer signed up to receive a sales presentation or
25 to enter a drawing for a prize prior to the initial
26 solicitation. These activities do not constitute a
27 previous travel services provider-customer
28 relationship."

29 2. Title page, line 2, by striking the word
30 "licensing" and inserting the following:
31 "registration".

By COMMITTEE ON STATE GOVERNMENT
BLANSHAN of Greene, Chairperson

H-3448 FILED MARCH 20, 1989

adopted 3-30-89 (p. 1145)

HOUSE FILE 355
BY ROYER and HARBOR

(As Amended and Passed by the House March 30, 1989)

Passed House, Date 5/6/89 (p. 2627) Passed Senate, Date 5/6/89 (p. 2028)
Vote: Ayes 89 Nays 4 Vote: Ayes 39 Nays 10
Approved June 1, 1989

A BILL FOR

1 An Act relating to travel agents and agencies by providing for
2 registration and regulation, and providing for fees and
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. NEW SECTION. 120.1 DEFINITIONS.

2 1. "Applicant" means a person applying for registration
3 under this chapter.

4 2. "Customer" means a person who is offered or who
5 purchases travel services.

408 6 3. "Initial solicitation" means the first contact
7 initiated by the travel agency or travel agent by mail,
8 telephone, or other form of telecommunication, of a person
9 with whom the travel agency does not have a previous travel
10 services provider-customer relationship.

11 4. "Registrant" means a person registered pursuant to this
12 chapter.

13 5. "Secretary" means the secretary of state.

14 6. "Travel agency" means a person who represents, directly
15 or indirectly, that the person is offering or undertaking by
16 any means or method, to provide travel services for a fee,
17 commission, or other valuable consideration, direct or
18 indirect.

19 7. "Travel agent" means a person employed by a travel
20 agency whose principal duties include consulting with and
21 advising persons concerning travel arrangements or
22 accommodations.

23 8. "Travel services" means arranging or booking vacation
24 or travel packages, travel reservations or accommodations,
25 tickets for domestic or foreign travel by air, rail, ship,
26 bus, or other medium of transportation, or hotel or other
27 lodging accommodations. Travel services include travel
28 related prizes or awards for which the customer must pay a fee
29 or, in connection with the prize or award, expend moneys for
30 the direct or indirect monetary benefit of the person making
31 the award, in order for the customer to collect or enjoy the
32 benefits of the prize or award.

33 Sec. 2. NEW SECTION. 120.2 REGISTRATION REQUIRED.

40 61 34 1. a. A travel agency doing business in this state shall
35 register with the secretary of state as a travel agency if it

1 or its travel agent conducts the initial solicitation of an
2 Iowa resident by mail, telephone, or other form of
3 telecommunications.

4 b. A travel agency required to register under paragraph
5 "a" shall not permit a travel agent employed by the travel
6 agency to do business in this state unless the agency has
7 filed the required registration statement.

4081 8 2. A travel agent shall not knowingly do business in this
9 state unless and until the travel agency employing the travel
10 agent has registered with the secretary of state as a travel
11 agency if the travel agency or any of the agency's travel
12 agents conduct the initial solicitation of an Iowa resident by
13 mail, telephone, or other form of telecommunications.

14 3. This section does not require registration for, or
15 prohibit, solicitation by mail or telecommunications of a
16 person with whom the travel agency has a previous travel
17 services provider-customer relationship, having previously
18 arranged travel related services for that customer on at least
19 one prior occasion.

20 4. "Doing business" in this state, for purposes of this
21 chapter, means any of the following:

22 a. Offering to sell or selling travel services, if the
23 offer is made or received within the state.

24 b. Offering to arrange, or arranging, travel services for
25 a fee or commission, direct or indirect, if the offer is made
26 or received in this state.

27 c. Offering to, or awarding travel services as a prize or
28 award, if the offer or award is made in or received in this
29 state.

30 5. An applicant shall complete the registration statement
31 form provided by the secretary. The registration statement
32 must be accompanied by the required bond or evidence of
33 financial responsibility and the registration fee. The
34 registration statement shall include all of the following:

35 a. The name and signature of an officer or partner of a

1 business entity or the names and signatures of the principal
2 owner and operator if the agency is a sole proprietorship.

3 b. The name, address, and telephone number of the
4 applicant and the name of all travel agents employed by the
5 applicant travel agency.

6 c. The name, address, and telephone number of any person
7 who owns or controls, directly or indirectly, ten percent or
8 more of the applicant.

9 d. If the applicant is a foreign corporation or business,
10 the name and address of the corporation's agent in this state
11 for service of process.

12 e. A copy of all solicitation materials to be used or
13 proposed for use within the state.

14 f. Any additional information required by rule adopted by
15 the secretary pursuant to chapter 17A.

16 The application shall be accompanied by a written
17 irrevocable consent to service of process. The consent must
18 provide that actions in connection with doing business in this
19 state may be commenced against the registrant in the proper
20 jurisdiction in this state in which the cause of action may
21 arise, or in which the plaintiff may reside, by service of
22 process on the secretary as the registrant's agent and
23 stipulating and agreeing that such service of process shall be
24 taken and held in all courts to be as valid and binding as if
25 service of process had been made upon the person according to
26 the laws of this or any other state. The consent to service
27 of process shall be in such form and supported by such
28 additional information as the secretary may by rule require.

29 An annual registration fee as established by the secretary
30 by rule is required at the time the registration statement is
31 filed with the secretary, and on or before the anniversary
32 date of the effective date of registration for each subsequent
33 year. The registration fee shall be established at a rate
34 deemed reasonably necessary by the secretary to support the
406 35 administration of this chapter. If a registrant fails to pay

1 the annual registration fee, the registration lapses and
2 becomes ineffective.

40813 A registrant shall submit to the secretary corrections to
4 the information supplied in the registration statement, within
5 ninety days of a change in facts or circumstances, which facts
6 or circumstances would be required to be reported in the
7 initial registration statement.

8 The secretary may revoke or suspend a registration for
9 cause subject to the contested case provisions of chapter 17A.

10 Sec. 3. NEW SECTION. 120.3 EVIDENCE OF FINANCIAL
11 SECURITY.

4081,3584 12 1. An application for a travel agency must be accompanied
13 by a surety or cash performance bond in conformity with rules
14 adopted by the secretary in the principal amount of ten
15 thousand dollars. The bond shall be issued by a bond company
16 approved to issue bonds in this state by the commissioner of
17 insurance.

18 2. The bond shall be payable to the state for the use and
19 benefit of either:

20 a. A person who is injured by the fraud,
21 misrepresentation, or financial failure of the travel agency
22 or a travel agent employed by the travel agency.

23 b. The state on behalf of a person or persons under
24 paragraph "a".

25 The bond shall be conditioned such that the registrant will
26 pay any judgment recovered by a person in a court of this
27 state in a suit for actual damages, including reasonable
4081,3584 28 attorney's fees, or for rescission or other equitable relief,
29 resulting from a cause of action involving the sale or offer
30 of sale of travel services. The bond shall be open to
31 successive claims, but the aggregate amount of the claims paid
32 shall not exceed the principal amount of the bond.

33 3. If a registrant has contracted with the airlines
34 reporting corporation or the passenger network services
35 corporation, or similar organizations approved by the

1 secretary of state with equivalent bonding requirements for
2 participation, in lieu of the bond required by subsection 1,
3 the registrant may file with the secretary a certified copy of
4 the official approval and appointment of the applicant from
5 the airlines reporting corporation or the passenger network
6 services corporation.

7 4. In lieu of any bond or guarantee required to be
8 provided by this section, a registrant may do any of the
9 following:

10 a. File with secretary proof of professional liability and
11 errors and omissions insurance in an amount of at least one
12 million dollars annually.

13 b. Deposit with the secretary cash, securities, or a
14 statement from a federally insured financial institution
15 guaranteeing the performance of the registrant up to a maximum
16 of ten thousand dollars to be held or applied to the purposes
17 to which the proceeds of the bond would otherwise be applied.

18 Sec. 4. NEW SECTION. 120.4 PENALTIES.

4081 19 1. a. A person required to register as a travel agency,
20 or an owner of ten percent or more of a travel agency,
21 required to register by this chapter, which fails to register,
22 fails to make required corrections to its registration
23 statement, or fails to pay the required fee on or before
4131 24 thirty days after the fee becomes due, commits a serious
25 misdemeanor.

4081 26 b. A person who is a travel agent employed by a travel
27 agency which fails to register or which fails to include the
28 travel agent in the registration statement or a subsequent
29 correction, commits a simple misdemeanor if that person
30 initially solicits a resident of this state by mail or
31 telecommunications, knowing that the travel agency has failed
32 to perform any act required by this chapter.

33 2. If a person required to be registered or listed upon a
34 registration statement by this chapter receives money, as a
35 fee, commission, compensation, or profit in connection with

1 doing business in this state in violation of section 120.2,
2 the person, in addition to the criminal penalty in subsection
3 1, shall be liable for a civil penalty of not less than three
4 times the sum so received, as may be determined by the court,
5 which penalty may be recovered in a court of competent
6 jurisdiction by an aggrieved person, or by the attorney
7 general for the benefit of an aggrieved person or class of
8 persons.

9 3. A violation of this chapter is also a violation of
10 section 714.16.

11 Sec. 5. NEW SECTION. 120.5 EXEMPTIONS.

12 1. This chapter does not apply to:

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

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

22 2. A travel agency is subject to this chapter,
23 notwithstanding that the customer's name was obtained from the
24 customer as part of a promotion where the customer signed up
25 to receive a sales presentation or to enter a drawing for a
26 prize prior to the initial solicitation. These activities do
27 not constitute a previous travel services provider-customer
28 relationship.

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S-4081

- 1 Amend House File 355, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 1, by striking lines 6 through 10, and
 4 inserting the following:
 5 "3. "Solicitation" means contact by a travel
 6 agency or travel agent of a customer for the purpose
 7 of selling or offering to sell travel services."
 8 2. Page 2, line 1, by striking the word
 9 "initial".
 10 3. Page 2, lines 2 and 3, by striking the words
 11 "by mail, telephone, or other form of
 12 telecommunications".
 13 4. Page 2, line 12, by striking the word
 14 "initial".
 15 5. Page 2, lines 12 and 13 by striking the words
 16 "by mail, telephone, or other form of
 17 telecommunications".
 18 6. Page 3, by striking lines 12 and 13.
 19 7. Page 3, line 35, by inserting after the word
 20 "chapter" the following: ", but not to exceed fifteen
 21 dollars per year per agency".
 22 8. Page 4, by striking lines 3 through 7, and
 23 inserting the following:
 24 "A registrant shall submit to the secretary
 25 corrections to the information supplied in the
 26 registration statement within a reasonable time after
 27 a change in circumstances, which circumstances would
 28 be required to be reported in an initial registration
 29 statement, except travel agents names as required in
 30 subsection 5, paragraph "b". The names of travel
 31 agents shall be updated at the time of annual
 32 registration."
 33 9. Page 4, by striking lines 12 through 17, and
 34 inserting the following:
 35 "1. An application for a travel agency must be
 36 accompanied by a surety or cash performance bond in
 37 conformity with rules adopted by the secretary in the
 38 principal amount of ten thousand dollars, with an
 39 aggregate limit of ten thousand dollars. The bond
 40 shall be executed by a surety company authorized to do
 41 business in this state, and the bond shall be
 42 continuous in nature until canceled by the surety with
 43 not less than sixty days written notice to both the
 44 registrant and to the secretary. The notice shall
 45 indicate the surety's intent to cancel the bond on a
 46 date at least sixty days after the date of the
 47 notice."
 48 10. Page 4, line 28, by striking the words "or
 49 other equitable relief".
 50 11. Page 5, line 19, by striking the word "a."
 Page 2
 1 12. Page 5, by striking lines 26 through 32.
 2 13. Page 6, line 26, by striking the word
 3 "initial".
 4 14. By renumbering, relettering, and
 5 redesignating as necessary.

By RICHARD RUNNING
 WILLIAM PALMER
 ELAINE SYZMONIAK

HOUSE FILE 355

S-3584

1 Amend House File 355, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 4, by striking lines 12 through 17, and
4 inserting the following:

5 "1. An application for a travel agency must be
6 accompanied by a surety or cash performance bond in
7 conformity with rules adopted by the secretary in the
8 principal amount of ten thousand dollars, with an
9 aggregate limit of ten thousand dollars. The bond
10 shall be executed by a surety company authorized to do
11 business in this state, and the bond shall be
12 continuous in nature until canceled by the surety with
13 not less than thirty days written notice to both the
14 registrant and to the secretary. The notice shall
15 indicate the surety's intent to cancel the bond on a
16 date at least thirty days after the date of the
17 notice."

18 2. Page 4, line 28, by striking the words "or
19 other equitable relief".

By WILLIAM D. PALMER

S-3584 FILED APRIL 6, 1989

Out of Order 5-5-89 (p. 1961)

HOUSE FILE 355

S-4137

1 Amend House File 355, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 5, line 24, by inserting after the word
4 "due," the following: "and which fails to correct the
5 omission within thirty days after receipt of notice
6 from the secretary to correct an omission,".

By JULIA B. GENTLEMAN

S-4137 FILED MAY 5, 1989

See 5/6/89 (p. 2028)

SENATE AMENDMENT TO HOUSE FILE 355

H-4475

1 Amend House File 355, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by striking lines 6 through 10, and
4 inserting the following:

5 "3. "Solicitation" means contact by a travel
6 agency or travel agent of a customer for the purpose
7 of selling or offering to sell travel services."

8 2. Page 2, line 1, by striking the word
9 "initial".

10 3. Page 2, lines 2 and 3, by striking the words
11 "by mail, telephone, or other form of
12 telecommunications".

13 4. Page 2, line 12, by striking the word
14 "initial".

15 5. Page 2, lines 12 and 13 by striking the words
16 "by mail, telephone, or other form of
17 telecommunications".

18 6. Page 3, by striking lines 12 and 13.

19 7. Page 3, line 35, by inserting after the word
20 "chapter" the following: ", but not to exceed fifteen
21 dollars per year per agency".

22 8. Page 4, by striking lines 3 through 7, and
23 inserting the following:

24 "A registrant shall submit to the secretary
25 corrections to the information supplied in the
26 registration statement within a reasonable time after
27 a change in circumstances, which circumstances would
28 be required to be reported in an initial registration
29 statement, except travel agents names as required in
30 subsection 5, paragraph "b". The names of travel
31 agents shall be updated at the time of annual
32 registration."

33 9. Page 4, by striking lines 12 through 17, and
34 inserting the following:

35 "1. An application for a travel agency must be
36 accompanied by a surety or cash performance bond in
37 conformity with rules adopted by the secretary in the
38 principal amount of ten thousand dollars, with an
39 aggregate limit of ten thousand dollars. The bond
40 shall be executed by a surety company authorized to do
41 business in this state, and the bond shall be
42 continuous in nature until canceled by the surety with
43 not less than sixty days written notice to both the
44 registrant and to the secretary. The notice shall
45 indicate the surety's intent to cancel the bond on a
46 date at least sixty days after the date of the
47 notice."

48 10. Page 4, line 28, by striking the words "or
49 other equitable relief".

50 11. Page 5, line 19, by striking the word "a."

Page 2

1 12. Page 5, by striking lines 26 through 32.

2 13. Page 6, line 26, by striking the word
3 "initial".

4 14. By renumbering, relettering, and
5 redesignating as necessary.

RECEIVED FROM THE SENATE

H-4475 FILED MAY 6, 1989

CONCURRED (p. 2627)

HOUSE FILE 355

AN ACT

RELATING TO TRAVEL AGENTS AND AGENCIES BY PROVIDING FOR REGISTRATION AND REGULATION, AND PROVIDING FOR FEES AND PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 120.1 DEFINITIONS.

1. "Applicant" means a person applying for registration under this chapter.
2. "Customer" means a person who is offered or who purchases travel services.
3. "Solicitation" means contact by a travel agency or travel agent of a customer for the purpose of selling or offering to sell travel services.
4. "Registrant" means a person registered pursuant to this chapter.
5. "Secretary" means the secretary of state.
6. "Travel agency" means 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.
7. "Travel agent" means a person employed by a travel agency whose principal duties include consulting with and advising persons concerning travel arrangements or accommodations.

8. "Travel services" means arranging or booking vacation or travel packages, travel reservations or accommodations, tickets for domestic or foreign travel by air, rail, ship, bus, or other medium of transportation, or hotel or other lodging accommodations. Travel services include travel related prizes or awards for which the customer must pay a fee or, in connection with the prize or award, expend moneys for the direct or indirect monetary benefit of the person making the award, in order for the customer to collect or enjoy the benefits of the prize or award.

Sec. 2. NEW SECTION. 120.2 REGISTRATION REQUIRED.

1. a. A travel agency doing business in this state shall register with the secretary of state as a travel agency if it or its travel agent conducts the solicitation of an Iowa resident.
b. A travel agency required to register under paragraph "a" shall not permit a travel agent employed by the travel agency to do business in this state unless the agency has filed the required registration statement.
2. A travel agent shall not knowingly do business in this state unless and until the travel agency employing the travel agent has registered with the secretary of state as a travel agency if the travel agency or any of the agency's travel agents conduct the solicitation of an Iowa resident.
3. This section 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, having previously arranged travel related services for that customer on at least one prior occasion.
4. "Doing business" in this state, for purposes of this chapter, means any of the following:
 - a. Offering to sell or selling travel services, if the offer is made or received within the state.

b. Offering to arrange, or arranging, travel services for a fee or commission, direct or indirect, if the offer is made or received in this state.

c. Offering to, or awarding travel services as a prize or award, if the offer or award is made in or received in this state.

5. An applicant shall complete the registration statement form provided by the secretary. The registration statement must be accompanied by the required bond or evidence of financial responsibility and the registration fee. The registration statement shall include all of the following:

a. The name and signature of an officer or partner of a business entity or the names and signatures of the principal owner and operator if the agency is a sole proprietorship.

b. The name, address, and telephone number of the applicant and the name of all travel agents employed by the applicant travel agency.

c. The name, address, and telephone number of any person who owns or controls, directly or indirectly, ten percent or more of the applicant.

d. If the applicant is a foreign corporation or business, the name and address of the corporation's agent in this state for service of process.

e. Any additional information required by rule adopted by the secretary pursuant to chapter 17A.

The application shall be accompanied by a written irrevocable consent to service of process. The consent must provide that actions in connection with doing business in this state may be commenced against the registrant in the proper jurisdiction in this state in which the cause of action may arise, or in which the plaintiff may reside, by service of process on the secretary as the registrant's agent and stipulating and agreeing that such service of process shall be taken and held in all courts to be as valid and binding as if service of process had been made upon the person according to

the laws of this or any other state. The consent to service of process shall be in such form and supported by such additional information as the secretary may by rule require.

An annual registration fee as established by the secretary by rule is required at the time the registration statement is filed with the secretary, and on or before the anniversary date of the effective date of registration for each subsequent year. The registration fee shall be established at a rate deemed reasonably necessary by the secretary to support the administration of this chapter, but not to exceed fifteen dollars per year per agency. If a registrant fails to pay the annual registration fee, the registration lapses and becomes ineffective.

A registrant shall submit to the secretary corrections to the information supplied in the registration statement within a reasonable time after a change in circumstances, which circumstances would be required to be reported in an initial registration statement, except travel agents names as required in subsection 5, paragraph "b". The names of travel agents shall be updated at the time of annual registration.

The secretary may revoke or suspend a registration for cause subject to the contested case provisions of chapter 17A.

Sec. 3. NEW SECTION. 120.3 EVIDENCE OF FINANCIAL SECURITY.

1. An application for a travel agency must be accompanied by a surety or cash performance bond in conformity with rules adopted by the secretary in the principal amount of ten thousand dollars, with an aggregate limit of ten thousand dollars. The bond shall be executed by a surety company authorized to do business in this state, and the bond shall be continuous in nature until canceled by the surety with not less than sixty days written notice to both the registrant and to the secretary. The notice shall indicate the surety's intent to cancel the bond on a date at least sixty days after the date of the notice.

2. The bond shall be payable to the state for the use and benefit of either:

a. A person who is injured by the fraud, misrepresentation, or financial failure of the travel agency or a travel agent employed by the travel agency.

b. The state on behalf of a person or persons under paragraph "a".

The bond shall be conditioned such that the registrant will pay any judgment recovered by a person in a court of this state in a suit for actual damages, including reasonable attorney's fees, or for rescission, resulting from a cause of action involving the sale or offer of sale of travel services. The bond shall be open to successive claims, but the aggregate amount of the claims paid shall not exceed the principal amount of the bond.

3. If a registrant has contracted with the airlines reporting corporation or the passenger network services corporation, or similar organizations approved by the secretary of state with equivalent bonding requirements for participation, in lieu of the bond required by subsection 1, the registrant may file with the secretary a certified copy of the official approval and appointment of the applicant from the airlines reporting corporation or the passenger network services corporation.

4. In lieu of any bond or guarantee required to be provided by this section, a registrant may do any of the following:

a. File with secretary proof of professional liability and errors and omissions insurance in an amount of at least one million dollars annually.

b. 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 ten thousand dollars to be held or applied to the purposes to which the proceeds of the bond would otherwise be applied.

Sec. 4. NEW SECTION. 120.4 PENALTIES.

1. A person required to register as a travel agency, or an owner of ten percent or more of a travel agency, required to register by this chapter, which fails to register, fails to make required corrections to its registration statement, or fails to pay the required fee on or before thirty days after the fee becomes due, commits a serious misdemeanor.

2. If a person required to be registered or listed upon a registration statement by this chapter receives money, as a fee, commission, compensation, or profit in connection with doing business in this state in violation of section 120.2, the person, in addition to the criminal penalty in subsection 1, shall be liable for a civil penalty of not less than three times the sum so received, as may be determined by the court, which penalty may be recovered in a court of competent jurisdiction by an aggrieved person, or by the attorney general for the benefit of an aggrieved person or class of persons.

3. A violation of this chapter is also a violation of section 714.16.

Sec. 5. NEW SECTION. 120.5 EXEMPTIONS.

1. This chapter does not apply to:

a. 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.

b. 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.

2. A travel agency is subject to this chapter, notwithstanding that the customer's name was obtained from the customer as part of a promotion where the customer signed up to receive a sales presentation or to enter a drawing for a prize prior to the solicitation. These activities do not

constitute a previous travel services provider-customer relationship.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 355, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved June 1, 1989

TERRY E. BRANSTAD
Governor