

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Rules Committee

BILL: SB 652

INTRODUCER: Senators Simmons and Altman

SUBJECT: Liability of Spaceflight Entities

DATE: April 1, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fleming</u>	<u>Carter</u>	<u>MS</u>	Favorable
2.	<u>Boland</u>	<u>Maclure</u>	<u>JU</u>	Favorable
3.	<u>Boland</u>	<u>Phelps</u>	<u>RC</u>	Favorable
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill saves from future repeal the statute that provides spaceflight entities with immunity from liability for the loss, damage, or death of a participant resulting from the inherent risks of spaceflight activities. The bill eliminates the statute’s scheduled repeal date of October 2, 2018.

This bill substantially amends section 331.501, Florida Statutes.

II. Present Situation:

In 2008, the Legislature enacted s. 331.501, F.S., which provides that a spaceflight entity¹ is not liable for injury to or death of a spaceflight participant² resulting from the inherent risks of spaceflight launch activities,³ so long as a required warning is given to and signed by the participant. The law further provides that a participant or participant’s representative may not recover from a spaceflight entity for the loss, damage, or death of the participant resulting exclusively from any of the inherent risks of spaceflight activities. The immunity provided by

¹ “Spaceflight entity” means any public or private entity holding a United States Federal Aviation Administration launch, reentry, operator, or launch site license for spaceflight activities.

² “Spaceflight participant” means an individual, who is not crew, carried within a launch vehicle or reentry vehicle as defined in 49 U.S.C. s. 70102.

³ “Spaceflight activities” means launch services or reentry services as those terms are defined in 49 U.S.C. s. 70102. That federal statute defines “launch services” as activities involved in the preparation of a launch vehicle, payload, crew (including crew training), or space flight participant for launch and the conduct of a launch, and it defines “reentry services” as activities involved in the preparation of a reentry vehicle and payload, crew (including crew training), or space flight participant for reentry and the conduct of a reentry.

s. 331.501, F.S., does not apply if the injury was proximately caused by the spaceflight entity and the spaceflight entity:

- Commits gross negligence or willful or wanton disregard for the safety of the participant;
- Has actual knowledge or reasonably should have known of a dangerous condition; or
- Intentionally injures the participant.

To receive the immunity, the spaceflight entity must have each participant sign a required warning statement. The warning statement must contain, at a minimum, the following statement:

WARNING: Under Florida law, there is no liability for an injury to or death of a participant in a spaceflight activity provided by a spaceflight entity if such injury or death results from the inherent risks of the spaceflight activity. Injuries caused by the inherent risks of spaceflight activities may include, among others, injury to land, equipment, persons, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this spaceflight activity.

The limitation on liability established in s. 331.501, F.S., is in addition to any other limitation of legal liability that might otherwise be provided by law.

Section 331.501, F.S., includes a provision that the section will expire on October 2, 2018, unless reviewed and reenacted by the Legislature.

III. Effect of Proposed Changes:

This bill saves from future repeal the section of the Florida Statutes which provides spaceflight entities with immunity from liability for the loss, damage, or death of a participant resulting from the inherent risks of spaceflight activities. Specifically, the bill deletes the provision from s. 331.501, F.S., which provides for the statute to expire on October 2, 2018, unless reviewed and reenacted by the Legislature.

The bill provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

To the extent that the removal of the sunset provision from s. 331.501, F.S., encourages private sector economic activity by providing additional incentives for private space flight companies to locate in Florida, the bill could have a positive private sector impact.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.