

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 9

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

AN ACT

RELATING TO TORT CLAIMS; PROVIDING IMMUNITY FROM TORT LIABILITY
FOR CERTAIN ENTITIES ENGAGING IN SPACE FLIGHT ACTIVITIES.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Space Flight Informed Consent Act".

Section 2. DEFINITIONS.--As used in the Space Flight
Informed Consent Act:

A. "participant" means a space flight participant
as that term is defined in 49 U.S.C. Section 70102;

B. "space flight activities" means launch services
or reentry services as those terms are defined in 49 U.S.C.
Section 70102; and

C. "space flight entity" means a public or private
entity holding a United States federal aviation administration

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1 launch, reentry, operator or launch site license for space
2 flight activities.

3 Section 3. CIVIL IMMUNITY FOR SPACE FLIGHT ENTITIES.--

4 A. Except as provided in Subsection B of this
5 section, a space flight entity is not liable for injury to or
6 death of a participant resulting from the inherent risks of
7 space flight activities so long as the warning contained in
8 Section 4 of the Space Flight Informed Consent Act is
9 distributed and signed as required. Except as provided in
10 Subsection B of this section, a participant or participant's
11 representative may not maintain an action against or recover
12 from a space flight entity for the loss, damage or death of the
13 participant resulting exclusively from any of the inherent
14 risks of space flight activities.

15 B. Subsection A of this section does not prevent or
16 limit the liability of a space flight entity if the space
17 flight entity:

18 (1) commits an act or omission that
19 constitutes gross negligence or willful or wanton disregard for
20 the safety of the participant and that act or omission
21 proximately causes injury, damage or death to the participant;

22 (2) has actual knowledge or reasonably should
23 have known of a dangerous condition on the land or in the
24 facilities or equipment used in the space flight activities and
25 the danger proximately causes injury, damage or death to the

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1 participant; or

2 (3) intentionally injures the participant.

3 C. The limitation on legal liability provided to a
4 space flight entity by the Space Flight Informed Consent Act is
5 in addition to any other limitation of legal liability
6 otherwise provided by law.

7 Section 4. WARNING AND ACKNOWLEDGMENT REQUIRED.--

8 A. A space flight entity providing space flight
9 activities to a participant, whether the activities occur on or
10 off the site of a facility capable of launching a suborbital
11 flight, shall have each participant sign a warning statement.
12 The warning statement shall contain, at a minimum, the
13 following statement:

14 "WARNING AND ACKNOWLEDGMENT

15 I understand and acknowledge that under New Mexico law,
16 there is no liability for injury to or death sustained by a
17 participant in a space flight activity provided by a space
18 flight entity if the injury or death results from the inherent
19 risks of the space flight activity. Injuries caused by the
20 inherent risks of space flight activities may include, among
21 others, death, bodily injury, emotional injury or property
22 damage. I assume all risk of participating in this space
23 flight activity."

24 B. Failure to provide the warning statement
25 requirements in this section to a participant shall prevent a

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1 space flight entity from invoking the immunity provided by this
2 section with regard to that participant.

3 Section 5. DELAYED REPEAL.--The Space Flight Informed
4 Consent Act is repealed effective July 1, 2018.

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