

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 703 Liability of Spaceflight Entities

SPONSOR(S): Civil Justice Subcommittee; Goodson

TIED BILLS: None **IDEN./SIM. BILLS:** SB 652

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	14 Y, 0 N	Tecler	Kruse
2) Civil Justice Subcommittee	12 Y, 0 N, As CS	Billmeier	Bond
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Current law provides liability protection to spaceflight entities in the event of an injury to or death of a participant engaging in spaceflight activities provided certain warnings are given to and signed by the participant. This law is repealed effective October 2, 2018. This bill deletes the scheduled repeal. This bill also extends the liability protection to any manufacturer or supplier of components, services or vehicles that have been reviewed by the United States Federal Aviation Administration.

This bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In order to encourage growth in the commercial spaceflight industry, Congress enacted the Commercial Space Launch Amendments Act of 2004 (“the Act”).¹ The Act establishes a licensing process for spaceflight entities.² The Act establishes informed consent requirements for commercial human spaceflight and provides certain protections to licensed entities that engage in commercial human spaceflight.

The provisions of the Act include a “fly at your own risk” clause that allows a licensed entity to carry spaceflight participants only if the licensed entity informs participants in writing about the risks of the launch and reentry, including the safety record of the launch or reentry vehicle.³ After being fully informed, participants must provide written consent.⁴ The Act does not require spaceflight participants to waive liability for any non-governmental entity.

The Act also includes licensed entities in a temporary indemnification and insurance arrangement that requires the licensed entity to purchase insurance, but provides government indemnification up to \$1.5 billion beyond the insurance cap.⁵ This has the effect of shielding licensed entities from high insurance costs due to the risk of a catastrophic event.

In general, states offer liability protection for commercial human spaceflights as an incentive measure to attract or retain commercial spaceflight activity in their state. In addition to Florida, Virginia and New Mexico provide liability protection for entities engaging in commercial human spaceflight.⁶ Last year, the Virginia General Assembly repealed the sunset date of the Virginia law.⁷ The New Mexico law provides a sunset date of July 1, 2018.

Florida Liability Protection

Section 331.501, F.S. provides that a spaceflight entity⁸ is not liable for injury to or death of a spaceflight participant resulting from the inherent risks of spaceflight activities,⁹ provided the required warning is given to and signed by the participant. A participant or participant's representative may not recover damages 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 limitation on liability is in addition to any other limitation of legal liability that might otherwise be provided by law. Further, immunity provided under current law does not apply if the injury was proximately caused by the spaceflight entity and the spaceflight entity:¹⁰

¹ 49 U.S.C. ss. 70101-70305.

² *See generally* 49 U.S.C. s. 70105

³ 49 U.S.C. s. 70105(b)(5).

⁴ 49 U.S.C. s. 70105(b)(5)(C).

⁵ 49 U.S.C. ss. 70112-13. \$500 million in coverage for third party claims. \$100 million for property damage claims by the United States.

⁶ Va. Code ss. 8.01-227.8 through 8.01-227.10. NMSA 1978, ss. 41-14-1 through 41-14-4.

⁷ HB 21 repealed the sunset date of July 1, 2013.

⁸ Section 331.501(1)(c), F.S. defines “spaceflight entity” as a public or private entity holding a United States Federal Aviation Administration launch, reentry, operator, or launch site license for spaceflight activities.

⁹ As defined in s. 331.501(1)(b), F.S., the term “spaceflight activities” means launch services or reentry services as those terms are defined in 49 U.S.C. s. 70102.

¹⁰ Section 331.501(2)(b), F.S.

- 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 provided under current law, the spaceflight entity must have each participant sign a required warning statement.¹¹ The warning 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 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.¹²

Unless reenacted by the Legislature, the provisions of this section are repealed on October 2, 2018.¹³

Effect of this Bill

This bill amends s. 331.501, F.S. to remove the repeal of October 2, 2018.

This bill amends the definition of "spaceflight entity" to include any manufacturer or supplier of components, services, or vehicles that have been reviewed by the Federal Aviation Administration as part of the licensing process. This has the effect of extending the liability protections in the bill to any manufacturer or supplier of components, services, or vehicles that have been reviewed by the Federal Aviation Administration.

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

B. SECTION DIRECTORY:

Section 1: Amends s. 331.501, F.S., removing the sunset date.

Section 2: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

¹¹ Section 331.501(3)(a), F.S.

¹² Section 331.501(3)(b), F.S.

¹³ Section 331.501(4), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By removing the repeal, the bill may have the effect of encouraging private sector economic activity.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

The Civil Justice Subcommittee considered this bill on March 23, 2011, and adopted an amendment to extend liability protections to any manufacturer or supplier of components, services, or vehicles that have been reviewed by the Federal Aviation Administration as part of the licensing process. This bill, as amended, was reported favorably as a committee substitute.

This analysis is drafted to the committee substitute.