

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 12-0405.01 Jane Ritter x4342

SENATE BILL 12-035

SENATE SPONSORSHIP

Hodge,

HOUSE SPONSORSHIP

Gardner B.,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING LIMITED LIABILITY FOR SPACEFLIGHT ACTIVITIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill limits liability for a spaceflight entity (entity) for any injury to a spaceflight participant (participant) unless the injury is intentionally caused or proximately caused by gross negligence on the part of the entity. Before participating in a spaceflight activity, a participant must sign an agreement and warning statement acknowledging his or her understanding of limited liability for the entity.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
February 14, 2012

SENATE
Amended 2nd Reading
February 13, 2012

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Colorado has the second-largest aerospace workforce in the
5 United States and is uniquely positioned to become a national and
6 international leader in horizontal take-off commercial spaceflight;

7 (b) Colorado's mile-high altitude affords significant advantages
8 for spaceport activities;

9 (c) Eight of the nation's top aerospace contractors have significant
10 operations in Colorado, and metro Denver has the highest concentration
11 of private sector aerospace employment in the country;

12 (d) Colorado's academic institutions have an outstanding record
13 of success in training and research in space-related activities, and
14 Colorado's universities are among the world's best for aerospace
15 engineering;

16 (e) Denver International Airport and Front Range Airport are
17 geographically ideal for commercial space-related activities and cargo
18 transport;

19 (f) The governor of Colorado has endorsed the recent application
20 of Front Range Airport to be designated a spaceport by the United States
21 government;

22 (g) The economic activity generated by the designation and
23 operation of Front Range Airport as a spaceport would be a significant
24 factor in the creation of numerous primary employment opportunities for
25 the people of Colorado;

26 (h) Commercial spaceflight activities in Colorado would lead to

1 the creation and retention of numerous small- to medium-sized businesses
2 that would help further stimulate Colorado's economy and would help to
3 reduce the unemployment levels in the state; and

4 (i) The potential of horizontal take-off commercial spaceflight
5 facilities in Colorado would soon position Colorado as the hub of civilian
6 spaceflight activities in the country, similar to the status held by Cape
7 Kennedy and Houston.

8 (2) The general assembly hereby expresses its support of
9 horizontal spaceflight activities in Colorado by recognizing that
10 companies and individuals engaged in creating and retaining these
11 space-related employment opportunities should reasonably expect some
12 degree of protection in the event of an accident that might occur as a
13 result of the inherent dangers of spaceflight.

14 **SECTION 2.** In Colorado Revised Statutes, **add** article 6 to title
15 41 as follows:

16 **ARTICLE 6**

17 **Aerospace**

18 **41-6-101. Limited liability for spaceflight activities -**
19 **definitions - agreement and warning.** (1) AS USED IN THIS ARTICLE,
20 UNLESS THE CONTEXT OTHERWISE REQUIRES:

21 (a) "SPACEFLIGHT ACTIVITY" MEANS LAUNCH SERVICES OR
22 REENTRY SERVICES AS THOSE TERMS ARE DEFINED IN 51 U.S.C. SEC.
23 50902.

24 (b) "SPACEFLIGHT ENTITY" MEANS ANY PUBLIC OR PRIVATE ENTITY
25 HOLDING A UNITED STATES FEDERAL AVIATION ADMINISTRATION LAUNCH,
26 REENTRY, OPERATOR, OR LAUNCH SITE LICENSE FOR SPACEFLIGHT
27 ACTIVITIES. THE TERM ALSO INCLUDES ANY MANUFACTURER OR SUPPLIER

1 OF COMPONENTS, SERVICES, OR VEHICLES, WHICH MANUFACTURER OR
2 SUPPLIER HAS BEEN REVIEWED BY THE UNITED STATES FEDERAL AVIATION
3 ADMINISTRATION AS PART OF ISSUING SUCH A LICENSE, PERMIT, OR
4 AUTHORIZATION.

5 (c) "SPACEFLIGHT PARTICIPANT" MEANS ANY SPACEFLIGHT
6 PARTICIPANT AS THAT TERM IS DEFINED IN 51 U.S.C. SEC. 50902.

7 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF
8 THIS SUBSECTION (2), A SPACEFLIGHT ENTITY IS NOT LIABLE FOR INJURY TO
9 OR DEATH OF A SPACEFLIGHT PARTICIPANT RESULTING FROM THE
10 INHERENT RISKS OF SPACEFLIGHT ACTIVITIES SO LONG AS THE AGREEMENT
11 AND WARNING CONTAINED IN PARAGRAPH (b) OF SUBSECTION (3) OF THIS
12 SECTION IS DISTRIBUTED AND SIGNED AS REQUIRED. EXCEPT AS PROVIDED
13 FOR IN PARAGRAPH (b) OF THIS SUBSECTION (2), A SPACEFLIGHT
14 PARTICIPANT OR HIS OR HER REPRESENTATIVE MAY NOT MAINTAIN AN
15 ACTION AGAINST OR RECOVER FROM A SPACEFLIGHT ENTITY FOR ANY
16 LOSS, DAMAGE, INJURY, OR DEATH OF THE SPACEFLIGHT PARTICIPANT
17 RESULTING EXCLUSIVELY FROM ANY OF THE INHERENT RISKS OF
18 SPACEFLIGHT ACTIVITIES.

19 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
20 THIS SUBSECTION (2) TO THE CONTRARY, THIS SUBSECTION (2) DOES NOT
21 LIMIT LIABILITY IF THE SPACEFLIGHT ENTITY DOES ONE OR MORE OF THE
22 FOLLOWING:

23 (I) COMMITS AN ACT OR OMISSION THAT CONSTITUTES GROSS
24 NEGLIGENCE OR WILLFUL OR WANTON DISREGARD FOR THE SAFETY OF THE
25 SPACEFLIGHT PARTICIPANT AND THAT ACT OR OMISSION PROXIMATELY
26 CAUSES LOSS, DAMAGE, INJURY, OR DEATH TO THE SPACEFLIGHT
27 PARTICIPANT;

1 (II) HAS ACTUAL KNOWLEDGE OR REASONABLY SHOULD HAVE
2 KNOWN OF A DANGEROUS CONDITION ON THE LAND OR IN THE FACILITIES
3 OR EQUIPMENT USED IN THE SPACEFLIGHT ACTIVITIES AND THE DANGER
4 PROXIMATELY CAUSES INJURY, DAMAGE, OR DEATH TO THE SPACEFLIGHT
5 PARTICIPANT; OR

6 (III) INTENTIONALLY INJURES THE SPACEFLIGHT PARTICIPANT.

7 (3) (a) EVERY SPACEFLIGHT ENTITY PROVIDING SPACEFLIGHT
8 ACTIVITIES TO A SPACEFLIGHT PARTICIPANT, WHETHER SUCH ACTIVITIES
9 OCCUR ON OR OFF THE SITE OF A FACILITY CAPABLE OF LAUNCHING A
10 SUBORBITAL FLIGHT, SHALL HAVE EACH SPACEFLIGHT PARTICIPANT SIGN
11 THE AGREEMENT AND WARNING STATEMENT SPECIFIED IN PARAGRAPH (b)
12 OF THIS SUBSECTION (3).

13 (b) THE AGREEMENT SHALL INCLUDE THE FOLLOWING LANGUAGE
14 AND ANY OTHER LANGUAGE REQUIRED BY FEDERAL LAW:

15 AGREEMENT AND WARNING

16 UNDER COLORADO LAW, THERE IS NO LIABILITY FOR ANY
17 LOSS, DAMAGE, INJURY TO, OR DEATH OF A SPACEFLIGHT
18 PARTICIPANT IN A SPACEFLIGHT ACTIVITY PROVIDED BY A
19 SPACEFLIGHT ENTITY IF SUCH LOSS, DAMAGE, INJURY, OR
20 DEATH RESULTS FROM THE INHERENT RISKS OF THE
21 SPACEFLIGHT ACTIVITY TO THE SPACEFLIGHT PARTICIPANT.
22 INJURIES CAUSED BY THE INHERENT RISKS OF SPACEFLIGHT
23 ACTIVITIES MAY INCLUDE, AMONG OTHERS, DEATH OR
24 INJURY TO PERSON OR PROPERTY. I, THE UNDERSIGNED
25 SPACEFLIGHT PARTICIPANT, ASSUME THE INHERENT RISK OF
26 PARTICIPATING IN THIS SPACEFLIGHT ACTIVITY.

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(SIGNED)

(WITNESSED)

(c) FAILURE TO COMPLY WITH THE WARNING STATEMENT REQUIREMENTS IN THIS SECTION PREVENTS A SPACEFLIGHT ENTITY FROM INVOKING THE PRIVILEGES OF IMMUNITY PROVIDED BY THIS SECTION.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.