



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone: 517/373-6466

TRAVEL PROMOTION CONSUMER PROTECTION

House Bills 4188 and 4189
Sponsor: Rep. Judith Miller
Committee: Consumers

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A SUMMARY OF HOUSE BILLS 4188 and 4189 AS INTRODUCED 2-15-89

The bills would regulate the activities of the travel promotion industry and provide for their compliance with the Michigan Consumer Protection Act. The bills would not apply to the providers of transportation or transportation related services, nor to their employees, nor to religious, charitable, educational, or fraternal organizations exempt from taxation under the Internal Revenue Code if acting on behalf of their members.

The bills are tie-barred to each other.

House Bill 4188 would create the Travel Promotion Consumer Protection Act to regulate the activities of travel promoters. Under the bill, "travel promoter" would be defined as a person doing business in the state who was primarily engaged in the sale of transportation or transportation related services, and who did one or more of the following:

- a) Solicited the purchase of transportation or transportation related services;
- b) Issued or delivered a ticket representing the sale of transportation or transportation related services.
- c) Collected payment from a customer for the sale of transportation or transportation related services.

"Transportation" would be defined as the conveyance of individuals by air, sea, rail, motor vehicle, or by any other means, on any foreign or domestic carrier; and "transportation related services" would mean all services reasonably related to transportation, including, but not limited to, car rentals, transfers, sightseeing tours, meals, and lodging.

Escrow and insurance requirements. The bill would require travel promoters who did not have insurance coverage of \$1 million for professional errors and admissions, and \$100,000 for insolvency or business failure to immediately deposit 90 percent of all money received from a customer into an escrow account in a federally insured lending institution. The account could not be encumbered by the travel promoter in any manner. Withdrawals could only be made for monthly interest earned, for partial or full payment of travel services, or for a refund, as required by the contract.

Contract requirements. The bill would prohibit travel promoters from advertising the availability of transportation or transportation related services without first contracting for the transportation or services. Before accepting payment from customers, travel promoters would be required to furnish a written statement clearly setting forth all terms of the travel arrangements, including information on their escrow account or insurance coverage; all conditions under which the contract could be cancelled; and a

statement in boldface type outlining refund conditions. The contract could not contain any provisions that conflicted or rendered void the requirements of the act.

Refunds. Unless a customer had waived the right, the bill would require travel promoters to provide refunds within five business days of transportation or services cancelled through no action of the customer. Under one or more of the following circumstances, customers could request cancellation, with a refund to be paid within five business days: the travel promoter willfully misrepresented the time, date, or place of any departure or arrival; misrepresented the type of transportation or services; or was unable to deliver a ticket in the manner prescribed under the act. Customers could waive their right to a refund for a cancellation if the waiver were in writing, in a document separate from the contract, and executed within five days of the date of cancellation by the travel promoter or by the customer.

Tickets. Travel promoters would be required to deliver tickets -- either directly, through a delivery service, or by mail -- within two business days after payment by the customer, except in cases where payment had been made by check, credit card, draft, or any other method where a delay of more than eight hours would occur before the travel promoter would receive credit. In this situation, the bill would require the tickets to be delivered within two business days of the time the payment was credited to the travel promoter's account, or upon the expiration of the maximum holding period authorized under the Uniform Commercial Code, whichever was earlier.

Violation of the act would be considered a method, act, or practice in the conduct of trade or commerce that was unfair, unconscionable, or deceptive, as defined by the Michigan Consumer Protection Act.

House Bill 4189 would amend the Michigan Consumer Protection Act to provide that a violation of the Travel Promotion Consumer Protection Act proposed in House Bill 4188 would be an unfair trade practice under the Consumer Protection Act.

MCL 445.903