

Legal Measures in Punishment and Control of Tourism Business and Tourist Guide

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KEYWORDS

*Legal Measures;
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ABSTRACT

This article aims to: 1) study theoretical concepts relating to legal measures for punishment and control of tourism businesses and tour guides, as well as related research findings; 2) examine factual and legal problems concerning legal measures for punishment and control of tourism businesses and tour guides in the Kingdom of Thailand; 3) analyze and compare legal measures for punishment and control of tourism businesses and tour guides in foreign countries with those in Thailand; and 4) propose appropriate legal measures for punishment and control of tourism businesses and tour guides in Thailand based on comparative foreign practices. This study employed a qualitative research approach, utilizing theories of punishment, legal texts, academic literature, focus group discussions, and in-depth interviews with the following groups: 1) government officials, 2) tourism business operators, 3) tour guides, 4) legal scholars and lawyers, and 5) affected members of the public. The findings revealed that 1. The concepts of punishment include retribution, deterrence, and rehabilitation. 1. A comparison of legal measures in the United Kingdom, Australia, Singapore, Vietnam, and Thailand showed that the major problems include operating a tourism business without authorization, failure to provide licensed tour guides to accompany tourists, acting as a tour guide without authorization, and altering tour programs from what was originally advertised. 3. The study demonstrates that Thailand's legal framework prioritizes punitive measures over protective and developmental strategies. In contrast, foreign legal systems integrate consumer protection, fair trade practices, and service quality standards to ensure balanced legal enforcement. 4. The study suggests that cooperation between relevant state agencies and strict law enforcement is essential. Thailand's legal measures currently place less emphasis on consumer protection compared to foreign countries, which prioritize consumer protection and regulation before punishment. If Thailand enhances consumer protection through stricter enforcement and clearer contractual tour terms, the tourism industry would be better promoted through protection rather than punishment...

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1. INTRODUCTION

The Kingdom of Thailand is located in a region rich in geographical diversity, natural resources, and cultural, religious, and social tourist attractions, as well as beautiful natural scenery. As a result, a large number of both domestic and international tourists visit Thailand each year, generating enormous tourism revenue. The operation of tour businesses and tour guide services plays a vital role in the national economy, ranking as the leading revenue-generating sector within the service industry and contributing significantly to the country's gross domestic income.

According to statistics from the Ministry of Tourism and Sports, more than 28.04 million foreign tourists visited Thailand between 1 January and 31 December 2023, generating over 1.2 trillion baht in revenue from tourist expenditures. During the year-end holiday season welcoming the New Year 2024, Thailand's tourism atmosphere – both international and domestic markets – became more vibrant compared to the previous year, generating total tourism revenue of approximately 54.4 billion baht, representing a 44% increase compared to the same period of the previous year (Public Relations Department, 2024).



However, problems affecting the tourism industry have caused damage to the Kingdom of Thailand, such as unlicensed tour operators or so-called “illegal tours,” individuals acting as tour guides without proper licenses, alterations of tour programs from what was originally advertised, and non-compliance with rules and procedures prescribed by ministerial regulations. These issues have led to numerous legal disputes and subsequent criminal and civil cases, including fraud, embezzlement, breach of contract, and related offenses (Dhammahansasakul & Theppa, 2024, Channuwong et al., 2025).

This research article presents theoretical concepts and fundamental principles concerning legal enforcement in the punishment and control of tour businesses and tour guides, particularly in cases of legal violations such as operating without a license, acting as a tour guide without authorization, and altering tour programs after payment has been made. In such cases, tour operators are required to refund payments without delay, as practiced in the United Kingdom, Japan, the Commonwealth of Australia, Singapore, and the Socialist Republic of Vietnam. The study aims to analyze and compare foreign legal enforcement approaches in order to adapt suitable practices for Thailand and improve the effectiveness of punishment and control measures in line with current circumstances, thereby promoting sustainable Thai tourism.

2. RESEARCH OBJECTIVES

The research objectives of this study are as follows:

- 1) To study theoretical concepts relating to legal measures for punishment and control of tourism businesses and tour guides, as well as related research findings;
- 2) To examine factual and legal problems concerning legal measures for punishment and control of tourism businesses and tour guides in the Kingdom of Thailand;
- 3) To analyze and compare legal measures for punishment and control of tourism businesses and tour guides in foreign countries with those in Thailand;
- 4) To propose appropriate legal measures for punishment and control of tourism businesses and tour guides in Thailand based on comparative foreign practices.

3. LITERATURE REVIEW

This research focuses on the study of legal enforcement in the punishment and control of tour businesses and tour guides through comparative analysis of Thai and foreign laws, as well as theoretical concepts on punishment and regulation. The review covers the following areas: Concepts of legal enforcement in the punishment and control of tour businesses and tour guides under the Tourism Business and Guide Act B.E. 2551 (2008) and its amendment (No. 2) B.E. 2559 (2016), which grants authority to the Tourism Business and Guide Committee and the Registrar to impose penalties and oversee operators. Penalties include imprisonment, detention, fines, and license revocation, aiming to ensure compliance with the Act, ministerial regulations, and related legal provisions (Announcement of the Tourism Business and Guide Committee, 2020; Athipattayakul & Intamano, 2020).

Theories of punishment and control, including retributive punishment, deterrence, and rehabilitative punishment, which emphasize human free will, rational decision-making, and the balance between cost and benefit in criminal behavior (United Nation General Assembly, 2020; Channuwong et al., 2022; Tourism Business and Guide Act B.E. 2551, 2008; Ministry of Tourism and Sports, 2018). Theoretical concepts concerning tour businesses and tour guides, analyzing the historical development of tourism from ancient civilizations such as Persia, Assyria, Greece, Egypt, and Rome, where travel initially served military, trade, and political purposes and later evolved into organized tourism (Chuede, 2020; Dhammahansasakul & Channuwong, 2020). Concepts concerning the limitation of rights and freedoms and the principle of proportional punishment as prescribed in the Constitution of the Kingdom of Thailand B.E. 2560 (2017).

The Tourism Business and Tourist Guide Act empower the Tourism Business and Tourist Guide Committee and the Registrar to impose criminal, civil, and administrative penalties such as imprisonment, fines, suspension, and license revocation. Theories of Punishment and Control and Relevant theories include: 1. Retributive theory – punishment as deserved penalty; 2. Deterrence theory – discouraging unlawful behavior; 3. Rehabilitative theory – reforming offenders (Chuede, 2020). These theories emphasize human rational behavior, free will, and decision-making based on cost-benefit expectations. Tourism Business and Tourist Guide Concepts included historical development of tourism from ancient empires (Persia, Assyria, Greece, Egypt, Rome) highlights military expeditions, trade, and royal construction activities, which generated early forms of roads and accommodation (Channuwong et al., 2025). Concepts on Rights Restrictions and Legal Limitations included Thai constitutional principles that govern the use of necessary and proportionate punishment as well as protection of rights and liberties (Sriwasutthi, et. al., 2020)

CONCEPTUAL FRAMEWORK

Stakeholder Groups Involved

Group 1: Government officers (tourist police and Department of Tourism officials); Group 2: Tour business operators; Group 3: Tourist guides and tour leaders; Group 4: Legal scholars and lawyers; Group 5: Affected consumers		
Theoretical Concepts and Related Research	Issues of Facts / Legal Problems	Related Laws
1. Concepts related to Thai law and regulatory control 2. Concepts related to tourism business and tourist guides 3. Concepts related to tourist guides 4. Constitutional rights and liberties 5. Proportionality and necessary punishment 6. Relevant previous studies.	Issues of Facts: • Operating a tour business without a license • Failure to provide a licensed guide • Unlicensed guide operations • Altering tour programs Legal Problems: • Section 80 – penalties too low • Section 85 – fines too high • Section 86 – insufficient penalties • Sections 27/26/83 – unclear refund timeframe	International Law: • UNWTO Global Code of Ethics for Tourism Foreign Laws: • UK tour business regulations • Japan Travel Agency Law • Australia tourism regulations • Singapore Travel Agents Act • Vietnam Law on Tourism Thai Laws: • Constitution B.E.2560 • National Strategy 20 Years • NESDP No.13 • Tourism Business and Tourist Guide Act B.E.2551 & 2559 • Ministerial Regulations (2018)

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4. RESEARCH METHODOLOGY

This research applied a mix research methodology, using both quantitative and qualitative approach by focusing on legal enforcement in the punishment and control of tourism business operation.

The research procedures were divided into four main stages as follows:

Stage 1: Documentary Study

The researcher conducted a comprehensive review of preliminary concepts related to legal enforcement in the punishment and control of tour businesses and tour guides by examining statutory laws, academic textbooks, research articles, journal publications, and relevant documents. Data were collected from both Thai and foreign legal systems, as well as from online information networks, in order to analyze and identify appropriate legal improvements and solutions.

Stage 2: Development of In-depth Interview Instrument

An in-depth interview questionnaire was developed based on theoretical concepts and relevant research findings, ensuring alignment with the research objectives and conceptual framework. The questionnaire was reviewed by the research advisor and subsequently examined by experts for validation before being used for data collection.

Stage 3: Data Collection

1. The researcher coordinated with the population and sample groups selected for in-depth interviews to establish rapport and ensure understanding of the research objectives and procedures.
2. Official request letters were submitted through the university to obtain permission from relevant agencies for conducting in-depth interviews.



3. Data collection methods included:

3.1 In-depth interviews conducted with the population and sample groups following the structured interview format.

3.2 Recording of discussions using written notes, audio recordings, and visual recording devices.

3.3 Focus group discussions involving 10 experts divided into five groups (two participants per group), consisting of:

Group 1: Government officials (tourist police and Department of Tourism officers)

Group 2: Tour business operators

- Group 3: Tour guides and tour leaders

- Group 4: Legal academics and lawyers

- Group 5: Affected members of the public

Stage 4: Data Analysis

1. Analysis of factual and legal problems regarding enforcement of laws in the punishment and control of tour businesses and tour guides based on legal documents.

2. Analysis of data obtained from group discussions and in-depth interviews to evaluate opinions and recommendations according to predetermined interview themes.

3. Interpretation of in-depth interview findings, categorized into five sections:

1) Background information of respondents

2) Knowledge and understanding of relevant laws and regulations

3) Opinions on existing problems and appropriateness of legal amendments

4) Cooperation and joint solutions among relevant agencies

5) Summary of research findings and recommendations

5. RESEARCH RESULTS

The research findings for objective 1 can be concluded that the legal concepts governing tour businesses and tour guides in the Kingdom of Thailand emphasize punishment and control under the Tourism Business and Guide Act, ministerial regulations, and related rules issued by the Tourism Business and Guide Committee. In contrast, foreign countries focus on promotion and protection prior to punishment. Countries with Common Law systems such as the United Kingdom, Australia, and Singapore adopt laws emphasizing consumer protection, fair practice, and high service standards. These legal systems prioritize quality control, financial protection, and clear information disclosure for tour packages, ensuring that tourists are protected and compensated where necessary.

The research findings for objective 2 obtained from group discussions and in-depth interviews with key stakeholders, reveal that the core issues lie in enforcement gaps and legal loopholes. The study proposes that amendments to the Tourism Business and Tourist Guide Act B.E. 2551 (2008), as previously amended in B.E. 2559 (2016) (No. 2), should be revisited. Based on a comparative analysis of criminal law concepts relevant to tourism-related offenses, the necessary amendments are as follows:

1. Legal Measure. Business operators who do not receive authorization to operate a tourism business but still conduct such business under Section 80 should face increased penalties. Currently, offenders are subject to a fine not exceeding 500,000 baht, but this penalty is insufficient to deter offenders. The study suggests increasing the fine in line with Deterrence Theory, meaning the penalty must be high enough to discourage future violations.

2. Legal Measure. Business operators who are authorized to operate tourism businesses but allow foreign individuals to work as tour guides in violation of Section 85, in conjunction with Section 33, should face stricter penalties. This offense is a significant violation of consumer rights and impacts the tourism industry. Penalties should be increased to align with Deterrence Theory, meaning fines must be sufficiently severe to prevent repeated offenses.

3. Legal Measure. Persons who work as tour guides without obtaining a tour guide license, as required under Section 87, currently face minor penalties, making the existing legal measures insufficient. The study proposes increasing the fine to exceed 100,000 baht, in accordance with Rehabilitative Theory, meaning penalties should guide offenders toward lawful conduct.

4. Legal Measure. Persons who violate advertising regulations by presenting themselves as licensed tour guides, despite lacking qualifications under Section 27, currently face penalties under Section 83 that are too low. The study recommends



increasing fines from the current 5,000 to 50,000 baht to higher amounts, based on Retributive Theory, meaning penalties should correspond to the harm caused by the offense.

The results of the study of objective 2 also identified key factual and legal issues that require legal amendment as follows:

1. Operating a tour business without a license (Section 80): The current penalty of imprisonment not exceeding two years was found insufficient. It is recommended to increase the maximum imprisonment to three years, while maintaining the existing fine of not exceeding 500,000 baht.

2. Failure to provide a licensed tour guide (Section 85 in conjunction with Section 33):

The current fine was considered excessively high and inappropriate for small private group travel. It is recommended to reduce the fine to not exceeding 200,000 baht.

3. Acting as a tour guide without a license (Section 86):

The existing penalty is deemed insufficient as it fails to deter illegal activity. It is recommended to impose imprisonment not exceeding one year, or a fine not exceeding 200,000 baht, or both.

4. Alteration of tour itineraries (Sections 26, 27, and 83):

The law lacks a specific timeframe for refund requirements, and penalties are too lenient. It is recommended to increase fines to not exceeding 200,000 baht to enhance deterrence.

The findings for Objective 3, which focused on comparing legal measures in penalizing and regulating tour operators in different countries, indicate the following:

In Singapore, strict laws govern the supervision and regulation of tour companies. Companies operating tour services without authorization from the Civil Aviation Authority (CAA) face an unlimited fine.

In the United Kingdom, penalties for unlicensed tourism businesses include fines, confiscation, or asset seizure.

In Japan, violators of tourism laws who operate without the required license face fines not exceeding 1 million yen or imprisonment of up to one year. Minor infractions may result in lower fines, while serious offenses impose higher penalties depending on the severity of the damage. For example, a company found guilty of causing severe harm may face compensation payments of 1,100,000 dollars for individual damages and 110,000 dollars for organizational negligence. Violators may also face imprisonment and additional penalties depending on the specific laws of each country.

In Australia: Violations incur civil penalties up to AUD 1,100,000 for corporations and AUD 110,000 for individuals.

In Switzerland, strict tourism regulations ensure consumer protection and safety, with measures aimed at reducing risks for foreign tourists.

In Vietnam: Uses administrative fines and confiscation of illegal profits.

Compared to these countries, Thailand places greater emphasis on punishment and control, with less focus on consumer protection and preventive mechanisms.

Legal measures in Thailand concerning penalties, service standards, and tourism contracts emphasize consumer protection and regulatory oversight to ensure fairness in tourism operations. Meanwhile, European countries emphasize legal measures related to penalties and tourism contracts, with fines imposed for negligence or wrongful acts.

Comparing these with Thailand's system reveals that Thailand assigns the Office of Tourism Business and Tourist Guide Registration with responsibility for license approval, oversight, and regulatory compliance under the Tourism Business and Tourist Guide Act. This includes ensuring fairness in tourism business operations and consumer protection.

6. DISCUSSION

The findings of the research results indicate that the study of legal concepts related to tour operators and the qualifications of foreign tour guides entering Thailand primarily relies on the laws and regulations of various countries. Countries that follow the Common Law system—such as the United States, the United Kingdom, Australia, and Singapore—emphasize consumer protection through travel contracts. This ensures that tour operators comply with the terms stipulated in the contract. Meanwhile, countries that follow the Civil Law system—such as Japan—focus on consumer protection laws to ensure fairness in tourism operations (Fair Practice). This includes providing safe and reliable services to tourists. Furthermore, the study of business registration systems reveals that Thailand allows tour operators to register their businesses easily (Registration). However, the level of oversight varies depending on whether the business operator is a foreigner or a Thai national, which leads to differences in regulatory enforcement.



The study demonstrates that Thailand's legal framework prioritizes punitive measures over protective and developmental strategies. In contrast, foreign legal systems integrate consumer protection, fair trade practices, and service quality standards to ensure balanced legal enforcement.

The findings also suggest that legal amendments should incorporate deterrence, rehabilitation, and proportionality theories to enhance operational efficiency. The results of this study are relevant to the findings of the United Nation General Assembly (2020), Rattananda et al. (2025), Wongmajarpinya et al. (2024) and Channuwong et al. (2025) who suggested that introducing digital monitoring systems and integrated databases between government agencies could further improve enforcement effectiveness and transparency. Polyeam and Lengwittaya(2021), Wongmajarpinya et al. (2024) and Ministry of Tourism and Sports (2018) also stated that these approaches would enable Thailand to enhance its tourism regulatory framework and promote sustainable tourism development aligned with international standards.

7. NEW BODY OF KNOWLEDGE FROM RESEARCH

A comparative analysis of the laws of various countries shows that legal measures regarding penalties and the regulation of tour operators and tour guides differ significantly depending on the objectives and priorities of each country. Countries such as Singapore, Japan, and Switzerland have established systematic inspection processes and mandatory contract requirements, contributing to fairness and reliability in tourism operations. These findings can serve as a guideline for improving Thailand's tourism regulations to enhance efficiency and public confidence. The study also identifies obstacles to law enforcement, such as insufficient penalties and limited regulatory mechanisms, leading to the recommendation that Thailand's laws be amended to better protect consumer rights and maintain tourism service standards. These include preventing tourism operators from engaging in unethical or deceptive practices, supporting the development of sustainable and responsible tourism.

8. CONCLUSION

This research provides a comprehensive examination of legal issues concerning the punishment and control of tour businesses and tour guides. The study incorporates comparative analysis of foreign legal systems, including those of the United Kingdom, Japan, Australia, Singapore, and Vietnam, in order to adapt effective approaches for Thailand. The research particularly emphasizes the importance of enhancing consumer protection and compensation mechanisms for tourists, ensuring higher standards of service quality and legal efficiency. Strengthening legal enforcement through protective measures rather than solely punitive actions will support sustainable development and international competitiveness of Thailand's tourism industry.

9. RECOMMENDATIONS

1. Recommendations for Practical Application

The researcher proposes amendments to the Tourism Business and Guide Act B.E. 2551 (2008) as follows:

1.1 Section 80:

Any person operating a tour business without the required license or during a period of license suspension should be subject to imprisonment not exceeding three years, or a fine not exceeding 500,000 baht, or both.

1.2 Section 85:

Tour business operators who fail to comply with Section 33 or Section 34 paragraph one should be subject to a fine not exceeding 200,000 baht.

1.3 Section 86:

Any person acting as a tour guide without a license should be subject to imprisonment not exceeding one year, or a fine not exceeding 200,000 baht, or both.

1.4 Section 83:

Tour business operators who fail to comply with Sections 25, 26, 27, or 37 should be subject to a fine not exceeding 200,000 baht.

2. Recommendations for Future Research

Future studies should focus on legal enforcement mechanisms aiming to protect and compensate victims affected by tour businesses and tour guides. Further research is recommended in areas such as performance-based operational evaluation, development of regulatory systems, and enhancement of penalty measures to ensure higher effectiveness and fairness..

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