

1-1 By: J. Davis of Harris, et al. H.B. No. 1791
 1-2 (Senate Sponsor - Deuell)
 1-3 (In the Senate - Received from the House May 1, 2013;
 1-4 May 3, 2013, read first time and referred to Committee on Economic
 1-5 Development; May 13, 2013, reported favorably by the following
 1-6 vote: Yeas 5, Nays 0; May 13, 2013, sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|---------------|-----|-----|--------|-----|
| 1-8 Deuell | X | | | |
| 1-9 Hancock | X | | | |
| 1-10 Birdwell | | | X | |
| 1-11 Davis | X | | | |
| 1-12 Eltife | X | | | |
| 1-13 Fraser | X | | | |
| 1-14 Watson | | | X | |

1-16 A BILL TO BE ENTITLED
 1-17 AN ACT

1-18 relating to the facilitation and operation of space flight
 1-19 activities in this state.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Section 100A.001, Civil Practice and Remedies
 1-22 Code, is amended to read as follows:

1-23 Sec. 100A.001. DEFINITIONS. In this chapter:

1-24 (1) "Launch" means a placement or attempted placement
 1-25 of a launch vehicle [~~or rocket~~] and spacecraft, if any, [~~payload,~~
 1-26 ~~crew, or space flight participant~~] in a suborbital trajectory,
 1-27 earth orbit, or outer space, including activities involved in the
 1-28 preparation of a launch vehicle or spacecraft [~~payload~~] for launch.

1-29 (1-a) "Launch vehicle" means any vehicle and its
 1-30 stages or components designed to operate in or place spacecraft, if
 1-31 any, in a suborbital trajectory, in earth orbit, or in outer space.

1-32 (2) "Reentry" means a [~~purposeful~~] return or attempt
 1-33 to return of a launch vehicle, reentry vehicle, or spacecraft [~~and~~
 1-34 ~~the payload, the crew, or a space flight participant~~] from a
 1-35 suborbital trajectory, from earth orbit, or from outer space to
 1-36 earth, including activities involved in the recovery of a launch
 1-37 vehicle, reentry vehicle, or spacecraft.

1-38 (2-a) "Reentry vehicle" means any vehicle, including
 1-39 its stages or components, or spacecraft designed to return from
 1-40 earth orbit or outer space to earth, or a reusable launch vehicle
 1-41 designed to return from earth orbit or outer space to earth,
 1-42 substantially intact.

1-43 (2-b) "Spacecraft" has the meaning assigned by Section
 1-44 507.001, Local Government Code.

1-45 (3) "Space flight activities" means activities and
 1-46 training in any phase [~~all phases~~] of preparing for and undertaking
 1-47 space flight, including:

1-48 (A) the research, development, testing, or
 1-49 manufacture of a launch vehicle, reentry vehicle, or spacecraft;

1-50 (B) the preparation of a launch vehicle, reentry
 1-51 vehicle, payload, spacecraft, crew, or space flight participant for
 1-52 launch, space flight, and reentry;

1-53 (C) [~~(B)~~] the conduct of the launch;

1-54 (D) [~~(C)~~] conduct occurring between the launch
 1-55 and reentry;

1-56 (E) [~~(D)~~] the preparation of a launch vehicle,
 1-57 reentry vehicle, payload, spacecraft, crew, or space flight
 1-58 participant for reentry;

1-59 (F) [~~(E)~~] the conduct of reentry and descent;

1-60 (G) [~~(F)~~] the conduct of the landing; and

1-61 (H) [~~(G)~~] the conduct of postlanding recovery of

2-1 a launch vehicle, reentry vehicle, payload, spacecraft, crew, or
 2-2 space flight participant.

2-3 (4) "Space flight entity" means a person who conducts
 2-4 space flight activities and who, to the extent required by federal
 2-5 law, has obtained the appropriate Federal Aviation Administration
 2-6 license or other authorization, including safety approval and a
 2-7 payload determination. The term includes:

2-8 (A) a manufacturer or supplier of components,
 2-9 services, spacecraft, launch vehicles, or reentry vehicles used by
 2-10 the entity and reviewed by the Federal Aviation Administration as
 2-11 part of issuing the license or other authorization; ~~and~~

2-12 (B) an employee, officer, director, owner,
 2-13 stockholder, member, manager, advisor, or partner of the entity,
 2-14 manufacturer, or supplier;

2-15 (C) an owner or lessor of real property on which
 2-16 space flight activities are conducted, including a municipality,
 2-17 county, political subdivision, or spaceport development
 2-18 corporation under Section 507.001, Local Government Code, in this
 2-19 state with a contractual relationship with a space flight entity;
 2-20 and

2-21 (D) a municipality, county, economic development
 2-22 organization, or other political subdivision in the territory or
 2-23 extraterritorial jurisdiction of which space flight activities are
 2-24 conducted.

2-25 (5) "Space flight participant" means an individual,
 2-26 who is not crew, carried aboard a spacecraft, launch vehicle, or
 2-27 reentry vehicle.

2-28 (6) "Space flight participant injury" means an injury
 2-29 sustained by a space flight participant, including bodily injury,
 2-30 emotional distress, death, disability, property damage, or any
 2-31 other loss arising from the individual's participation in space
 2-32 flight activities.

2-33 (7) "Crew" means a human being who performs activities
 2-34 relating to the launch, reentry, or other operation of or in a
 2-35 spacecraft, launch vehicle, or reentry vehicle.

2-36 SECTION 2. Section 100A.002, Civil Practice and Remedies
 2-37 Code, is amended to read as follows:

2-38 Sec. 100A.002. LIMITED LIABILITY. (a) Except as provided
 2-39 by this section ~~[Subsection (b)]~~, a space flight entity is not
 2-40 liable to any person for damages resulting from nuisance arising
 2-41 from testing, launching, reentering, or landing or subject to any
 2-42 claim for nuisance arising from testing, launching, reentering, or
 2-43 landing.

2-44 (b) Except as provided by this section, a space flight
 2-45 entity is not liable to any person for a space flight participant
 2-46 injury or damages arising out of [the] space flight activities
 2-47 [participant injury] if the space flight participant has signed the
 2-48 agreement required by Section 100A.003 and given written consent as
 2-49 required by 51 [49] U.S.C. Section 50905 [70105].

2-50 ~~[(b)]~~ This subsection [section] does not limit liability
 2-51 for a space flight participant [an] injury:

2-52 (1) proximately caused by the space flight entity's
 2-53 gross negligence evidencing wilful or wanton disregard for the
 2-54 safety of the space flight participant; or

2-55 (2) intentionally caused by the space flight entity.

2-56 (c) This section precludes injunctive relief with respect
 2-57 to space flight activities.

2-58 (d) This section does not:

2-59 (1) limit liability for breach of a contract for use of
 2-60 real property by a space flight entity; or

2-61 (2) preclude an action by a federal or state
 2-62 governmental entity to enforce a valid statute or regulation.

2-63 SECTION 3. Section 100A.003(b), Civil Practice and Remedies
 2-64 Code, is amended to read as follows:

2-65 (b) An agreement under Subsection (a) is considered
 2-66 effective and enforceable if it is:

2-67 (1) in writing;

2-68 (2) in a document separate from any other agreement
 2-69 between the space flight participant and the space flight entity

3-1 other than a different warning, consent, or assumption of risk
 3-2 statement;
 3-3 (3) printed in not less than 10-point bold type; ~~and~~
 3-4 (4) signed by the space flight participant on behalf
 3-5 of the space flight participant and any heirs, executors,
 3-6 administrators, representatives, attorneys, successors, and
 3-7 assignees of the space flight participant; and
 3-8 (5) signed by a competent witness.

3-9 SECTION 4. Sections 507.001(2) and (3), Local Government
 3-10 Code, are amended to read as follows:

3-11 (2) "Spacecraft" means any object and its components
 3-12 designed to be launched for operations in a suborbital trajectory,
 3-13 in earth orbit, or in outer space. The term includes a satellite, a
 3-14 payload, an object carrying crew or a space flight participant, and
 3-15 any subcomponents of the launch vehicle or reentry vehicle
 3-16 specifically designed or adapted for that object ~~[includes a~~
 3-17 ~~satellite]~~.

3-18 (3) "Spaceport" includes:

3-19 (A) an area intended to be used for space flight
 3-20 activities, as defined by Section 100A.001, Civil Practice and
 3-21 Remedies Code ~~[to launch or land a spacecraft];~~

3-22 (B) a spaceport building or facility located in
 3-23 ~~[on]~~ an area reasonably proximate ~~[appurtenant]~~ to a launch
 3-24 vehicle, reentry vehicle, or spacecraft launching or landing area;

3-25 (C) an area reasonably proximate ~~[appurtenant]~~
 3-26 to a launch vehicle, reentry vehicle, or spacecraft launching or
 3-27 landing area that is intended for use for a spaceport building or
 3-28 facility; and

3-29 (D) a right-of-way related to a launch vehicle,
 3-30 reentry vehicle, or spacecraft launching or landing area, building,
 3-31 facility, or other area that is reasonably proximate ~~[appurtenant]~~
 3-32 to a launching or landing area.

3-33 SECTION 5. Section 481.0069(d), Government Code, is amended
 3-34 to read as follows:

3-35 (d) Money in the spaceport trust fund may not be spent
 3-36 unless the office certifies to the comptroller that:

3-37 (1) a viable business entity has been established
 3-38 that:

3-39 (A) has a business plan that demonstrates that
 3-40 the entity has available the financial, managerial, and technical
 3-41 expertise and capability necessary to launch and land a reusable
 3-42 launch vehicle or spacecraft; and

3-43 (B) has committed to locating its facilities at a
 3-44 spaceport in this state;

3-45 (2) a development corporation for spaceport
 3-46 facilities created under Chapter 507, Local Government Code, has
 3-47 established a development plan for the spaceport project and has
 3-48 demonstrated the financial ability to fund ~~[secured]~~ at least 75
 3-49 ~~[90]~~ percent of the funding required for the project; and

3-50 (3) the spaceport or launch operator, if required by
 3-51 federal law, has obtained or applied for the appropriate Federal
 3-52 Aviation Administration license or other appropriate
 3-53 authorization.

3-54 SECTION 6. Section 42.01, Penal Code, is amended by adding
 3-55 Subsection (g) to read as follows:

3-56 (g) Noise arising from space flight activities, as defined
 3-57 by Section 100A.001, Civil Practice and Remedies Code, if lawfully
 3-58 conducted, does not constitute "unreasonable noise" for purposes of
 3-59 this section.

3-60 SECTION 7. The changes in law made by this Act apply only to
 3-61 space flight activities that occur on or after the effective date of
 3-62 this Act. Space flight activities that occur before the effective
 3-63 date of this Act are governed by the law in effect immediately
 3-64 before that date, and that law is continued in effect for that
 3-65 purpose.

3-66 SECTION 8. This Act takes effect September 1, 2013.

3-67 * * * * *