

Committee Substitute for Senate Bill No. 2438

An act relating to informed consent for spaceflight; creating part III of ch. 331, F.S.; providing definitions; providing immunity from liability for injury to or death of certain participants in spaceflight activities if specified informed consent requirements are complied with; providing exceptions; requiring each participant to sign a warning statement; providing minimum requirements for a warning statement; providing for future expiration of the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Part III of chapter 331, Florida Statutes, consisting of section 331.501, is created to read:

PART III
SPACEFLIGHT

331.501 Spaceflight; informed consent.—

(1) For purposes of this section, the term:

(a) “Participant” means any space flight participant as that term is defined in 49 U.S.C. s. 70102.

(b) “Spaceflight activities” means launch services or reentry services as those terms are defined in 49 U.S.C. s. 70102.

(c) “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)(a) Except as provided in paragraph (b), a spaceflight entity is not liable for injury to or death of a participant resulting from the inherent risks of spaceflight activities so long as the warning contained in subsection (3) is distributed and signed as required. Except as provided in paragraph (b), a participant or participant’s representative may not maintain an action against or 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.

(b) Paragraph (a) does not prevent or limit the liability of a spaceflight entity if the spaceflight entity does any one or more of the following:

1. Commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of the participant and that act or omission proximately causes injury, damage, or death to the participant;

2. 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 and the danger proximately causes injury, damage, or death to the participant; or

3. Intentionally injures the participant.

(c) Any limitation on legal liability afforded by this subsection to a spaceflight entity is in addition to any other limitation of legal liability otherwise provided by law.

(3)(a) Every spaceflight entity providing spaceflight activities to a participant, whether such activities occur on or off the site of a facility capable of launching a suborbital flight, shall have each participant sign the warning statement specified in paragraph (b).

(b) The warning statement described in paragraph (a) shall 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.”

(c) Failure to comply with the warning statement requirements in this section shall prevent a spaceflight entity from invoking the privileges of immunity provided by this section.

(4) This section expires October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. This act shall take effect October 1, 2008.

Approved by the Governor June 17, 2008.

Filed in Office Secretary of State June 17, 2008.