

An Act

SENATE BILL 12-035

BY SENATOR(S) Hodge, Aguilar, Boyd, Cadman, Giron, Guzman, Heath, Hudak, Jahn, Johnston, King K., King S., Lambert, Lundberg, Morse, Neville, Newell, Roberts, Scheffel, Schwartz, Spence, Tochtrop, White, Williams S., Shaffer B.;

also REPRESENTATIVE(S) Gardner B., Barker, Baumgardner, Brown, Gerou, Kerr J., Peniston, Priola, Ryden, Summers, Waller.

CONCERNING LIMITED LIABILITY FOR SPACEFLIGHT ACTIVITIES.

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

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

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

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

(c) Eight of the nation's top aerospace contractors have significant operations in Colorado, and metro Denver has the highest concentration of

private sector aerospace employment in the country;

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

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

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

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

(h) Commercial spaceflight activities in Colorado would lead to the creation and retention of numerous small- to medium-sized businesses that would help further stimulate Colorado's economy and would help to reduce the unemployment levels in the state; and

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

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

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

ARTICLE 6

Aerospace

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

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

(b) "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. THE TERM ALSO INCLUDES ANY MANUFACTURER OR SUPPLIER OF COMPONENTS, SERVICES, OR VEHICLES, WHICH MANUFACTURER OR SUPPLIER HAS BEEN REVIEWED BY THE UNITED STATES FEDERAL AVIATION ADMINISTRATION AS PART OF ISSUING SUCH A LICENSE, PERMIT, OR AUTHORIZATION.

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

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

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

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

(II) 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 SPACEFLIGHT PARTICIPANT; OR

(III) INTENTIONALLY INJURES THE SPACEFLIGHT PARTICIPANT.

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

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

AGREEMENT AND WARNING

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

(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.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO