

SELLER OF TRAVEL LAWS:
WHAT ARE THEY AND WHO NEEDS TO REGISTER
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Despite the fact that Seller of Travel Laws impact most of our industry, the laws are confusing and many “sellers” of travel do not even know that exist. Members of the NTA that “sell” travel should analyze whether or not these laws are applicable.

Five states have recognized the need to protect their citizens from unscrupulous actions of sellers of travel and have enacted what we call Seller of Travel Laws. These laws require sellers of travel to be registered with the state and to protect their clients’ fees through the use of either a trust account, a bond or other state approved measures. Let’s take a look at the states, the laws, and the exemptions.

California, Florida, Washington, Hawaii, and Iowa all have seller of travel laws that require sellers of travel to register with their respective states. It is easy to assume you are safe from these requirements if your business is not in one of these states. However, the definition utilized for who qualifies as Sellers of Travel in these states is very broad.

For instance the Florida defines a seller of travel as, “any resident or nonresident person, firm, corporation or business entity that offers for sale, directly or indirectly, at wholesale or retail, prearranged travel or tourist-related services for individuals or groups, through vacation or tour packages, or through vacation certificates in exchange for a fee, commission or other valuable consideration. The term includes any business entity offering membership in a travel club or travel service for an advance fee or payment, **even if no travel contracts or certificates or vacation or tour packages are sold by the business entity.**”

In California any seller of travel who is “doing business” in California must register. The broad definition of “doing business” includes solicitation of “**prospective** purchasers who are located in this state.” Both definitions are so broad that simply having a website that one of their residents might view (they don’t even have to purchase) is enough to bring you within the statute. In laymen’s terms, if there is a chance that your business will contact through advertising or sell to a resident of the state, you should register.

While each state has its own registration requirements the basic requirements are that you file as a business in that state, you obtain a trust account or bond, and you register as a seller of travel. The registration supplies customers with information, including contact information, in case they wish to lodge a complaint. The trust or bond is a protection for consumer money to ensure that the consumer’s money is used for the purpose intended.

The registration and business license must be renewed yearly and most states will then require you to pay additional taxes and fees. For instance, in California there is a minimum \$800.00 annual tax for Sellers of Travel. This of course means additional cost to your business, however, failing to register can result in civil and criminal penalties. Before registering you should consider the additional costs involved and craft your fee structures accordingly.

There are exemptions from filing as a seller of travel in these states. Most of these exemptions are related to independent contractors. Generally, if the host agent is registered as a Seller of Travel the independent contractor will fall under their umbrella. It is important however, to be familiar with each states' laws regarding these exemptions as they do vary and can have additional requirements and fees for independent contractors. For example, in Florida all independent contractors must fill out an application and pay an annual fee of \$50.00.

While these laws may seem burdensome and definitely require financial forethought, at the end of the day these laws protect our customers and ensure the protection of our industry's image. Two things we can all value.

For close to 30 years, Connecticut-based NTA member Jeff Ment has provided legal representation to companies and individuals in the tourism industry, with clients spanning the globe. His experience ranges from helping form new companies to defending lawsuits. His focus is ensuring that clients are always ahead of the curve - following best practices. This includes risk management, regulatory compliance, seller of travel registration, IATA/ARC issues, vendor selection, tour director training, and insurance coverage. As a former travel advisor, airline sales manager and tour guide, he relies on personal experience to understand what travel clients need.