

House Bill 734 (COMMITTEE SUBSTITUTE)

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 Title 51 of the Official Code of Georgia Annotated, relating to torts, so as to
2 provide for the facilitation of space flight activities in this state; to provide for definitions;
3 to provide for exceptions; to limit the liability of space flight entities related to injuries
4 sustained by participants who have agreed in writing to such a limitation after being provided
5 with certain warnings; to provide a short title; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

10 **SECTION 2.**

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

14 "ARTICLE 4

15 51-3-41.

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

17 (1) 'Crew member' means any employee of a space flight entity or any contractor or
18 subcontractor of a space flight entity who performs activities directly relating to the
19 launch, reentry, or other operation of or in a spacecraft, launch vehicle, or reentry vehicle.

20 (2) 'Launch' means a placement or attempted placement of a launch vehicle, reentry
21 vehicle, or spacecraft in a suborbital trajectory, in earth orbit, or in outer space, including
22 activities involved in the preparation of a launch vehicle, reentry vehicle, or spacecraft
23 for launch.

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- 24 (3) 'Launch vehicle' means any vehicle and its stages or components designed to operate
 25 or place a spacecraft in a suborbital trajectory, in earth orbit, or in outer space.
- 26 (4) 'Local government' means a county, municipal corporation, or consolidated
 27 government of the State of Georgia.
- 28 (5) 'Local governmental unit' means a local government and any office, agency,
 29 department, commission, board, body, division, instrumentality, or institution thereof.
- 30 (6) 'Person' means an individual, proprietorship, corporation, firm, partnership,
 31 association, or other such entity.
- 32 (7) 'Reentry' means a return or attempt to return of a launch vehicle, reentry vehicle, or
 33 spacecraft from a suborbital trajectory, from earth orbit, or from outer space to earth,
 34 including activities involved in the recovery of a launch vehicle, reentry vehicle, or
 35 spacecraft.
- 36 (8) 'Reentry vehicle' means any vehicle, including its stages or components, spacecraft,
 37 or reusable launch vehicle designed to return from earth orbit or outer space to earth
 38 substantially intact.
- 39 (9) 'Spacecraft' means any object and its components designed to be launched for
 40 operations in a suborbital trajectory, in earth orbit, or in outer space, including, but not
 41 limited to, a satellite, a payload, an object carrying a crew member or space flight
 42 participant, and any subcomponents of the launch vehicle or reentry vehicle specifically
 43 designed or adapted for that object.
- 44 (10) 'Space flight activities' means activities and training in any phase of preparing for
 45 or undertaking space flight, including, but not limited to, the:
- 46 (A) Preparation of a launch vehicle, reentry vehicle, payload, spacecraft, crew member,
 47 or space flight participant for launch, space flight, or reentry;
- 48 (B) Conduct of the launch;
- 49 (C) Conduct occurring between the launch and reentry;
- 50 (D) Conduct of reentry and descent;
- 51 (E) Conduct of the landing;
- 52 (F) Conduct of post landing recovery of a launch vehicle, reentry vehicle, payload,
 53 spacecraft, crew member, or space flight participant; and
- 54 (G) Conduct of embarking or disembarking of a launch vehicle, reentry vehicle,
 55 payload, spacecraft, crew member, or space flight participant.
- 56 (11) 'Space flight entity' means:
- 57 (A) A person which conducts space flight activities and which, to the extent required
 58 by federal law, has obtained the appropriate Federal Aviation Administration license
 59 or other authorization, including any safety approval and a payload determination that
 60 may be required under federal law or the laws of the State of Georgia.

- 61 (B) A manufacturer or supplier of components, services, spacecraft, launch vehicles,
 62 or reentry vehicles used in space flight activities;
 63 (C) An employee, officer, director, owner, stockholder, member, manager, advisor, or
 64 partner of the entity, manufacturer, or supplier;
 65 (D) An owner or lessor of real property on which space flight activities are conducted;
 66 (E) A state agency or local governmental unit with a contractual relationship with any
 67 person described in subparagraphs (A) through (D) of this paragraph; or
 68 (F) A state agency or local governmental unit having jurisdiction in the territory in
 69 which space flight activities are conducted.
- 70 (12) 'Space flight participant' means an individual who:
 71 (A) Is not a crew member; and
 72 (B)(i) Is carried aboard a spacecraft, launch vehicle, or reentry vehicle; or
 73 (ii) Has indicated a desire to be carried aboard a spacecraft, launch vehicle, or reentry
 74 vehicle as demonstrated by paying any deposit or fee required, if any, to be carried
 75 aboard a spacecraft, launch vehicle, or reentry vehicle or by participating in any
 76 training program or orientation session that may be required by a space flight entity.
- 77 (13) 'Space flight participant injury' means an injury sustained by a space flight
 78 participant, including bodily injury, emotional distress, death, disability, or any other loss.
- 79 (14) 'State agency' means any department, agency, commission, or other institution of
 80 the executive branch of the government of the State of Georgia.
- 81 (15) 'This state' means the State of Georgia, all land and water over which it has either
 82 exclusive or concurrent jurisdiction, and the airspace above such land and water.

83 51-3-42.

- 84 (a) Except as provided in subsection (b) of this Code section, a space flight entity shall not
 85 be civilly liable to or criminally responsible for any person for a space flight participant
 86 injury arising out of inherent risks associated with any space flight activities occurring in
 87 or originating from this state if the space flight participant has:
 88 (1) Signed the warning and written agreement required by Code Section 51-3-43; and
 89 (2) Given written informed consent as may be required by 51 U.S.C. Section 50905 or
 90 other federal law.
- 91 (b) Nothing in this Code section shall:
 92 (1) Limit liability for a space flight participant injury:
 93 (A) Proximately caused by the space flight entity's gross negligence for the safety of
 94 the space flight participant; or
 95 (B) Intentionally caused by the space flight entity;

96 (2) Limit the liability of any space flight entity against any person other than a space
 97 flight participant who meets the requirements of paragraphs (1) and (2) of subsection (a)
 98 of this Code section;

99 (3) Limit liability for the breach of a contract for use of real property by a space flight
 100 entity; or

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

103 (c) The limitations on legal liability afforded to a space flight entity by the provisions of
 104 this article shall be in addition to any other limitations of legal liability provided by federal
 105 law or the laws of this state.

106 51-3-43.

107 (a) A space flight participant shall sign a warning and written agreement before
 108 participating in any space flight activity. Such written agreement shall include the
 109 following language:

110 WARNING AND AGREEMENT

111 UNDER GEORGIA LAW THERE IS NO LIABILITY FOR INJURY, DEATH, OR
 112 OTHER LOSS RESULTING FROM ANY INHERENT RISKS OF SPACE FLIGHT
 113 ACTIVITIES. SUCH INHERENT RISKS OF SPACE FLIGHT ACTIVITIES
 114 INCLUDE, WITHOUT LIMITATION, THE POTENTIAL FOR SERIOUS BODILY
 115 INJURY, SICKNESS, PERMANENT DISABILITY, PARALYSIS, AND LOSS OF
 116 LIFE; EXPOSURE TO EXTREME CONDITIONS AND CIRCUMSTANCES;
 117 ACCIDENTS, CONTACT, OR COLLISION WITH OTHER SPACE FLIGHT
 118 PARTICIPANTS, SPACE FLIGHT VEHICLES, AND EQUIPMENT; AND DANGERS
 119 ARISING FROM ADVERSE WEATHER CONDITIONS AND EQUIPMENT
 120 FAILURE.

121 I UNDERSTAND AND ACKNOWLEDGE THAT BY SIGNING THIS WARNING
 122 AND AGREEMENT, I HAVE EXPRESSLY ACCEPTED AND ASSUMED ALL
 123 RISKS AND RESPONSIBILITIES FOR INJURY, DEATH, AND OTHER LOSS THAT
 124 MAY RESULT FROM THE INHERENT RISKS ASSOCIATED WITH
 125 PARTICIPATION IN ANY SPACE FLIGHT ACTIVITIES. I FURTHER
 126 UNDERSTAND AND AGREE THAT BY SIGNING THIS WARNING AND
 127 AGREEMENT, I HAVE EXPRESSLY WAIVED ALL CLAIMS OF MY HEIRS,
 128 EXECUTORS, ADMINISTRATORS, SUCCESSORS, AND ASSIGNEES FOR ANY
 129 INJURY, DEATH, AND OTHER LOSS THAT MAY RESULT FROM MY

130 PARTICIPATION IN ANY SPACE FLIGHT ACTIVITIES DUE TO THE INHERENT
 131 RISKS ASSOCIATED WITH PARTICIPATION IN SPACE FLIGHT ACTIVITIES.

132

133 FURTHER WARNING: DO NOT SIGN UNLESS YOU HAVE READ AND
 134 UNDERSTOOD THIS WARNING AND AGREEMENT.

135 (b) The warning and written agreement under subsection (a) of this Code section shall be
 136 considered effective and enforceable if it is:

137 (1) In writing;

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

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

142 (4) Signed by the space flight participant on behalf of the space flight participant and any
 143 heirs, executors, administrators, successors, and assignees of the space flight participant;

144 (5) Signed by a competent witness; and

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

147 (c) A warning and written agreement executed pursuant to this Code section shall not limit
 148 liability for a space flight participant injury:

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

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

152 (d) A warning and written agreement executed in compliance with this Code section shall
 153 not be deemed unconscionable or against public policy.

154 51-3-44.

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

158 **SECTION 3.**

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