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HOUSE BILL 308

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

James P. White

AN ACT

RELATING TO TORT CLAIMS; EXPANDING THE APPLICATION OF THE SPACE  
FLIGHT INFORMED CONSENT ACT; AMENDING THE CIRCUMSTANCES UNDER  
WHICH A SPACE FLIGHT ENTITY IS LIABLE UNDER THE SPACE FLIGHT  
INFORMED CONSENT ACT; REPEALING THE SUNSET PROVISION OF THE  
ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 41-14-1 NMSA 1978 (being Laws 2010,  
Chapter 8, Section 1) is amended to read:

"41-14-1. SHORT TITLE.--~~[This act]~~ Chapter 41, Article 14  
NMSA 1978 may be cited as the "Space Flight Informed Consent  
Act"."

**SECTION 2.** Section 41-14-2 NMSA 1978 (being Laws 2010,  
Chapter 8, Section 2) is amended to read:

"41-14-2. DEFINITIONS.--As used in the Space Flight  
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1 Informed Consent Act:

2 A. "crew" means an employee of a space flight  
3 entity who performs activities in the course of that employment  
4 directly relating to the launch, reentry or other operation of  
5 or in a launch vehicle or reentry vehicle that carries human  
6 beings;

7 B. "launch" means placing or trying to place a  
8 launch vehicle or reentry vehicle and any payload, crew or  
9 participant in a suborbital trajectory, in earth orbit in outer  
10 space or otherwise in outer space. "Launch" includes  
11 activities involved in the preparation of a launch vehicle or  
12 payload for launch when those activities take place at a launch  
13 site in New Mexico;

14 C. "launch vehicle" means:

15 (1) a vehicle built to operate in, or place a  
16 payload or human beings in, outer space; or

17 (2) a suborbital rocket;

18 ~~[A.]~~ D. "participant" means [a space flight  
19 ~~participant as that term is defined in 49 U.S.C. Section 70102]~~  
20 an individual who is not crew and who is carried within a  
21 launch vehicle or reentry vehicle;

22 E. "participant injury" means an injury sustained  
23 by a participant, including bodily injury, emotional distress,  
24 death, property damage or any other loss arising from the  
25 participant's participation in space flight activities;

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1           F. "payload" means an object that a person  
2 undertakes to place in outer space by means of a launch vehicle  
3 or reentry vehicle, including components of the vehicle  
4 specifically designed or adapted for that object;

5           G. "reenter" or "reentry" means to purposefully  
6 return or attempt to return a reentry vehicle and its payload,  
7 crew or participants from earth orbit or from outer space to  
8 earth;

9           H. "reentry vehicle" means a vehicle, including a  
10 reusable launch vehicle, designed to return from earth orbit or  
11 outer space to earth substantially intact;

12           ~~[B.] I. "space flight activities" means [launch~~  
13 ~~services or reentry services as those terms are defined in 49~~  
14 ~~U.S.C. Section 70102; and]:~~

15                   (1) activities, including crew training,  
16 involved in the preparation of a launch vehicle, payload, crew  
17 or participant for launch;

18                   (2) the conduct of a launch;

19                   (3) activities, including crew training,  
20 involved in the preparation of a reentry vehicle and payload,  
21 crew or participant; and

22                   (4) the conduct of a reentry; and

23           ~~[G.] J. "space flight entity" means:~~

24                   (1) a public or private entity holding a  
25 United States federal aviation administration launch, reentry,

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1 operator or launch site license, permit or other authorization  
2 for space flight activities; or

3 (2) a manufacturer or supplier of components,  
4 services or vehicles used by the entity that has been reviewed  
5 by the United States federal aviation administration as part of  
6 issuing such a license, permit or authorization."

7 SECTION 3. Section 41-14-3 NMSA 1978 (being Laws 2010,  
8 Chapter 8, Section 3) is amended to read:

9 "41-14-3. [~~CIVIL IMMUNITY FOR SPACE FLIGHT ENTITIES~~]  
10 LIMITED LIABILITY.--

11 A. Except as provided in Subsection B of this  
12 section, a space flight entity is not liable for injury to or  
13 death of a participant resulting from the inherent risks of  
14 space flight activities so long as the warning contained in  
15 Section [~~4 of the Space Flight Informed Consent Act~~] 41-14-4  
16 NMSA 1978 is distributed and signed as required. Except as  
17 provided in Subsection B of this section, a participant or  
18 participant's representative may not maintain an action against  
19 or recover from a space flight entity for the loss, damage or  
20 death of the participant resulting exclusively from any of the  
21 inherent risks of space flight activities.

22 B. Subsection A of this section does not prevent or  
23 limit the liability of a space flight entity if the space  
24 flight entity:

25 (1) commits an act or omission that

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1 constitutes [~~gross negligence or~~] willful [~~or~~], wanton or  
2 reckless disregard for the safety of the participant and that  
3 act or omission proximately causes injury, damage or death to  
4 the participant;

5 (2) has actual knowledge or reasonably should  
6 have known of a dangerous condition on the land or in the  
7 facilities or equipment used in the space flight activities and  
8 the danger proximately causes injury, damage or death to the  
9 participant; or

10 (3) intentionally injures the participant.

11 C. A space flight entity shall present to and file  
12 with the spaceport authority a certificate of insurance  
13 coverage in the amount of at least one million dollars  
14 (\$1,000,000) that covers liability by the space flight entity  
15 for all space flight activities. No space flight entity that  
16 fails to satisfy the requirements of this section shall receive  
17 any of the protections afforded by the Space Flight Informed  
18 Consent Act.

19 [~~C.~~] D. The limitation on legal liability provided  
20 to a space flight entity by the Space Flight Informed Consent  
21 Act is in addition to any other limitation of legal liability  
22 otherwise provided by law."

23 SECTION 4. Laws 2010, Chapter 8, Section 5 is amended to  
24 read:

25 "DELAYED REPEAL.--The Space Flight Informed Consent Act

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is repealed effective July 1, ~~2018~~ 2021."

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