

House Bill 734

By: Representatives Spencer of the 180th, Stephens of the 165th, Stephens of the 164th, Jones of the 167th, Corbett of the 174th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 36, 41, and 51 of the Official Code of Georgia Annotated, relating to local
2 government, nuisances, and torts, respectively, so as to provide for the facilitation of space
3 flight activities in this state; to provide for definitions; to prohibit local government
4 regulation of noise associated with space flight operations; to provide that space flight
5 operations shall not constitute nuisances under certain conditions; to limit the liability of
6 space flight entities related to injuries sustained by participants who have agreed in writing
7 to such a limitation; to provide a short title; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 This Act shall be known and may be cited as the "Georgia Space Flight Act."

12 SECTION 2.

13 Title 36 of the Official Code of Georgia Annotated, related to local government, is amended
14 by adding a new chapter to read as follows:

15 CHAPTER 93

16 36-93-1.

17 (a) As used in this Code section, the term:

18 (1) 'Local governmental unit' shall have the same meaning as provided in Code Section
19 51-3-41.

20 (2) 'Space flight operation' shall have the same meaning as provided in Code Section
21 41-4-1.

22 (b) No local governmental unit shall adopt any ordinances, resolutions, permits, or other
23 regulations relating to noise control, noise pollution, or noise abatement to prohibit conduct

24 of a space flight operation; provided, however, that nothing in this Code section shall be
 25 construed to restrict, affect, or diminish the ability of any local government to adopt or
 26 enforce ordinances, resolutions, permits, or other regulations or otherwise to exercise any
 27 lawful power under the Constitution or laws of the State of Georgia not in conflict
 28 therewith, including, without limitation, those affecting zoning, land use, or use of public
 29 rights of way."

30 **SECTION 3.**

31 Title 41 of the Official Code of Georgia Annotated, relating to nuisances, is amended by
 32 adding a new chapter to read as follows:

33 "CHAPTER 4

34 41-4-1.

35 As used in this chapter, the term:

36 (1) 'Space flight activities' shall have the same meaning as provided in Code
 37 Section 51-3-41.

38 (2) 'Space flight entity' shall have the same meaning as provided in Code
 39 Section 51-3-41.

40 (3) 'Space flight operation' means an enterprise consisting of any of the following:

41 (A) Lands, including the buildings and improvements thereon, which are used,
 42 intended for use, or designated for use for space flight activities; or

43 (B) A space flight entity that owns, leases, or utilizes lands, including the buildings and
 44 improvements thereon, which are used, intended for use, or designated for use for space
 45 flight activities.

46 41-4-2.

47 No space flight operation shall be or become a nuisance, either public or private, solely as
 48 a result of changed conditions in or around the locality of such space flight operation if
 49 such space flight operation has been in operation for at least one year since the date on
 50 which are commenced any space flight activities. Subsequent physical expansion of the
 51 space flight operation shall not establish a new date of commencement of space flight
 52 activities for purposes of this Code section.

53 41-4-3.

54 No space flight operation shall be subject to any action for civil or criminal liability,
 55 damages, abatement, or equitable relief, including, but not limited to, declaratory judgment

56 and injunctive relief resulting from or relating to noise generated by lawful space flight
 57 activities conducted or generated by a space flight entity as part of the space flight
 58 operation."

59 **SECTION 4.**

60 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by adding
 61 a new article to Chapter 3, relating to liability of landowners and occupiers of land, to read
 62 as follows:

63 "ARTICLE 4

64 51-3-41.

65 (a) As used in this article, the term:

66 (1) 'Crew' means any employee of a space flight entity or any contractor or subcontractor
 67 of a space flight entity who performs activities relating to the launch, reentry, or other
 68 operation of or in a spacecraft, launch vehicle, or reentry vehicle.

69 (2) 'Launch' means a placement or attempted placement of a launch vehicle, reentry
 70 vehicle, or spacecraft in a suborbital trajectory, in earth orbit, or in outer space, including
 71 activities involved in the preparation of a launch vehicle, reentry vehicle, or spacecraft
 72 for launch.

73 (3) 'Launch vehicle' means any vehicle and its stages or components designed to operate
 74 or place a spacecraft in a suborbital trajectory, in earth orbit, or in outer space.

75 (4) 'Local government' means a county, municipal corporation, or consolidated
 76 government of the State of Georgia.

77 (5) 'Local governmental unit' means a local government and any office, agency,
 78 department, commission, board, body, division, instrumentality, or institution thereof.

79 (6) 'Person' means an individual, proprietorship, corporation, firm, partnership,
 80 association, or other such entity.

81 (7) 'Reentry' means a return or attempt to return of a launch vehicle, reentry vehicle, or
 82 spacecraft from a suborbital trajectory, from earth orbit, or from outer space to earth,
 83 including activities involved in the recovery of a launch vehicle, reentry vehicle, or
 84 spacecraft.

85 (8) 'Reentry vehicle' means any vehicle, including its stages or components, spacecraft,
 86 or reusable launch vehicle designed to return from earth orbit or outer space to earth
 87 substantially intact.

88 (9) 'Spacecraft' means any object and its components designed to be launched for
 89 operations in a suborbital trajectory, in earth orbit, or in outer space, including, but not

- 90 limited to, a satellite, a payload, an object carrying crew or a space flight participant, and
91 any subcomponents of the launch vehicle or reentry vehicle specifically designed or
92 adapted for that object.
- 93 (10) 'Space flight activities' means activities and training in any phase of preparing for
94 or undertaking space flight, including, but not limited to, the:
- 95 (A) Research, development, testing, or manufacture of a launch vehicle, reentry
96 vehicle, or spacecraft;
- 97 (B) Preparation of a launch vehicle, reentry vehicle, payload, spacecraft, crew, or space
98 flight participant for launch, space flight, or reentry;
- 99 (C) Conduct of the launch;
- 100 (D) Conduct occurring between the launch and reentry;
- 101 (E) Preparation of a launch vehicle, reentry vehicle, payload, spacecraft, crew, or space
102 flight participant for reentry;
- 103 (F) Conduct of reentry and descent;
- 104 (G) Conduct of the landing;
- 105 (H) Conduct of post landing recovery of a launch vehicle, reentry vehicle, payload,
106 spacecraft, crew, or space flight participant; and
- 107 (I) Conduct of embarking or disembarking of a launch vehicle, reentry vehicle,
108 payload, spacecraft, crew, or space flight participant.
- 109 (11) 'Space flight entity' means:
- 110 (A) A person who conducts space flight activities and who, to the extent required by
111 federal law, has obtained the appropriate Federal Aviation Administration license or
112 other authorization, including any safety approval and a payload determination that may
113 be required under federal law or the laws of the State of Georgia.
- 114 (B) A manufacturer or supplier of components, services, spacecraft, launch vehicles,
115 or reentry vehicles used in space flight activities;
- 116 (C) An employee, officer, director, owner, stockholder, member, manager, advisor, or
117 partner of the entity, manufacturer, or supplier;
- 118 (D) An owner or lessor of real property on which space flight activities are conducted;
- 119 (E) A state agency or local governmental unit with a contractual relationship with any
120 person described in subparagraphs (A) through (D) of this paragraph; or
- 121 (F) A state agency or local governmental unit having jurisdiction in the territory in
122 which space flight activities are conducted.
- 123 (12) 'Space flight participant' means an individual, who is not crew, carried aboard or
124 intended to be carried aboard a spacecraft, launch vehicle, or reentry vehicle.

125 (13) 'Space flight participant injury' means an injury sustained by a space flight
 126 participant, including bodily injury, emotional distress, death, disability, property
 127 damage, or any other loss arising from space flight activities.

128 (14) 'State agency' means any department, agency, commission, or other institution of
 129 the executive branch of the government of the State of Georgia.

130 (15) 'This state' means the State of Georgia, all land and water over which it has either
 131 exclusive or concurrent jurisdiction, and the airspace above such land and water.

132 51-3-42.

133 (a) Except as provided in subsection (b) of this Code section, a space flight entity shall
 134 not be liable to any person for a space flight participant injury or damages arising out of
 135 space flight activities occurring in or originating from this state if the space flight
 136 participant has:

137 (1) Signed the agreement and warning statement required by Code Section 51-3-43; and

138 (2) Given written informed consent as may be required by 51 U.S.C. Section 50905 or
 139 other federal law.

140 (b) Nothing in this Code section shall:

141 (1) Limit liability for a space flight participant injury:

142 (A) Proximately caused by the space flight entity's gross negligence evidencing willful
 143 or wanton disregard for the safety of the space flight participant; or

144 (B) Intentionally caused by the space flight entity;

145 (2) Limit liability for the breach of a contract for use of real property by a space flight
 146 entity; or

147 (3) Preclude an action by the federal government, the State of Georgia, or any state
 148 agency to enforce a valid statute or rule or regulation.

149 51-3-43.

150 (a) A space flight participant shall sign an agreement and warning statement before
 151 participating in any space flight activity. Such statement shall include the following
 152 language:

153 AGREEMENT AND WARNING

154 I UNDERSTAND AND ACKNOWLEDGE THAT UNDER THE LAWS OF THE
 155 STATE OF GEORGIA, A SPACE FLIGHT ENTITY IS NOT LIABLE FOR ANY
 156 INJURY TO OR DEATH OF A SPACE FLIGHT PARTICIPANT RESULTING FROM
 157 SPACE FLIGHT ACTIVITIES. I UNDERSTAND AND ACKNOWLEDGE THAT
 158 SPACE FLIGHT ACTIVITIES ARE INHERENTLY DANGEROUS. I UNDERSTAND

159 THAT PARTICIPATION IN SPACE FLIGHT ACTIVITIES INVOLVES RISKS AND
 160 DANGERS WHICH INCLUDE, WITHOUT LIMITATION, THE POTENTIAL FOR
 161 SERIOUS BODILY INJURY, SICKNESS, PERMANENT DISABILITY, PARALYSIS,
 162 AND LOSS OF LIFE; EXPOSURE TO EXTREME CONDITIONS AND
 163 CIRCUMSTANCES; ACCIDENTS, CONTACT, OR COLLISION WITH OTHER
 164 SPACE FLIGHT PARTICIPANTS, SPACE FLIGHT VEHICLES, AND EQUIPMENT;
 165 DANGERS ARISING FROM ADVERSE WEATHER CONDITIONS; EQUIPMENT
 166 FAILURE; AND OTHER UNDEFINED RISKS AND DANGERS WHICH ARE NOT
 167 READILY FORESEEABLE OR ARE PRESENTLY UNKNOWN. I UNDERSTAND
 168 THAT BY SIGNING THIS AGREEMENT AND WARNING I HAVE EXPRESSLY
 169 ACCEPTED AND ASSUMED ALL RISKS AND RESPONSIBILITIES OF INJURY,
 170 DEATH, PROPERTY DAMAGE, AND OTHER LOSS THAT MAY RESULT FROM
 171 SPACE FLIGHT ACTIVITIES.

172 (b) The agreement and warning statement under subsection (a) of this Code section shall
 173 be considered effective and enforceable if it is:

174 (1) In writing;

175 (2) In a document separate from any other agreement between the space flight participant
 176 and the space flight entity other than a warning, consent, or assumption of risk statement
 177 required under federal law or under applicable laws of another state;

178 (3) Printed in capital letters in not less than 10-point bold type;

179 (4) Signed by the space flight participant or by the space flight participant's parents or
 180 legal guardian in the case of a minor on behalf of the space flight participant and any
 181 heirs, executors, administrators, successors, and assignees of the space flight participant;

182 (5) Signed by a competent witness; and

183 (6) Provided to the space flight participant at least 24 hours prior to such space flight
 184 participant's participation in any space flight activity.

185 (c) An agreement and warning statement executed pursuant to this Code section shall not
 186 limit liability for a space flight participant injury:

187 (1) Proximately caused by the space flight entity's gross negligence evidencing willful
 188 or wanton disregard for the safety of the space flight participant; or

189 (2) Intentionally caused by a space flight entity.

190 (d) An agreement and warning statement executed in compliance with this Code section
 191 shall not be deemed unconscionable or against public policy.

192 51-3-44.

193 Any litigation, action, suit, or other arbitral, administrative, or judicial proceeding at law
194 or equity against a space flight entity pertaining to space flight activities shall be governed
195 by the laws of the State of Georgia."

196 **SECTION 5.**

197 All laws and parts of laws in conflict with this Act are repealed.