



**House  
Legislative  
Analysis  
Section**

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## **REGULATE TRAVEL AGENTS**

**House Bill 4435 (Substitute H-3)  
First Analysis (12-8-94)**

**Sponsor: Rep. Ilona Varga  
Committee: Consumers**

### ***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 this summer serves to illustrate the nationwide extent of this problem: in the spring of this 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. 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:***

According to the House Fiscal Agency, the bill has no fiscal implications. (12-7-94)

### ***ARGUMENTS:***

#### ***For:***

Michigan law does not at present provide adequate protection for consumers who pay money to secure travel plans to firms that represent themselves as legitimate travel agents, but who fail to deliver on their promises. Countless sums have been lost when travel firms failed to make necessary arrangements and misappropriated customers' deposits. Adding to customers' unhappiness over money lost has been the disruption and loss of long-anticipated trips. The damages provision of the bill, as well as the insurance and bonding requirements, would provide Michigan consumers with some protection for payments made to travel firms.

#### ***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

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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. 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:***

AAA of Michigan supports the bill. (12-7-94)

The American Society of Travel Agents (ASTA) supports the bill. (12-7-94)

The Lansing Area Travel Agents Board of Directors supports the bill. (12-7-94)

The Department of Commerce is not opposed to the bill. (12-7-94)

The Michigan Consumers Federation has no position on the bill. (12-7-94)

The attorney general has no position on the bill. (12-7-94)