

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 1099

91ST GENERAL ASSEMBLY

Reported from the Committee on Agriculture, Conservation, Parks and Tourism, April 4, 2002, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4015S.04C

AN ACT

To amend chapter 407, RSMo, by adding thereto six new sections relating to tourist services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto six new sections, to be known as sections 407.1375, 407.1378, 407.1381, 407.1384, 407.1387 and 407.1390, to read as follows:

407.1375. As used in sections 407.1375 to 407.1390 the phrase "engaged in the business of selling prearranged travel-related or tourist-related services", includes but is not limited to, selling or entering into contracts or other arrangements under which a purchaser receives a premium, coupon or contract for car rentals, lodging, transfers, entertainment, sightseeing or any service reasonably related to air, sea, rail, motor coach or other medium of transportation directly to the consumer.

407.1378. 1. Any corporation, association, cooperative, partnership, limited liability partnership or limited liability company, foreign or domestic, engaged in the business of selling prearranged travel-related or tourist-related services in this state shall keep its registration or certificate of authority to do business in this state with the secretary of state current and in good standing pursuant to the applicable provisions of chapters 347, 351, 355, 356, 357, 358 and 359, RSMo.

2. Any person or entity engaged in the business of selling prearranged travel-related or tourist-related services in this state which is required to register a fictitious name pursuant to the provisions of chapter 417, RSMo, shall keep the information on file with the secretary of state pursuant to such registration current.

407.1381. 1. Before entering into any contract or agreement to sell prearranged

travel-related or tourist-related services, every seller of prearranged travel-related or tourist-related services shall file and maintain with the office of the attorney general a bond with corporate surety from a company authorized to transact business in this state or a letter of credit from a bank insured by the Federal Deposit Insurance Corporation in the amount of fifty thousand dollars or one hundred thousand dollars before the seller enters into any contract or agreement for services with a group of more than twenty purchasers. Such bond will be renewed annually.

2. At the time of the filing of the bond or letter of credit, every seller of prearranged travel-related or tourist-related services shall, using a form prescribed by the attorney general, furnish the attorney general with the following information:

- (1) Name of the company, including business address and phone number;
- (2) Name or names of the principals of the business; and
- (3) Any other information that the attorney general deems necessary.

407.1384. 1. The bond or letter of credit required by section 407.1381 shall be in favor of the state of Missouri for the benefit of any private claimant who suffers a loss as a result of a violation of sections 407.1375 to 407.1390.

2. The aggregate liability of the bond or letter of credit to all persons for all breaches of the conditions of the bond or letter of credit shall in no event exceed one hundred thousand dollars. If the amount of claim against the bond or letter of credit exceeds fifty thousand dollars, or one hundred thousand dollars for a claim on a contract for services with a group of more than twenty purchasers, for those claims shall be paid pro rata to the claimants. No bond or letter of credit shall be cancelled or terminated except with the consent of the attorney general.

3. The remedies available in this section are cumulative and in addition to any other remedies available by law.

407.1387. 1. Any purchaser of prearranged travel-related or tourist-related services may rescind such purchase by giving written notice any time before midnight of the fifteenth business day following the date on which the purchase was made except when such purchase of merchandise or services would be provided within the rescission period. Such cancellation shall be without liability on the part of the purchaser and shall entitle the purchaser to a refund of the entire consideration paid for the contract.

2. Notice of cancellation shall be in writing and delivered personally or by mail. If given by mail, the notice is effective upon deposit in a mailbox, properly addressed and postage paid. Notice of cancellation need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the purchaser not to be bound by the contract. If delivered personally, the notice is to

be accepted by any agent or employee of the seller, and a receipt for the notice must be given by that agent or employee to the person rescinding.

3. The entitled refund shall be delivered to the purchaser within fourteen days after notice of rescission is given.

4. Rights of rescission may not be waived or otherwise surrendered.

5. Rescission shall not relieve the purchaser from paying for any merchandise or services received prior to the date of rescission.

407.1390. 1. Violation of any provision of sections 407.1375 to 407.1390 shall be deemed an unlawful practice pursuant to sections 407.010 to 407.130, and shall be subject to all penalties, remedies and procedures provided in sections 407.010 to 407.130. The attorney general shall have all powers, rights and duties regarding violations of sections 407.1375 to 407.1390 as are provided in sections 407.010 to 407.130 and shall have the rulemaking authority as provided in section 407.145.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.