

1-1 By: Uresti S.B. No. 115  
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 March 8, 2011, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 8, 2011,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 115 By: Ellis

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 100A to read as follows:

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

1-15 Sec. 100A.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, the crew, or a space  
1-23 flight participant from earth orbit or from outer space to earth.

1-24 (3) "Space flight activities" means activities and  
1-25 training in all phases of preparing for and undertaking space  
1-26 flight, including:

1-27 (A) the preparation of a launch vehicle, payload,  
1-28 crew, or space flight participant for launch, space flight, and  
1-29 reentry;

1-30 (B) the conduct of the launch;

1-31 (C) conduct occurring between the launch and  
1-32 reentry;

1-33 (D) the preparation of a reentry vehicle,  
1-34 payload, crew, or space flight participant for reentry;

1-35 (E) the conduct of reentry and descent;

1-36 (F) the conduct of the landing; and

1-37 (G) the conduct of postlanding recovery of a  
1-38 reentry vehicle, payload, crew, or space flight participant.

1-39 (4) "Space flight entity" means a person who has  
1-40 obtained the appropriate Federal Aviation Administration license  
1-41 or other authorization, including safety approval and a payload  
1-42 determination. The term includes:

1-43 (A) a manufacturer or supplier of components,  
1-44 services, or vehicles used by the entity and reviewed by the Federal  
1-45 Aviation Administration as part of issuing the license or other  
1-46 authorization; and

1-47 (B) an employee, officer, director, owner,  
1-48 stockholder, member, manager, or partner of the entity,  
1-49 manufacturer, or supplier.

1-50 (5) "Space flight participant" means an individual,  
1-51 who is not crew, carried aboard a launch vehicle or reentry vehicle.

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. 100A.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 participant injury if the space flight participant has  
1-61 signed the agreement required by Section 100A.003 and given written  
1-62 consent as required by 49 U.S.C. Section 70105.

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

2-1 (1) proximately caused by the space flight entity's  
2-2 gross negligence evidencing wilful or wanton disregard for the  
2-3 safety of the space flight participant; or

2-4 (2) intentionally caused by the space flight entity.

2-5 Sec. 100A.003. WARNING REQUIRED. (a) A space flight  
2-6 participant must sign an agreement and warning statement before  
2-7 participating in any space flight activity. The agreement must  
2-8 include the following language and any other language required by  
2-9 federal law:

2-10 AGREEMENT AND WARNING

2-11 I UNDERSTAND AND ACKNOWLEDGE THAT A SPACE FLIGHT ENTITY IS NOT  
2-12 LIABLE FOR ANY INJURY TO OR DEATH OF A SPACE FLIGHT PARTICIPANT  
2-13 RESULTING FROM SPACE FLIGHT ACTIVITIES. I UNDERSTAND THAT I HAVE  
2-14 ACCEPTED ALL RISK OF INJURY, DEATH, PROPERTY DAMAGE, AND OTHER LOSS  
2-15 THAT MAY RESULT FROM SPACE FLIGHT ACTIVITIES.

2-16 (b) An agreement under Subsection (a) is considered  
2-17 effective and enforceable if it is:

2-18 (1) in writing;

2-19 (2) in a document separate from any other agreement  
2-20 between the space flight participant and the space flight entity  
2-21 other than a different warning, consent, or assumption of risk  
2-22 statement;

2-23 (3) printed in not less than 10-point bold type; and

2-24 (4) signed by the space flight participant and a  
2-25 competent witness.

2-26 Sec. 100A.004. AGREEMENT EFFECTIVE AND ENFORCEABLE.

2-27 (a) Except as provided by Subsection (b), an agreement between a  
2-28 space flight entity and a space flight participant limiting or  
2-29 otherwise affecting liability arising out of space flight activity  
2-30 is effective and enforceable and is not unconscionable or against  
2-31 public policy.

2-32 (b) An agreement described by this section may not limit  
2-33 liability for an injury:

2-34 (1) proximately caused by the space flight entity's  
2-35 gross negligence evidencing wilful or wanton disregard for the  
2-36 safety of the space flight participant; or

2-37 (2) intentionally caused by a space flight entity.

2-38 SECTION 2. The change in law made by this Act applies only  
2-39 to a cause of action that accrues on or after the effective date of  
2-40 this Act. A cause of action that accrues before the effective date  
2-41 of this Act is governed by the law in effect immediately before the  
2-42 effective date of this Act, and that law is continued in effect for  
2-43 that purpose.

2-44 SECTION 3. This Act takes effect immediately if it receives  
2-45 a vote of two-thirds of all the members elected to each house, as  
2-46 provided by Section 39, Article III, Texas Constitution. If this  
2-47 Act does not receive the vote necessary for immediate effect, this  
2-48 Act takes effect September 1, 2011.

2-49 \* \* \* \* \*