

By: Uresti

S.B. No. 2105

A BILL TO BE ENTITLED

AN ACT

relating to limiting the liability of space flight entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 100F to read as follows:

CHAPTER 100F. LIMITED LIABILITY FOR SPACE FLIGHT ACTIVITIES

Sec. 100F.001. DEFINITIONS. In this chapter:

(1) "Launch" means 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.

(2) "Reentry" means 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.

(3) "Space flight participant" means an individual who is not a crew member and who participates in any space flight activities.

(4) "Space flight entity" means a person who has obtained the appropriate Federal Aviation Administration license or other authorization, including safety approval and a payload determination. The term includes:

(A) a manufacturer or supplier of components, services, or vehicles used by the entity and reviewed by the Federal

1 Aviation Administration as part of issuing the license or other  
2 authorization; and

3 (B) an employee, officer, director, owner,  
4 stockholder, member, manager, or partner of the entity,  
5 manufacturer, or supplier.

6 (5) "Space flight activities" means activities and  
7 training in all phases of preparing for and undertaking space  
8 flight, including:

9 (A) the preparation of a launch vehicle, payload,  
10 crew, or space flight participant for launch, space flight, and  
11 reentry;

12 (B) the conduct of the launch;

13 (C) conduct occurring between the launch and  
14 reentry;

15 (D) the preparation of a reentry vehicle,  
16 payload, crew, or space flight participant for reentry;

17 (E) the conduct of reentry and descent;

18 (F) the conduct of the landing; and

19 (G) the conduct of postlanding recovery of a  
20 reentry vehicle, payload, crew, or space flight participant.

21 (6) "Space flight participant injury" means an injury  
22 sustained by a space flight participant, including bodily injury,  
23 emotional distress, death, property damage, or any other loss  
24 arising from the individual's participation in space flight  
25 activities.

26 Sec. 100F.002. LIMITED LIABILITY. (a) Except as provided by  
27 Subsection (b), a space flight entity is not liable to any person

1 for a space flight participant injury or damages arising out of the  
2 space flight participation injury if the space flight participant  
3 has signed the agreement required by Section 100F.003 and given  
4 written consent as required by 49 U.S.C. Section 70105.

5 (b) This section does not limit liability for an injury:

6 (1) proximately caused by the space flight entity's  
7 gross negligence evidencing wilful or wanton disregard for the  
8 safety of the space flight participant; or

9 (2) intentionally caused by the space flight entity.

10 Sec. 100F.003. WARNING REQUIRED. (a) A space flight  
11 participant must sign an agreement and warning statement before  
12 participating in any space flight activity. The agreement must  
13 include the following language and any other language required by  
14 federal law:

15 AGREEMENT AND WARNING

16 I UNDERSTAND AND ACKNOWLEDGE THAT A SPACE FLIGHT ENTITY IS NOT  
17 LIABLE FOR ANY INJURY TO OR DEATH OF A SPACE FLIGHT PARTICIPANT  
18 RESULTING FROM SPACE FLIGHT ACTIVITIES. I UNDERSTAND THAT I HAVE  
19 ACCEPTED ALL RISK OF INJURY, DEATH, PROPERTY DAMAGE, AND OTHER LOSS  
20 THAT MAY RESULT FROM SPACE FLIGHT ACTIVITIES.

21 (b) An agreement under Subsection (a) is considered  
22 effective and enforceable if it is in writing and signed by the  
23 space flight participant and a competent witness.

24 Sec. 100F.004. AGREEMENT EFFECTIVE AND ENFORCEABLE. (a)  
25 Except as provided by Subsection (b), an agreement between a space  
26 flight entity and a space flight participant limiting or otherwise  
27 affecting liability arising out of space flight activity is

1 effective and enforceable and is not unconscionable or against  
2 public policy.

3 (b) An agreement described by this section may not limit  
4 liability for an injury:

5 (1) proximately caused by the space flight entity's  
6 gross negligence evidencing wilful or wanton disregard for the  
7 safety of the space flight participant; or

8 (2) intentionally caused by a space flight entity.

9 SECTION 2. The change in law made by this Act applies only  
10 to a cause of action that accrues on or after the effective date of  
11 this Act. A cause of action that accrues before the effective date  
12 of this Act is governed by the law in effect immediately before the  
13 effective date of this Act, and that law is continued in effect for  
14 that purpose.

15 SECTION 3. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2009.