

BILL ANALYSIS

C.S.H.B. 245
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Private companies are developing commercial space flight services that allow private citizens to participate in flights to space. There are people for whom the reward of participating in an activity with a high risk level, such as white-water rafting and mountain climbing, is worth the risk associated with the activity and who will voluntarily assume the risk associated with space flight.

C.S.H.B. 245 promotes development of a commercial space flight industry in Texas by clarifying that a person carried aboard a space vehicle launched from Texas assumes the risk of injury if a space flight entity discloses the risks inherent in space flight and the person signs a written waiver of liability before participating in the space flight activity. This limitation on liability does not extend to an injury caused by gross negligence or 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. 245 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 participant 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 any space flight activity and sets out the required language of the agreement, which must include any other language required by federal law. The bill makes such an agreement effective and enforceable if it is in writing; in a document separate from any other agreement between the space flight participant and the space flight entity other than a different warning, consent, or assumption of risk statement; printed in not less than 10-point bold type; and signed by the space flight participant and a competent witness. The bill makes an agreement between a space flight entity and a space flight participant limiting or otherwise affecting liability arising out of space flight activity effective and enforceable and not unconscionable or against public policy, except that an agreement may not limit liability for 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 a space flight entity.

C.S.H.B. 245 defines "space flight entity" to mean a person who has obtained the appropriate Federal Aviation Administration (FAA) 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 FAA 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 participant" to mean an individual, who is not crew, carried aboard a launch vehicle or reentry vehicle. 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 the space flight activities. The bill defines "launch," "reentry," and "space flight activities."

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 245 contains a provision not in the original making the agreement and warning statement signed by a space flight participant effective and enforceable if it is in a document separate from any other agreement between the space flight participant and the space flight entity other than a different warning, consent, or assumption of risk statement and if it is printed in not less than 10-point bold type.