

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact the Code of Virginia by adding in Chapter 3 of Title 8.01 an article numbered 24, consisting of sections numbered 8.01-227.8, 8.01-227.9, and 8.01-227.10, relating to spaceflight liability and immunity.

[H 3184]

Approved

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended and reenacted by adding in Chapter 3 of Title 8.01 an article numbered 24, consisting of sections numbered 8.01-227.8, 8.01-227.9, and 8.01-227.10, as follows:

Article 24.

Spaceflight Liability and Immunity Act.

§ 8.01-227.8. Definitions.

For purposes of this section:

"Participant" means any person, passenger, or crew participating in spaceflight activities.

"Spaceflight activities" means any activities necessary or antecedent to preparing, launching, carrying, or landing a participant on a suborbital flight.

"Spaceflight entity" means any public or private entity holding a United States Federal Aviation Administration launch, reentry, operator, or launch site license for suborbital flight.

"Suborbital" means a distance at or above 62.5 miles from the Earth's mean sea level.

The provisions of this article shall expire on July 1, 2012.

§ 8.01-227.9. Civil immunity for spaceflight entities.

A. Except as provided in subsection B, a spaceflight entity is not liable for injury to or death of a participant resulting from the inherent risks of spaceflight launch activities, so long as the warning contained in § 8.01-227.10 is distributed and signed as required. Except as provided in subsection B, no participant or participant's representative is authorized to 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; provided that in any action for damages against a spaceflight entity for spaceflight activities, the spaceflight entity shall plead the affirmative defense of assumption of the risk of spaceflight activities by the participant.

B. Nothing in subsection A shall 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 section to a spaceflight entity is in addition to any other limitations of legal liability otherwise provided by law.

§ 8.01-227.10. Warning required.

A. Every spaceflight entity providing spaceflight activities to a participant, whether or not such activities occur on or off a facility capable of launching a suborbital flight, shall have each participant sign the warning statement specified in subsection B.

B. The warning statement described in subsection A shall contain, at a minimum, the following statement:

"WARNING: Under Virginia law, there is no liability for an injury to or death of a participant of spaceflight activities provided by a spaceflight entity if such injury or death results from the inherent risks of the spaceflight activity. Inherent risks of spaceflight activities include, among others, risks of injury inherent to land, equipment, 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 requirements concerning the warning statement provided in this section shall prevent a spaceflight entity from invoking the privileges of immunity provided by this article.

ENROLLED

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