

Date of Hearing: May 3, 2016

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND  
INTERNET MEDIA

Kansen Chu, Chair

AB 2138 (Low) – As Amended April 20, 2016

**SUBJECT:** Sellers of travel.

**SUMMARY:** Clarifies the jurisdiction and scope of the Sellers of Travel Law, as provided. Specifically, **this bill** provides that a seller of travel shall be deemed to do business in this state if the seller of travel solicits business from locations in this state regardless of the geographic location of the prospective purchaser including persons located outside of this state or the country.

**EXISTING LAW:** Declares that a seller of travel shall be deemed to do business in this state if the seller of travel solicits business from locations in this state or solicits prospective purchasers who are located in this state. Business and Professions Code section 17550.20.(a).

**FISCAL EFFECT:** None. The Legislative Counsel has keyed this measure non-fiscal.

**COMMENTS:**

- 1) *Author's statement of need for legislation: To clarify the law and thereby curb consumer fraud in the area of travel sales to foreign national and out of state tourists.* According to the author, the “tourism industry has allowed many types of businesses to thrive, from travel agents to tour operators, tour guides to bus drivers. However, there are growing concerns about businesses, in this case, sellers of travel, who sell or promote a particular service or good to foreign visitors. The author believes this clarification of the law is needed as there have been numerous reports about travel companies in Southern California making misrepresentations about their travel offerings. Specifically, the reports describe companies that promote travel packages to visitors from other countries, such as China, to visit California. For example, one anecdote describes a situation where a travel agent sold a package that was advertised as including a stay at a five-star hotel and a trip to Disneyland, among other things, but what it actually included was a three-star hotel and a drive-by in front of Disneyland. To keep businesses accountable under the state’s seller of travel law, this bill clarifies that any California based seller of travel is deemed to do business in California, and therefore is bound by the Sellers of Travel law, regardless of the geographic location of the visitor in this country or abroad.”
- 2) *Background: The Sellers of Travel Law.* Existing law requires sellers of travel to register with the Office of the Attorney General (OAG) and establishes procedures and civil and criminal penalties to protect consumers against misrepresentations and harmful business practices (BPC §§ 17550-17550.30). The law includes, among others, a person who wishes to sell, provide, arrange, or advertise specified travel packages. As relevant to this bill, existing law specifies that “a seller of travel shall be deemed to do business in this state if the seller of travel solicits business from locations in this state or solicits prospective purchasers who are located in this state” (BPC § 17550.20). Because the law does not expressly include solicitation of business from California directed to locations out of the state or country, the OAG may find extra-territorial enforcement easier with the clarification contained in this bill.

- 3) *Recent amendments: Delete the former controversial contents of the bill which would create a certificate program for tour guides and substitute the current consumer protection clarification.* As introduced, AB 2138 would have established the California Tour Guide Act and provided for the certification and regulation of tour guides by the California Travel and Tourism Commission, which it would have created under the Public Utilities Commission. The original version of the bill was substantially similar to AB 836 (Rendon) of last year, discussed below, and faced considerable drafting, implementation and constitutional challenges. Ultimately, the author concluded that while better trained tour guides is a laudable goal, tour guide certification was not responsive to the concerns raised of consumer fraud committed by some travel agents and the unclear scope of authority under the existing Sellers of Travel Law to stop such illegal acts.
- 4) *Prior related legislation:* AB 836 (Rendon), of 2015, would have established the California Tour Guide Act and provided for the certification and regulation of tour guides by the California Travel and Tourism Commission, as specified. That bill was held in the Assembly Committee on Appropriations.

**REGISTERED SUPPORT / OPPOSITION:****Support**

There is no support for this version of the bill on file.

**Opposition**

There is no opposition for this version of the bill on file.

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