

By: Gallego

H.B. No. 245

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 100A to read as follows:

CHAPTER 100A. LIMITED LIABILITY FOR SPACE FLIGHT ACTIVITIES

Sec. 100A.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, the crew, or a space flight participant from earth orbit or from outer space to earth.

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

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

(B) the conduct of the launch;

(C) conduct occurring between the launch and reentry;

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

3                   (E) the conduct of reentry and descent;

4                   (F) the conduct of the landing; and

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

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

11                   (A) a manufacturer or supplier of components,  
12 services, or vehicles used by the entity and reviewed by the Federal  
13 Aviation Administration as part of issuing the license or other  
14 authorization; and

15                   (B) an employee, officer, director, owner,  
16 stockholder, member, manager, or partner of the entity,  
17 manufacturer, or supplier.

18                   (5) "Space flight participant" means an individual,  
19 who is not crew, carried aboard a launch vehicle or reentry vehicle.

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

25                   Sec. 100A.002. LIMITED LIABILITY. (a) Except as provided  
26 by Subsection (b), a space flight entity is not liable to any person  
27 for a space flight participant injury or damages arising out of the

1 space flight participant injury if the space flight participant has  
2 signed the agreement required by Section 100A.003 and given written  
3 consent as required by 49 U.S.C. Section 70105.

4 (b) This section does not limit 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 the space flight entity.

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

14 AGREEMENT AND WARNING

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

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

23 Sec. 100A.004. AGREEMENT EFFECTIVE AND ENFORCEABLE. (a)  
24 Except as provided by Subsection (b), an agreement between a space  
25 flight entity and a space flight participant limiting or otherwise  
26 affecting liability arising out of space flight activity is  
27 effective and enforceable and is not unconscionable or against

1 public policy.

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

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

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

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

14 SECTION 3. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2011.