

1-1 By: Uresti S.B. No. 2105
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 16, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 16, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2105 By: Deuell

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to limiting the liability of space flight entities.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Title 4, Civil Practice and Remedies Code, is
1-13 amended by adding Chapter 100F to read as follows:

1-14 CHAPTER 100F. LIMITED LIABILITY FOR SPACE FLIGHT ACTIVITIES

1-15 Sec. 100F.001. DEFINITIONS. In this chapter:

1-16 (1) "Launch" means a placement or attempted placement
1-17 of a vehicle or rocket and any payload, crew, or space flight
1-18 participant in a suborbital trajectory, earth orbit, or outer
1-19 space, including activities involved in the preparation of a launch
1-20 vehicle or payload for launch.

1-21 (2) "Reentry" means a purposeful return or attempt to
1-22 return a reentry vehicle and the payload, crew, or a space flight
1-23 participant from earth orbit or from outer space to earth.

1-24 (3) "Space flight participant" means an individual,
1-25 who is not crew, carried aboard a launch vehicle or reentry vehicle.

1-26 (4) "Space flight entity" means a person who has
1-27 obtained the appropriate Federal Aviation Administration license
1-28 or other authorization, including safety approval and a payload
1-29 determination. The term includes:

1-30 (A) a manufacturer or supplier of components,
1-31 services, or vehicles used by the entity and reviewed by the Federal
1-32 Aviation Administration as part of issuing the license or other
1-33 authorization; and

1-34 (B) an employee, officer, director, owner,
1-35 stockholder, member, manager, or partner of the entity,
1-36 manufacturer, or supplier.

1-37 (5) "Space flight activities" means activities and
1-38 training in all phases of preparing for and undertaking space
1-39 flight, including:

1-40 (A) the preparation of a launch vehicle, payload,
1-41 crew, or space flight participant for launch, space flight, and
1-42 reentry;

1-43 (B) the conduct of the launch;

1-44 (C) conduct occurring between the launch and
1-45 reentry;

1-46 (D) the preparation of a reentry vehicle,
1-47 payload, crew, or space flight participant for reentry;

1-48 (E) the conduct of reentry and descent;

1-49 (F) the conduct of the landing; and

1-50 (G) the conduct of postlanding recovery of a
1-51 reentry vehicle, payload, crew, or space flight participant.

1-52 (6) "Space flight participant injury" means an injury
1-53 sustained by a space flight participant, including bodily injury,
1-54 emotional distress, death, property damage, or any other loss
1-55 arising from the individual's participation in space flight
1-56 activities.

1-57 Sec. 100F.002. LIMITED LIABILITY. (a) Except as provided
1-58 by Subsection (b), a space flight entity is not liable to any person
1-59 for a space flight participant injury or damages arising out of the
1-60 space flight participation injury if the space flight participant
1-61 has signed the agreement required by Section 100F.003 and given
1-62 written consent as required by 49 U.S.C. Section 70105.

1-63 (b) This section does not limit liability for an injury:

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

(2) intentionally caused by the space flight entity.

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

AGREEMENT AND WARNING

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

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

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

(2) intentionally caused by a space flight entity.

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

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

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