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HOUSE BILL NO. 3184
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee for Courts of Justice
on February 2, 2007)

(Patron Prior to Substitute--Delegate Kilgore)

A BILL to amend and reenact 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](#) through [8.01-227.11](#) relating to spaceflight liability and immunity.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended and reenacted by adding in Chapter 3 of Title 8.01 an article numbered 24, consisting of sections numbered [8.01-227.8](#) through [8.01-227.11](#) as follows:

Article 24.
Spaceflight Liability and Immunity Act.

§ [8.01-227.8](#). *Purposes.*

The General Assembly finds the development of a robust commercial human spaceflight industry in the Commonwealth of Virginia will result in significant economic and personal benefits to its citizens, and that such development is in the public interest. The General Assembly also finds that the United States Government has taken steps to promote such development nationwide, and has enunciated, in the Commercial Space Launch Amendments Act of 2004, Pub. L. 108-492, a national goal of “safely opening space to the American people and their private commercial, scientific, and cultural enterprises.” The General Assembly further finds that, in order to promote the development of commercial human spaceflight, the United States Government has determined that participants in spaceflight activities should be permitted to assume the risks of injury, death and property damage involved in those activities on the basis of informed consent. Therefore, it is the intent of the General Assembly to promote human spaceflight in Virginia by delineating the responsibilities of those involved in spaceflight activities consistent with existing Federal law. Nothing in this bill is intended to overturn or negate any other law as it is currently written in Virginia and this bill applies only to the emerging commercial human spaceflight industry.

§ [8.01-227.9](#). *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, or emotional injury or property damage sustained by a participant.

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

"Spaceflight entity" means any public or private entity holding, either directly or through a corporate subsidiary or parent, a license, a permit, or any other authorization issued by the United States Federal Aviation Administration under 49 U.S.C. §§ 70101–70121 including, but not limited to, a safety approval and a payload determination; as well as 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.

§ [8.01-227.10](#). *Civil immunity for spaceflight entities.*

A. Except as provided in subsection B, a spaceflight entity is not liable for a participant injury resulting from the risks of spaceflight activities, provided that the participant has been informed of the risks of spaceflight activities as required by 49 U.S.C. § 70105 and 14 C.F.R. § 460.45, and the participant has given his or her informed consent that he or she is voluntarily participating in spaceflight activities after having been informed of the risks of those activities as required by those sections of Federal law and by § [8.01-227.11](#). Except as provided in subsection B, no participant; or participant's representative, including the heirs, administrators, executors, assignees, next of kin, and estate of the participant; or any person who attempts to bring a claim on behalf of the participant or for a participant injury, is authorized to maintain an action against or recover from a spaceflight entity for a participant injury resulting from the risks of spaceflight activities.

B. Nothing in subsection A shall prevent or limit the liability of a spaceflight entity if the spaceflight 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 spaceflight entity is in addition to any other limitations of legal liability otherwise provided by law.

§ [8.01-227.11](#). *Warning required.*

A. Every spaceflight entity providing spaceflight 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, or emotional injury or property damage sustained by a participant in spaceflight activities provided by a spaceflight entity if such injury or damage result from the risks of the spaceflight activity. I have given my informed consent to participate in spaceflight activities after receiving a description of the risks of spaceflight activities as required by Federal law under 49 U.S.C. § 70105 and 14 C.F.R. § 460.45. The consent I have given acknowledges that the risks of spaceflight activities include, among others, risks of bodily injury, including death, emotional injury and property damage. I understand and acknowledge that I am participating in spaceflight 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 spaceflight entity from invoking the privileges of immunity provided by this article.

2. That the provisions of this act shall expire on December 31, 2012.

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