

VIRGINIA ACTS OF ASSEMBLY -- 2007 RECONVENED SESSION

CHAPTER 893

An Act to amend 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 the promotion of space flight in Virginia.

[H 3184]

Approved April 4, 2007

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended 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.

Space Flight Liability and Immunity Act.

§ 8.01-227.8. Definitions.

For purposes of this section:

"Participant" means any space flight participant as that term is defined in 49 U.S.C. § 70102.

"Participant Injury" means any bodily injury, including death; emotional injury; or property damage sustained by the participant.

"Space flight activities" means launch services or reentry services as those terms are defined in 49 U.S.C. § 70102.

"Space flight entity" means any public or private entity holding, either directly or through a corporate subsidiary or parent, a license, permit, or other authorization issued by the United States Federal Aviation Administration pursuant to the Federal Space Launch Amendments Act (49 U.S.C. § 70101 et seq.), including, but not limited to, a safety approval and a payload determination. "Space flight entity" shall also include any manufacturer or supplier of components, services, or vehicles that have been reviewed by the United States Federal Aviation Administration as part of issuing such a license, permit, or authorization

§ 8.01-227.9. Civil immunity for space flight entities.

A. Except as provided in subsection B, a space flight entity is not liable for a participant injury resulting from the risks of space flight activities, provided that the participant has been informed of the risks of space flight activities as required by federal law pursuant to federal law and this article, and the participant has given his informed consent that he is voluntarily participating in space flight activities after having been informed of the risks of those activities as required by federal law and this article. Except as provided in subsection B, no (i) participant, (ii) participant's representative, including the heirs, administrators, executors, assignees, next of kin, and estate of the participant, or (iii) any person who attempts to bring a claim on behalf of the participant for a participant injury, is authorized to maintain an action against or recover from a space flight entity for a participant injury that resulted from the risks of space flight activities.

B. Nothing in subsection A shall prevent or limit the liability of a space flight entity if the space flight entity does either of the following:

1. Commits an act or omission that constitutes gross negligence evidencing willful or wanton disregard for the safety of the participant, and that act or omission proximately causes a participant injury; or

2. Intentionally causes a participant injury.

C. Any limitation on legal liability afforded by this section to a space flight entity is in addition to any other limitations of legal liability otherwise provided by law.

§ 8.01-227.10. Warning required.

A. Every space flight entity providing space flight activities to a participant 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 and in addition to any language required by federal law, the following statement:

"WARNING AND ACKNOWLEDGEMENT: I understand and acknowledge that, under Virginia law, there is no civil liability for bodily injury, including death, emotional injury, or property damage sustained by a participant in space flight activities provided by a space flight entity if such injury or damage results from the risks of the space flight activity. I have given my informed consent to participate in space flight activities after receiving a description of the risks of space flight activities as required by federal law pursuant to 49 U.S.C. § 70105 and 14 C.F.R. § 460.45. The consent that I have given acknowledges that the risks of space flight activities include, but are not limited to, risks of bodily injury, including death, emotional injury, and property damage. I understand and acknowledge that I am participating in space flight activities at my own risk. I have been given the opportunity to consult with

an attorney before signing this statement."

C. Failure to comply with the requirements concerning the warning statement provided in this section shall prevent a space flight entity from invoking the privileges of immunity provided by this article.

2. That the provisions of this act shall expire on July 1, 2013.