

1                   A bill to be entitled  
 2           An act relating to informed consent for spaceflight;  
 3           creating pt. 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.

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

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 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  
 22 necessary or antecedent to preparing, launching, carrying, or  
 23 landing a participant on a suborbital flight.

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

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28        (d) "Suborbital flight" means a flight that is not  
29 intended to complete an orbit around the earth and that has any  
30 portion of its intended flight path at altitude equal to or  
31 greater than 62.5 miles above the earth's mean sea level.

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

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

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

53        2. Has actual knowledge or reasonably should have known of  
54 a dangerous condition on the land or in the facilities or  
55 equipment used in the spaceflight activities and the danger

56 proximately causes injury, damage, or death to the participant;  
 57 or

58 3. Intentionally injures the participant.

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

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

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

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

80  
 81 (c) Failure to comply with the warning statement  
 82 requirements in this section shall prevent a spaceflight entity

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83 from invoking the privileges of immunity provided by this  
84 section.

85       Section 2. This act shall take effect October 1, 2008.