

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/CS/HB 839 Spaceflight Entity Liability  
**SPONSOR(S):** Judiciary Committee and Civil Justice Subcommittee, Sirois  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 1318

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**FINAL HOUSE FLOOR ACTION:** 107 Y's 5 N's      **GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

CS/CS/HB 839 passed the House on May 3, 2023, as CS/SB 1318 as amended.

A "spaceflight entity" is a public or private entity that holds a United States Federal Aviation Administration ("FAA") launch, reentry, operator, or launch site license for spaceflight activities. The term also includes a manufacturer or supplier of components, services, or vehicles that have been reviewed by the FAA as part of issuing such a license, permit, or authorization.

Under s. 331.501, F.S., a spaceflight entity is not liable for the injury to or death of a spaceflight participant resulting from the inherent risks of spaceflight activities, as long as a required warning statement is given to and signed by the participant. The immunity from liability granted to the spaceflight entity by a participant signing such a waiver does not apply if the spaceflight entity:

- Commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of the participant which proximately causes the injury or death of the participant;
- Has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the spaceflight activities which proximately causes the injury or death of the participant; or
- Intentionally injures the participant.

The bill extends the limited immunity from liability held by spaceflight entities against suits brought by participants to also include suits brought by crew members who sign the waiver pursuant to s. 331.501, F.S. The bill provides that an exception to the immunity applies if the spaceflight entity is grossly negligent, knows of an extraordinarily dangerous condition that is not inherent in spaceflight activities, or intentionally injures the participant or crew. The bill also:

- Modifies the definition of "spaceflight entity" to:
  - Include a public or private entity that is authorized by the United States Government to conduct spaceflight activities; and
  - Specify that a manufacturer or supplier of spaceflight components, services, or vehicles is covered under the definition of spaceflight entity, regardless of whether the FAA has reviewed such components, services, or vehicles.
- Defines "spaceflight activities" to mean launch services or reentry services, as well as activities occurring between launch and landing.
- Defines "crew" as that term is defined in 51 U.S.C. s. 50902.

The bill also modifies the liability protection within s. 331.501, F.S., to include liability protection from injury or death resulting from spaceflight activities, regardless of whether the injury or death resulted from the "inherent risks" of such spaceflight activities.

The bill has no fiscal impact on state or local governments.

The bill was approved by the Governor on May 25, 2023, ch. 2023-139, L.O.F., and will take effect July 1, 2023.

# I. SUBSTANTIVE INFORMATION

## A. EFFECT OF CHANGES:

### Background

#### Florida Liability Shield for Spaceflight Entities

Current Florida law shields a public or private “spaceflight entity” from liability for ordinary negligence towards any “participant,” as long as the participant signs a specified warning statement advising of such liability limitation.<sup>1</sup> For purposes of this liability limitation, a:

- “Spaceflight entity” is a public or private entity holding a United States Federal Aviation Administration launch, reentry, operator, or launch site license for spaceflight activities. The term also includes any manufacturer or supplier of components, services, or vehicles that have been reviewed by the United States Federal Aviation Administration as part of issuing such a license, permit, or authorization.<sup>2</sup>
- “Participant” is a person who meets the definition of “participant” under federal law, which defines the term as a non-crew member aboard a space flight.<sup>3</sup> “Crew” means “any employee of a licensee or transferee, or of a contractor or subcontractor of a licensee or transferee, who performs activities in the course of that employment directly relating to the launch, reentry, or other operation of or in a launch vehicle or reentry vehicle that carries human beings.”<sup>4</sup>

Therefore, under current Florida law, the civil liability shield limits the liability of a spaceflight entity towards a participant for dangers resulting from the inherent risks of spaceflight activities, but not towards a crew member—such as an employee of the spaceflight entity.

To take advantage of this limited civil liability shield, the spaceflight entity must provide to the participant the following boilerplate warning statement and have the participant sign the warning statement:<sup>5</sup>

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.<sup>6</sup>

However, even if a participant signs the warning statement, the limited civil liability shield does not protect the spaceflight entity if the spaceflight entity does any of the following:

- Commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of the participant which proximately causes the injury or death of the participant.
- Has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the spaceflight activities which proximately causes the injury or death of the participant.
- Intentionally injures the participant.<sup>7</sup>

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<sup>1</sup> S. 331.501, F.S.

<sup>2</sup> S. 331.501(1)(c), F.S.

<sup>3</sup> A spaceflight “participant” is defined as the term is defined in 51 U.S.C. s. 50902, which includes “an individual, who is not crew or a government astronaut, carried within a launch vehicle or reentry vehicle.”

<sup>4</sup> 51 U.S.C. s. 50902.

<sup>5</sup> S. 331.501(3), F.S.

<sup>6</sup> S. 331.501(3)(b), F.S.

<sup>7</sup> S. 331.501(2)(b), F.S.

## Federal Definitions for Spaceflight Activities

Federal law—specifically, 51 U.S.C. s. 50902—defines various spaceflight-related terms, some of which are borrowed by Florida law for use within s. 331.501, F.S.

### **Effect of the Bill**

The bill amends s. 331.501, F.S., to extend the liability immunity held by spaceflight entities against spaceflight participants to also include immunity against crew members. The bill also broadens the liability immunity to apply to any injury or death resulting from “spaceflight activities,” regardless of whether such injury or death arose out of the “inherent risks” of such activities. The bill provides that “spaceflight activities” includes launch services or reentry services, as well as activities occurring between launch and landing.

The bill also adds a definition of “crew” within s. 331.501, F.S., to incorporate the federal definition of that term, so that “crew” means any employee of a licensee or transferee, or of a contractor or subcontractor of a licensee or transferee, who performs activities in the course of that employment directly relating to the launch, reentry, or other operation of or in a launch vehicle or reentry vehicle that carries human beings.

The bill modifies the definition of “spaceflight entity” within s. 331.501, F.S., to:

- Include a public or private entity that is authorized by the United States Government to conduct spaceflight activities; and
- Specify that a manufacturer or supplier of spaceflight components, services, or vehicles is covered under the definition of spaceflight entity, regardless of whether the FAA has reviewed such components, services, or vehicles.

The bill provides that the boilerplate warning statement within s. 331.501(3)(b), F.S., must be provided to each participant or crew, regardless of whether the spaceflight activities are provided to a participant, and regardless of whether such activities occur on or off a launch site. The bill also removes from the boilerplate warning statement any reference to the “inherent risks” of the spaceflight activity, so that under the bill, such warning statement now reads as follows:

WARNING: Under Florida law, there is no liability for an injury to or death of a participant or crew in a spaceflight activity provided by a spaceflight entity if such injury or death results from the spaceflight activity. Injuries caused by 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.

Finally, the bill changes the exception to the liability immunity to allow suit only if the spaceflight entity:

- Commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of the participant or crew;
- Knew of an extraordinarily dangerous condition that is not inherent in spaceflight activities; or
- Intentionally injures the participant or crew.

The bill was approved by the Governor on May 25, 2023, ch. 2023-139, L.O.F., and will take effect July 1, 2023.

## **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.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would expand the limited civil liability immunity enjoyed by a spaceflight entity, which may limit the cost of litigation to businesses engaging in spaceflight activities.

D. FISCAL COMMENTS:

None.