

1-1 By: Deuell S.B. No. 1636  
 1-2 (In the Senate - Filed March 8, 2013; March 20, 2013, read  
 1-3 first time and referred to Committee on Economic Development;  
 1-4 April 15, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 5, Nays 0; April 15, 2013,  
 1-6 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 COMMITTEE SUBSTITUTE FOR S.B. No. 1636 By: Watson

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the facilitation and operation of space flight  
 1-20 activities in this state.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 100A.001, Civil Practice and Remedies  
 1-23 Code, is amended to read as follows:

1-24 Sec. 100A.001. DEFINITIONS. In this chapter:

1-25 (1) "Launch" means a placement or attempted placement  
 1-26 of a launch vehicle [~~or rocket~~] and spacecraft, if any, [payload,  
 1-27 ~~crew, or space flight participant]~~ in a suborbital trajectory,  
 1-28 earth orbit, or outer space, including activities involved in the  
 1-29 preparation of a launch vehicle or spacecraft [payload] for launch.

1-30 (1-a) "Launch vehicle" means any vehicle and its  
 1-31 stages or components designed to operate in or place spacecraft, if  
 1-32 any, in a suborbital trajectory, in earth orbit, or in outer space.

1-33 (2) "Reentry" means a [~~purposeful~~] return or attempt  
 1-34 to return of a launch vehicle, reentry vehicle, or spacecraft [and  
 1-35 ~~the payload, the crew, or a space flight participant]~~ from a  
 1-36 suborbital trajectory, from earth orbit, or from outer space to  
 1-37 earth, including activities involved in the recovery of a launch  
 1-38 vehicle, reentry vehicle, or spacecraft.

1-39 (2-a) "Reentry vehicle" means any vehicle, including  
 1-40 its stages or components, or spacecraft designed to return from  
 1-41 earth orbit or outer space to earth, or a reusable launch vehicle  
 1-42 designed to return from earth orbit or outer space to earth,  
 1-43 substantially intact.

1-44 (2-b) "Spacecraft" has the meaning assigned by Section  
 1-45 507.001, Local Government Code.

1-46 (3) "Space flight activities" means activities and  
 1-47 training in any phase [all phases] of preparing for and undertaking  
 1-48 space flight, including:

1-49 (A) the research, development, testing, or  
 1-50 manufacture of a launch vehicle, reentry vehicle, or spacecraft;

1-51 (B) the preparation of a launch vehicle, reentry  
 1-52 vehicle, payload, spacecraft, crew, or space flight participant for  
 1-53 launch, space flight, and reentry;

1-54 (C) [~~(B)~~] the conduct of the launch;

1-55 (D) [~~(C)~~] conduct occurring between the launch  
 1-56 and reentry;

1-57 (E) [~~(D)~~] the preparation of a launch vehicle,  
 1-58 reentry vehicle, payload, spacecraft, crew, or space flight  
 1-59 participant for reentry;

1-60 (F) [~~(E)~~] the conduct of reentry and descent;

1-61 (G) [~~(F)~~] the conduct of the landing; and

2-1 (H) [~~C~~] the conduct of postlanding recovery of  
2-2 a launch vehicle, reentry vehicle, payload, spacecraft, crew, or  
2-3 space flight participant.

2-4 (4) "Space flight entity" means a person who conducts  
2-5 space flight activities and who, to the extent required by federal  
2-6 law, has obtained the appropriate Federal Aviation Administration  
2-7 license or other authorization, including safety approval and a  
2-8 payload determination. The term includes:

2-9 (A) a manufacturer or supplier of components,  
2-10 services, spacecraft, launch vehicles, or reentry vehicles used by  
2-11 the entity and reviewed by the Federal Aviation Administration as  
2-12 part of issuing the license or other authorization; [~~and~~]

2-13 (B) an employee, officer, director, owner,  
2-14 stockholder, member, manager, advisor, or partner of the entity,  
2-15 manufacturer, or supplier;

2-16 (C) an owner or lessor of real property on which  
2-17 space flight activities are conducted, including a municipality,  
2-18 county, political subdivision, or spaceport development  
2-19 corporation under Section 507.001, Local Government Code, in this  
2-20 state with a contractual relationship with a space flight entity;  
2-21 and

2-22 (D) a municipality, county, economic development  
2-23 organization, or other political subdivision in the territory or  
2-24 extraterritorial jurisdiction of which space flight activities are  
2-25 conducted.

2-26 (5) "Space flight participant" means an individual,  
2-27 who is not crew, carried aboard a spacecraft, launch vehicle, or  
2-28 reentry vehicle.

2-29 (6) "Space flight participant injury" means an injury  
2-30 sustained by a space flight participant, including bodily injury,  
2-31 emotional distress, death, disability, property damage, or any  
2-32 other loss arising from the individual's participation in space  
2-33 flight activities.

2-34 (7) "Crew" means a human being who performs activities  
2-35 relating to the launch, reentry, or other operation of or in a  
2-36 spacecraft, launch vehicle, or reentry vehicle.

2-37 SECTION 2. Section 100A.002, Civil Practice and Remedies  
2-38 Code, is amended to read as follows:

2-39 Sec. 100A.002. LIMITED LIABILITY. (a) Except as provided  
2-40 by this section [~~Subsection (b)~~], a space flight entity is not  
2-41 liable to any person for damages resulting from nuisance arising  
2-42 from testing, launching, reentering, or landing or subject to any  
2-43 claim for nuisance arising from testing, launching, reentering, or  
2-44 landing.

2-45 (b) Except as provided by this section, a space flight  
2-46 entity is not liable to any person for a space flight participant  
2-47 injury or damages arising out of [~~the~~] space flight activities  
2-48 [~~participant injury~~] if the space flight participant has signed the  
2-49 agreement required by Section 100A.003 and given written consent as  
2-50 required by 51 [49] U.S.C. Section 50905 [70105].

2-51 [~~(b)~~] This subsection [~~section~~] does not limit liability  
2-52 for a space flight participant [~~an~~] injury:

2-53 (1) proximately caused by the space flight entity's  
2-54 gross negligence evidencing wilful or wanton disregard for the  
2-55 safety of the space flight participant; or

2-56 (2) intentionally caused by the space flight entity.

2-57 (c) This section precludes injunctive relief with respect  
2-58 to space flight activities.

2-59 (d) This section does not:

2-60 (1) limit liability for breach of a contract for use of  
2-61 real property by a space flight entity; or

2-62 (2) preclude an action by a federal or state  
2-63 governmental entity to enforce a valid statute or regulation.

2-64 SECTION 3. Subsection (b), Section 100A.003, Civil Practice  
2-65 and Remedies Code, is amended to read as follows:

2-66 (b) An agreement under Subsection (a) is considered  
2-67 effective and enforceable if it is:

2-68 (1) in writing;

2-69 (2) in a document separate from any other agreement

3-1 between the space flight participant and the space flight entity  
3-2 other than a different warning, consent, or assumption of risk  
3-3 statement;

3-4 (3) printed in not less than 10-point bold type; ~~and~~

3-5 (4) signed by the space flight participant on behalf  
3-6 of the space flight participant and any heirs, executors,  
3-7 administrators, representatives, attorneys, successors, and  
3-8 assignees of the space flight participant; and

3-9 (5) signed by a competent witness.

3-10 SECTION 4. Subdivisions (2) and (3), Section 507.001, Local  
3-11 Government Code, are amended to read as follows:

3-12 (2) "Spacecraft" means any object and its components  
3-13 designed to be launched for operations in a suborbital trajectory,  
3-14 in earth orbit, or in outer space. The term includes a satellite, a  
3-15 payload, an object carrying crew or a space flight participant, and  
3-16 any subcomponents of the launch vehicle or reentry vehicle  
3-17 specifically designed or adapted for that object ~~[includes a~~  
3-18 ~~satellite]~~.

3-19 (3) "Spaceport" includes:

3-20 (A) an area intended to be used for space flight  
3-21 activities, as defined by Section 100A.001, Civil Practice and  
3-22 Remedies Code ~~[to launch or land a spacecraft];~~

3-23 (B) a spaceport building or facility located in  
3-24 ~~[on]~~ an area reasonably proximate ~~[appurtenant]~~ to a launch  
3-25 vehicle, reentry vehicle, or spacecraft launching or landing area;

3-26 (C) an area reasonably proximate ~~[appurtenant]~~  
3-27 to a launch vehicle, reentry vehicle, or spacecraft launching or  
3-28 landing area that is intended for use for a spaceport building or  
3-29 facility; and

3-30 (D) a right-of-way related to a launch vehicle,  
3-31 reentry vehicle, or spacecraft launching or landing area, building,  
3-32 facility, or other area that is reasonably proximate ~~[appurtenant]~~  
3-33 to a launching or landing area.

3-34 SECTION 5. Subsection (d), Section 481.0069, Government  
3-35 Code, is amended to read as follows:

3-36 (d) Money in the spaceport trust fund may not be spent  
3-37 unless the office certifies to the comptroller that:

3-38 (1) a viable business entity has been established  
3-39 that:

3-40 (A) has a business plan that demonstrates that  
3-41 the entity has available the financial, managerial, and technical  
3-42 expertise and capability necessary to launch and land a reusable  
3-43 launch vehicle or spacecraft; and

3-44 (B) has committed to locating its facilities at a  
3-45 spaceport in this state;

3-46 (2) a development corporation for spaceport  
3-47 facilities created under Chapter 507, Local Government Code, has  
3-48 established a development plan for the spaceport project and has  
3-49 demonstrated the financial ability to fund ~~[secured]~~ at least 75  
3-50 ~~[90]~~ percent of the funding required for the project; and

3-51 (3) the spaceport or launch operator, if required by  
3-52 federal law, has obtained or applied for the appropriate Federal  
3-53 Aviation Administration license or other appropriate  
3-54 authorization.

3-55 SECTION 6. Section 42.01, Penal Code, is amended by adding  
3-56 Subsection (g) to read as follows:

3-57 (g) Noise arising from space flight activities, as defined  
3-58 by Section 100A.001, Civil Practice and Remedies Code, if lawfully  
3-59 conducted, does not constitute "unreasonable noise" for purposes of  
3-60 this section.

3-61 SECTION 7. The changes in law made by this Act apply only to  
3-62 space flight activities that occur on or after the effective date of  
3-63 this Act. Space flight activities that occur before the effective  
3-64 date of this Act are governed by the law in effect immediately  
3-65 before that date, and that law is continued in effect for that  
3-66 purpose.

3-67 SECTION 8. This Act takes effect September 1, 2013.

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