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S.B. No. 115

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:

22 (1) in writing;

23 (2) in a document separate from any other agreement
24 between the space flight participant and the space flight entity
25 other than a different warning, consent, or assumption of risk
26 statement;

27 (3) printed in not less than 10-point bold type; and

1 (4) signed by the space flight participant and a
2 competent witness.

3 Sec. 100A.004. AGREEMENT EFFECTIVE AND ENFORCEABLE.

4 (a) Except as provided by Subsection (b), an agreement between a
5 space flight entity and a space flight participant limiting or
6 otherwise affecting liability arising out of space flight activity
7 is effective and enforceable and is not unconscionable or against
8 public policy.

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

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

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

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

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