

## **BILL ANALYSIS**

Senate Research Center  
83R17898 TJS-F

H.B. 1791  
By: Davis, John et al. (Deuell)  
Economic Development  
5/8/2013  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 1791 amends the Civil Practice and Remedies Code by newly defining launch vehicle and crew. In addition, it amends definitions of launch, reentry, spacecraft, space flight activities, space flight entity, space flight participant, space flight participant injury, and spaceport. The bill amends current law to clarify limited liability for the space flight entity.

H.B. 1791 amends current law relating to the facilitation and operation of space flight activities in this state.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 100A.001, Civil Practice and Remedies Code, to redefine "launch," "reentry," "space flight activities," "space flight entity," "space flight participant," and "space flight participant injury" and to define "launch vehicle," "reentry vehicle," "spacecraft," and "crew" for this section.

SECTION 2. Amends Section 100A.002, Civil Practice and Remedies Code, as follows:

Sec. 100A.002. LIMITED LIABILITY. (a) Provides that, except as provided by this section, rather than Subsection (b), a space flight entity is not liable to any person for damages resulting from nuisance arising from testing, launching, reentering, or landing or subject to any claim for nuisance arising from testing, launching, reentering, or landing.

(b) Provides that, except as provided by this section, a space flight entity is not liable to any person for a space flight participant injury or damages arising out of space flight activities, rather than arising out of the space flight participant injury, if the space flight participant has signed the agreement required by Section 100A.003 (Warning Required) and given written consent as required by 51 U.S.C. Section 50905, rather than 49 U.S.C. Section 70105. Provides that this subsection, rather than section, does not limit liability for a space flight participant injury proximately caused by the space flight entity's gross negligence evidencing wilful or wanton disregard for the safety of the space flight participant or intentionally caused by the space flight entity. Makes nonsubstantive changes.

(c) Provides that this section precludes injunctive relief with respect to space flight activities.

(d) Provides that this section does not limit liability for breach of a contract for use of real property by a space flight entity or preclude an action by a federal or state governmental entity to enforce a valid statute or regulation.

SECTION 3. Amends Section 100A.003(b), Civil Practice and Remedies Code, to provide that an agreement under Subsection (a) (relating to requiring a space flight participant to sign an

agreement and warning statement before participating in any space flight activity) is considered effective and enforceable if it meets certain criteria, including that it is signed by the space flight participant on behalf of the space flight participant and any heirs, executors, administrators, representatives, attorneys, successors, and assignees of the space flight participant and signed by a competent witness and to make nonsubstantive changes.

SECTION 4. Amends Sections 507.001(2) and (3), Local Government Code, to redefine "spacecraft" and "spaceport."

SECTION 5. Amends Section 481.0069(d), Government Code, as follows:

(d) Prohibits money in the spaceport trust fund from being spent unless the Texas Economic Development and Tourism Office certifies to the comptroller of public accounts of the State of Texas that:

(1) a viable business entity has been established that has a business plan that demonstrates that the entity has available the financial, managerial, and technical expertise and capability necessary to launch and land a reusable launch vehicle or spacecraft and has committed to locating its facilities at a spaceport in this state;

(2) a development corporation for spaceport facilities under Chapter 507 (Spaceport Development Corporations), Local Government Code, has established a development plan for the spaceport project and has demonstrated the financial ability to fund at least 75 percent of the funding required for the project, rather than has secured at least 90 percent of the funding required for the project, and

(3) the spaceport or launch operator, if required by federal law, has obtained or applied for the appropriate Federal Aviation Administration license or other appropriate authorization.

SECTION 6. Amends Section 42.01, Penal Code, by adding Subsection (g), to provide that noise arising from lawful space flight activities, as defined by Section 100A.001 (Definitions), Civil Practice and Remedies Code, if lawfully conducted, does not constitute "unreasonable noise" for purposes of this section.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2013.