

By: J. Davis of Harris

H.B. No. 1791

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

(1) "Launch" means a placement or attempted placement of a launch vehicle [~~or rocket~~] and any spacecraft [~~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 spacecraft [~~payload~~] for launch.

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

(2) "Reentry" means a [~~purposeful~~] return or attempt to return of a reentry vehicle or spacecraft [~~and the payload, the crew, or a space flight participant~~] from earth orbit or from outer space to earth.

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

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

1 (A) the research, development, testing, or
2 manufacture of a launch vehicle, reentry vehicle, or spacecraft or
3 components of a launch vehicle, reentry vehicle, or spacecraft;

4 (B) the preparation of a launch vehicle,
5 components of a launch vehicle, payload, spacecraft, crew, or space
6 flight participant for launch, space flight, and reentry;

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

8 (D) [~~(C)~~] conduct occurring between the launch
9 and reentry;

10 (E) [~~(D)~~] the preparation of a reentry vehicle,
11 components of a reentry vehicle, payload, spacecraft, crew, or
12 space flight participant for reentry;

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

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

15 (H) [~~(G)~~] the conduct of postlanding recovery of
16 a reentry vehicle, components of a reentry vehicle, payload,
17 spacecraft, crew, or space flight participant.

18 (4) "Space flight entity" means a person who conducts
19 space flight activities and who, to the extent required by federal
20 law, has obtained the appropriate Federal Aviation Administration
21 license or other authorization, including safety approval and a
22 payload determination. The term includes:

23 (A) a manufacturer or supplier of components,
24 services, or vehicles used by the entity and reviewed by the Federal
25 Aviation Administration as part of issuing the license or other
26 authorization; [~~and~~]

27 (B) an employee, officer, director, owner,

1 stockholder, member, manager, advisor, or partner of the entity,
2 manufacturer, or supplier; and

3 (C) an owner or lessor of real property on which
4 space flight activities are conducted, including a municipality,
5 county, political subdivision, or spaceport development
6 corporation under Section 507.001, Local Government Code, in this
7 state with a contractual relationship with a space flight entity.

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

11 (6) "Space flight participant injury" means an injury
12 sustained by a space flight participant, including bodily injury,
13 emotional distress, death, disability, property damage, or any
14 other loss arising from the individual's participation in space
15 flight activities.

16 (7) "Crew" means a human being who performs activities
17 relating to the launch, reentry, or other operation of or in a
18 spacecraft or launch or reentry vehicle.

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

21 Sec. 100A.002. LIMITED LIABILITY. (a) Except as provided
22 by this section [~~Subsection (b)~~], a space flight entity is not
23 liable to any person for direct or indirect damages resulting from
24 nuisance, or subject to any claim for abatement or other injunctive
25 relief arising from space flight activities.

26 (b) Except as provided by this section, a space flight
27 entity is not liable to any person for a space flight participant

1 injury or damages arising out of [~~the~~] space flight activities
2 [~~participant injury~~] if the space flight participant has signed the
3 agreement required by Section 100A.003 and given written consent as
4 required by 51 [~~49~~] U.S.C. Section 50905 [~~70105~~].

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

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

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

11 (c) Except as provided by Subsections (a) and (b), this
12 section precludes injunctive relief and limits damages that may be
13 recovered to direct damages with respect to space flight
14 activities.

15 (d) This section does not limit liability for:

16 (1) breach of a contract for use of real property by a
17 space flight entity; or

18 (2) enforcement of a valid statute or regulation.

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

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

23 (1) in writing;

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

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

2 (4) signed by the space flight participant on behalf
3 of the space flight participant and any heirs, executors,
4 administrators, representatives, attorneys, successors, and
5 assignees of the space flight participant; and

6 (5) signed by a competent witness.

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

9 (2) "Spacecraft" means any object and its components
10 designed to be launched for operations in a suborbital trajectory,
11 earth orbit, or otherwise in outer space. The term includes a
12 satellite, an object carrying crew or a space flight participant,
13 and any subcomponents of the launch or reentry vehicle specifically
14 designed or adapted for that object ~~[includes a satellite]~~.

15 (3) "Spaceport" includes:

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

19 (B) a spaceport building or facility located in
20 ~~[on]~~ an area reasonably proximate ~~[appurtenant]~~ to a spacecraft
21 launching or landing area;

22 (C) an area reasonably proximate ~~[appurtenant]~~
23 to a spacecraft launching or landing area that is intended for use
24 for a spaceport building or facility; and

25 (D) a right-of-way related to a spacecraft
26 launching or landing area, building, facility, or other area that
27 is reasonably proximate ~~[appurtenant]~~ to a launching or landing

1 area.

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

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

6 (1) a viable business entity has been established
7 that:

8 (A) has a business plan that demonstrates that
9 the entity has available the financial, managerial, and technical
10 expertise and capability necessary to launch and land a reusable
11 launch vehicle; and

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

14 (2) a development corporation for spaceport
15 facilities created under Chapter 507, Local Government Code, has
16 established a development plan for the spaceport project and has
17 secured at least 90 percent of the funding required for the project;
18 and

19 (3) the spaceport or launch operator, if required by
20 federal law, has obtained or applied for the appropriate Federal
21 Aviation Administration license or other appropriate
22 authorization.

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

25 (g) Noise arising from lawful space flight activities, as
26 defined by Section 100A.001, Civil Practice and Remedies Code, does
27 not constitute "unreasonable noise" for purposes of this section.

1 SECTION 7. The changes in law made by this Act apply only to
2 space flight activities that occur on or after the effective date of
3 this Act. Space flight activities that occur before the effective
4 date of this Act are governed by the law in effect immediately
5 before that date, and that law is continued in effect for that
6 purpose.

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