

By Senator Posey

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1 A bill to be entitled  
2 An act relating to informed consent for spaceflight;  
3 creating part III of ch. 331, F.S.; providing definitions;  
4 providing immunity from liability for injury to or death  
5 of certain suborbital flight participants if specified  
6 informed consent requirements are complied with; providing  
7 exceptions; requiring each participant to sign a warning  
8 statement; providing minimum requirements for a warning  
9 statement; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13 Section 1. Part III of chapter 331, Florida Statutes,  
14 consisting of section 331.501, is created to read:

15 PART III

16 SPACEFLIGHT

17 331.501 Suborbital spaceflight; informed consent.--

18 (1) For purposes of this section, the term:

19 (a) "Participant" means any person, passenger, or crew  
20 member participating in spaceflight activities.

21 (b) "Spaceflight activities" means any activities necessary  
22 or antecedent to preparing, launching, carrying, or landing a  
23 participant on a suborbital flight.

24 (c) "Spaceflight entity" means any public or private entity  
25 holding a United States Federal Aviation Administration launch,  
26 reentry, operator, or launch site license for suborbital flight.

27 (d) "Suborbital flight" means a flight that is not intended  
28 to complete an orbit around the earth and that has any portion of

24-02716A-08

20082438\_\_

29 its intended flight path at altitude equal to or greater than  
30 62.5 miles above the earth's mean sea level.

31 (2) (a) Except as provided in paragraph (b), a spaceflight  
32 entity is not liable for injury to or death of a participant  
33 resulting from the inherent risks of spaceflight launch  
34 activities, so long as the warning contained in subsection (3) is  
35 distributed and signed as required. Except as provided in  
36 paragraph (b), no participant or participant's representative may  
37 maintain an action against or recover from a spaceflight entity  
38 for the loss, damage, or death of the participant resulting  
39 exclusively from any of the inherent risks of spaceflight  
40 activities; provided that, in any action for damages against a  
41 spaceflight entity for spaceflight activities, the spaceflight  
42 entity shall plead the affirmative defense of assumption of the  
43 risk of spaceflight activities by the participant.

44 (b) Nothing in paragraph (a) shall prevent or limit the  
45 liability of a spaceflight entity if the spaceflight entity does  
46 any one or more of the following:

47 1. Commits an act or omission that constitutes gross  
48 negligence or willful or wanton disregard for the safety of the  
49 participant and that act or omission proximately causes injury,  
50 damage, or death to the participant;

51 2. Has actual knowledge or reasonably should have known of  
52 a dangerous condition on the land or in the facilities or  
53 equipment used in the spaceflight activities and the danger  
54 proximately causes injury, damage, or death to the participant;  
55 or

56 3. Intentionally injures the participant.

24-02716A-08

20082438\_\_

57 (c) Any limitation on legal liability afforded by this  
58 subsection to a spaceflight entity is in addition to any other  
59 limitation of legal liability otherwise provided by law.

60 (3) (a) Every spaceflight entity providing spaceflight  
61 activities to a participant, whether such activities occur on or  
62 off a facility capable of launching a suborbital flight, shall  
63 have each participant sign the warning statement specified in  
64 paragraph (b).

65 (b) The warning statement described in paragraph (a) shall  
66 contain, at a minimum, the following statement:

67  
68 "WARNING: Under Florida law, there is no liability for an  
69 injury to or death of a participant in a spaceflight  
70 activity provided by a spaceflight entity if such injury or  
71 death results from the inherent risks of the spaceflight  
72 activity. Inherent risks of spaceflight activities include,  
73 among others, risks of injury to land, equipment, persons,  
74 and animals, as well as the potential for you to act in a  
75 negligent manner that may contribute to your injury or  
76 death. You are assuming the risk of participating in this  
77 spaceflight activity."

78  
79 (c) Failure to comply with the warning statement  
80 requirements in this section shall prevent a spaceflight entity  
81 from invoking the privileges of immunity provided by this  
82 section.

83 Section 2. This act shall take effect July 1, 2008.