

BILL ANALYSIS

Senate Research Center
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S.B. 115
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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

Private companies, or "space flight entities," are developing commercial space launches to allow private citizens to fly into low earth orbit. Current law is silent with respect to the liability of private space flight entities. Customers and consumers routinely sign liability waivers for a variety of activities and endeavors, yet case law precedent allows plaintiffs to sue those the liability waivers supposedly protect. This situation is especially troublesome with respect to commercial space flight because it fails to recognize this as an inherently dangerous activity for which there can be no absolute guarantee of safety.

S.B. 115 sets forth language relating to limiting the liability of space flight entities, which will encourage development of a commercial space launch industry in Texas. This bill uses the terminology found in federal regulations to avoid confusion and to be consistent with warnings given by launch service providers. S.B. 115 requires that launch service providers inform private citizens of the risks of space flight and prohibits them from being allowed to fly unless they choose to assume those risks. S.B. 115 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.

As proposed, S.B. 115 amends current law 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.

SECTION BY SECTION ANALYSIS

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

CHAPTER 100A. LIMITED LIABILITY FOR SPACE FLIGHT ACTIVITIES

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

Sec. 100A.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 participant injury if the space flight participant has signed the agreement required by Section 100A.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:

(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. 100A.003. WARNING REQUIRED. (a) Requires that a space flight participant sign an agreement and warning statement before participating in any space flight activity. Sets forth the required language to be included on the agreement and warning statement.

(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. 100A.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 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. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2011.