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H.B. No. 1791

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the facilitation and operation of space flight
3 activities in this state.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 100A.001, Civil Practice and Remedies
6 Code, is amended to read as follows:

7 Sec. 100A.001. DEFINITIONS. In this chapter:

8 (1) "Launch" means a placement or attempted placement
9 of a launch vehicle [~~or rocket~~] and spacecraft, if any, [~~payload,~~
10 ~~crew, or space flight participant~~] in a suborbital trajectory,
11 earth orbit, or outer space, including activities involved in the
12 preparation of a launch vehicle or spacecraft [~~payload~~] for launch.

13 (1-a) "Launch vehicle" means any vehicle and its
14 stages or components designed to operate in or place spacecraft, if
15 any, in a suborbital trajectory, in earth orbit, or in outer space.

16 (2) "Reentry" means a [~~purposeful~~] return or attempt
17 to return of a launch vehicle, reentry vehicle, or spacecraft [~~and~~
18 ~~the payload, the crew, or a space flight participant~~] from a
19 suborbital trajectory, from earth orbit, or from outer space to
20 earth, including activities involved in the recovery of a launch
21 vehicle, reentry vehicle, or spacecraft.

22 (2-a) "Reentry vehicle" means any vehicle, including
23 its stages or components, or spacecraft designed to return from
24 earth orbit or outer space to earth, or a reusable launch vehicle

1 designed to return from earth orbit or outer space to earth,
2 substantially intact.

3 (2-b) "Spacecraft" has the meaning assigned by Section
4 507.001, Local Government Code.

5 (3) "Space flight activities" means activities and
6 training in any phase [~~all phases~~] of preparing for and undertaking
7 space flight, including:

8 (A) the research, development, testing, or
9 manufacture of a launch vehicle, reentry vehicle, or spacecraft;

10 (B) the preparation of a launch vehicle, reentry
11 vehicle, payload, spacecraft, crew, or space flight participant for
12 launch, space flight, and reentry;

13 (C) [~~(B)~~] the conduct of the launch;

14 (D) [~~(C)~~] conduct occurring between the launch
15 and reentry;

16 (E) [~~(D)~~] the preparation of a launch vehicle,
17 reentry vehicle, payload, spacecraft, crew, or space flight
18 participant for reentry;

19 (F) [~~(E)~~] the conduct of reentry and descent;

20 (G) [~~(F)~~] the conduct of the landing; and

21 (H) [~~(G)~~] the conduct of postlanding recovery of
22 a launch vehicle, reentry vehicle, payload, spacecraft, crew, or
23 space flight participant.

24 (4) "Space flight entity" means a person who conducts
25 space flight activities and who, to the extent required by federal
26 law, has obtained the appropriate Federal Aviation Administration
27 license or other authorization, including safety approval and a

1 payload determination. The term includes:

2 (A) a manufacturer or supplier of components,
3 services, spacecraft, launch vehicles, or reentry vehicles used by
4 the entity and reviewed by the Federal Aviation Administration as
5 part of issuing the license or other authorization; ~~and~~

6 (B) an employee, officer, director, owner,
7 stockholder, member, manager, advisor, or partner of the entity,
8 manufacturer, or supplier;

9 (C) an owner or lessor of real property on which
10 space flight activities are conducted, including a municipality,
11 county, political subdivision, or spaceport development
12 corporation under Section 507.001, Local Government Code, in this
13 state with a contractual relationship with a space flight entity;
14 and

15 (D) a municipality, county, economic development
16 organization, or other political subdivision in the territory or
17 extraterritorial jurisdiction of which space flight activities are
18 conducted.

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

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

27 (7) "Crew" means a human being who performs activities

1 relating to the launch, reentry, or other operation of or in a
2 spacecraft, launch vehicle, or reentry vehicle.

3 SECTION 2. Section 100A.002, Civil Practice and Remedies
4 Code, is amended to read as follows:

5 Sec. 100A.002. LIMITED LIABILITY. (a) Except as provided
6 by this section [~~Subsection (b)~~], a space flight entity is not
7 liable to any person for damages resulting from nuisance arising
8 from testing, launching, reentering, or landing or subject to any
9 claim for nuisance arising from testing, launching, reentering, or
10 landing.

11 (b) Except as provided by this section, a space flight
12 entity is not liable to any person for a space flight participant
13 injury or damages arising out of [the] space flight activities
14 [participant injury] if the space flight participant has signed the
15 agreement required by Section 100A.003 and given written consent as
16 required by 51 [~~49~~] U.S.C. Section 50905 [~~70105~~].

17 [~~(b)~~] This subsection [~~section~~] does not limit liability
18 for a space flight participant [~~an~~] injury:

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

22 (2) intentionally caused by the space flight entity.

23 (c) This section precludes injunctive relief with respect
24 to space flight activities.

25 (d) This section does not:

26 (1) limit liability for breach of a contract for use of
27 real property by a space flight entity; or

1 (2) preclude an action by a federal or state
2 governmental entity to enforce a valid statute or regulation.

3 SECTION 3. Section 100A.003(b), Civil Practice and Remedies
4 Code, is amended to read as follows:

5 (b) An agreement under Subsection (a) is considered
6 effective and enforceable if it is:

7 (1) in writing;

8 (2) in a document separate from any other agreement
9 between the space flight participant and the space flight entity
10 other than a different warning, consent, or assumption of risk
11 statement;

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

13 (4) signed by the space flight participant on behalf
14 of the space flight participant and any heirs, executors,
15 administrators, representatives, attorneys, successors, and
16 assignees of the space flight participant; and

17 (5) signed by a competent witness.

18 SECTION 4. Sections 507.001(2) and (3), Local Government
19 Code, are amended to read as follows:

20 (2) "Spacecraft" means any object and its components
21 designed to be launched for operations in a suborbital trajectory,
22 in earth orbit, or in outer space. The term includes a satellite, a
23 payload, an object carrying crew or a space flight participant, and
24 any subcomponents of the launch vehicle or reentry vehicle
25 specifically designed or adapted for that object ~~[includes a~~
26 ~~satellite]~~.

27 (3) "Spaceport" includes:

1 (A) an area intended to be used for space flight
2 activities, as defined by Section 100A.001, Civil Practice and
3 Remedies Code [~~to launch or land a spacecraft~~];

4 (B) a spaceport building or facility located in
5 [~~on~~] an area reasonably proximate [~~appurtenant~~] to a launch
6 vehicle, reentry vehicle, or spacecraft launching or landing area;

7 (C) an area reasonably proximate [~~appurtenant~~]
8 to a launch vehicle, reentry vehicle, or spacecraft launching or
9 landing area that is intended for use for a spaceport building or
10 facility; and

11 (D) a right-of-way related to a launch vehicle,
12 reentry vehicle, or spacecraft launching or landing area, building,
13 facility, or other area that is reasonably proximate [~~appurtenant~~]
14 to a launching or landing area.

15 SECTION 5. Section 481.0069(d), Government Code, is amended
16 to read as follows:

17 (d) Money in the spaceport trust fund may not be spent
18 unless the office certifies to the comptroller that:

19 (1) a viable business entity has been established
20 that:

21 (A) has a business plan that demonstrates that
22 the entity has available the financial, managerial, and technical
23 expertise and capability necessary to launch and land a reusable
24 launch vehicle or spacecraft; and

25 (B) has committed to locating its facilities at a
26 spaceport in this state;

27 (2) a development corporation for spaceport

1 facilities created under Chapter 507, Local Government Code, has
2 established a development plan for the spaceport project and has
3 demonstrated the financial ability to fund ~~[secured]~~ at least 75
4 ~~[90]~~ percent of the funding required for the project; and

5 (3) the spaceport or launch operator, if required by
6 federal law, has obtained or applied for the appropriate Federal
7 Aviation Administration license or other appropriate
8 authorization.

9 SECTION 6. Section 42.01, Penal Code, is amended by adding
10 Subsection (g) to read as follows:

11 (g) Noise arising from space flight activities, as defined
12 by Section 100A.001, Civil Practice and Remedies Code, if lawfully
13 conducted, does not constitute "unreasonable noise" for purposes of
14 this section.

15 SECTION 7. The changes in law made by this Act apply only to
16 space flight activities that occur on or after the effective date of
17 this Act. Space flight activities that occur before the effective
18 date of this Act are governed by the law in effect immediately
19 before that date, and that law is continued in effect for that
20 purpose.

21 SECTION 8. This Act takes effect September 1, 2013.