

BILL ANALYSIS

S.B. 2105
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

This legislation promotes the development of a commercial space launch industry in Texas, by clarifying that people riding on a space vehicle launched from Texas can assume the risk of injury if they are made aware of the risks and sign a written waiver of liability beforehand.

Space flight is still in its infancy. For most of the last 50 years, space flight has been a government monopoly. Today, private companies, or "space flight entities," are starting to pioneer the development of commercial space launches to allow private citizens to fly to space. This bill anticipates that launch service providers will inform private citizens of the risks of space flight and will not let them fly on the rocket unless they voluntarily choose to assume those risks. This bill clarifies that a person, after being informed of the risk and signing a waiver, assumes the risk of space flight absent gross negligence or willful behavior by the launch company. This clarification will encourage development of a commercial space launch industry in Texas. This bill also uses the same terminology as federal regulations to avoid confusion and to be consistent with warnings given by launch service providers.

S.B. 2105 sets forth language relating to limiting the liability of space flight entities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 100F, as follows:

CHAPTER 100F. LIMITED LIABILITY FOR SPACE FLIGHT ACTIVITIES

Sec. 100F.001. DEFINITIONS. Defines "launch," "reentry," "space flight participant," "space flight entity," "space flight activities," and "space flight participant injury."

Sec. 100F.002. LIMITED LIABILITY. (a) Provides that, except as provided by Subsection (b), 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 Section 100F.003 and given written consent as required by 49 U.S.C. Section 70105.

(b) Provides that this section does not limit liability for an injury proximately caused by the space flight entity's gross negligence evidencing willful or wanton disregard for the safety of the space flight participant or intentionally caused by the space flight entity.

Sec. 100F.003. WARNING REQUIRED. (a) Requires a space flight participant to sign an agreement and warning statement before participating in any space flight activity. Requires that the agreement include certain language and any other language required by federal law.

(b) Provides that an agreement under Subsection (a) is considered effective and enforceable if it is in writing and signed by the space flight participant and a competent witness.

Sec. 100F.004. AGREEMENT EFFECTIVE AND ENFORCEABLE. (a) Provides that, except as provided by Subsection (b), an agreement between a space flight entity and a space flight participant limiting or otherwise affecting liability arising out of space flight activity is effective and enforceable and is not unconscionable or against public policy.

(b) Prohibits an agreement described by this section from limiting for an injury proximately caused by the space flight entity's gross negligence evidencing willful or wanton disregard for the safety of the space flight participant or intentionally caused by a space flight entity.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2009.

EFFECTIVE DATE

Upon passage or September 1, 2009.