

BILL ANALYSIS

C.S.H.B. 1679
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Space flight is still in its infancy. For most of the past 50 years, only the government has conducted space flight. Today private companies, referred to as space flight entities in the bill, are beginning to develop commercial space launch. This will allow private citizens to fly to space, but space flight and rocket technology remain inherently risky activities. The Federal Aviation Administration regulates space launch activity in the United States, thus, the bill uses the same terminology as federal law. Texas law intends to avoid confusing space flight entities and those who choose to ride on space launch vehicles by using terminology consistent with federal regulations. The bill promotes development of a commercial space launch industry in Texas by clarifying that a person riding on a space vehicle launched from Texas can assume the risk of injury if the person is made aware of the risks and signs a written waiver of liability prior to launch.

C.S.H.B. 1679 limits liability of a space flight entity to any person for a space flight participant injury or damages arising out of the space flight participation injury if the space flight participant has signed the agreement required by other provisions of the bill and has given written consent as required by federal law. The bill excludes from the exemption from liability an injury proximately caused by the space flight entity's gross negligence evidencing wilful or wanton disregard for the safety of the space flight participant or intentionally caused by the space flight entity.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1679 amends the Civil Practice and Remedies Code to establish that a space flight entity is not liable to any person for a space flight participant injury or damages arising out of the space flight participation injury if the space flight participant has signed the agreement required by other provisions of the bill and has given written consent as required by federal law. The bill excludes from the exemption from liability an injury proximately caused by the space flight entity's gross negligence evidencing wilful or wanton disregard for the safety of the space flight participant or intentionally caused by the space flight entity. The bill requires a space flight participant to sign an agreement and warning statement before participating in a space flight activity and sets forth the required language of the agreement, which must include any other language required by federal law. The bill provides for the effectiveness and enforceability of such an agreement.

C.S.H.B. 1679 defines "launch" to mean a placement or attempted placement of a vehicle or rocket and any payload, crew, or space flight participant in a suborbital trajectory, earth orbit, or outer space, including activities involved in the preparation of a launch vehicle or payload for launch. The bill defines "reentry" to mean a purposeful return or attempt to return a reentry

vehicle and the payload, crew, or a space flight participant from earth orbit or from outer space to earth. The bill defines "space flight participant" to mean an individual, who is not crew, carried aboard a launch vehicle or reentry vehicle. The bill defines "space flight entity" to mean a person who has obtained the appropriate Federal Aviation Administration license or other authorization, including safety approval and a payload determination, and includes a manufacturer or supplier of components, services, or vehicles used by the entity and reviewed by the Federal Aviation Administration as part of issuing the license or other authorization and an employee, officer, director, owner, stockholder, member, manager, or partner of the entity, manufacturer, or supplier. The bill defines "space flight activities" to mean activities and training in all phases of preparing for and undertaking space flight, including the preparation of a launch vehicle, payload, crew, or space flight participant for launch, space flight, and reentry; the conduct of the launch; conduct occurring between the launch and reentry; the preparation of a reentry vehicle, payload, crew, or space flight participant for reentry; the conduct of reentry and descent; the conduct of the landing; and the conduct of postlanding recovery of a reentry vehicle, payload, crew, or space flight participant. The bill defines "space flight participant injury" to mean an injury sustained by a space flight participant, including bodily injury, emotional distress, death, property damage, or any other loss arising from the individual's participation in space flight activities.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1679 differs from the original by defining "space flight participant" to mean an individual, who is not crew, carried aboard a launch vehicle or reentry vehicle, whereas the original defined the term to mean an individual who is not a crew member and who participates in any space flight activities.