



COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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Amendment in the Nature of a Substitute to H.R. 2262, the “U.S. Commercial Space Launch Competitiveness Act” (Formerly the “Spurring Private Aerospace Competitiveness and Entrepreneurship Act”)

Introduced by Majority Leader Kevin McCarthy (CA) and co-sponsored by Science Committee Chairman Lamar Smith (TX) and Representatives Steven Palazzo (MS), Frank Lucas (OK), Dana Rohrabacher (CA), Michael McCaul (TX), Bill Posey (FL), Stephen Knight (CA), Brian Babin (TX), Randy Hultgren (IL), Jim Bridenstine (OK), Randy Weber (TX), John Moolenaar (MI). Senate ANS sponsored by Sen. Cruz, Sen. Nelson, Sen. Rubio, Sen. Peters, Sen. Gardner, and Sen. Murray. H.R. 2262 passed the House on May 21, 2015, by a vote of 284 to 133. The ANS passed the Senate on November 10, 2015, by unanimous consent.

H.R. 2262 facilitates a pro-growth environment for the developing commercial space industry by encouraging private sector investment, creating more stable and predictable regulatory conditions, and improving safety. The Act will ensure American leadership in space and foster the development of advanced space technologies.

This bill:

- Reaffirms FAA’s ability to regulate to protect the uninvolved public, in the event of an accident, or an unplanned event. The bill also establishes a process for developing a safety framework outside of the regulatory process that can more rapidly address safety concerns without implementing arbitrary regulation and red tape;
- Provides a long-term extension of the third party liability risk sharing regime to keep American space companies internationally competitive;
- Closes loopholes that leave spaceflight participants vulnerable to financial ruin for participating in commercial human spaceflight thereby making space accessible for everyone;
- Provides much needed flexibility in the experimental permitting and licensing regimes to allow for rapid improvements in safety and reliability systems;
- Enables U.S. private sector exploration and use of space resources; and
- Affirms Congress’s bipartisan commitment to the development of the commercial space industry.

International Launch Competitiveness: International law places liability for damages resulting from space accident on the launching state. All spacefaring nations require some form of third party liability insurance for launching entities. The current U.S. risk-sharing structure expires in 2016. This Act would extend indemnification to 2025 and require an update to how the FAA calculates the maximum probable loss associated with launches. Indemnification has never been utilized and is subject to future appropriations. This provision will prevent U.S. launches from going overseas where other nations have more favorable liability protection.

Indemnification for Spaceflight Participants: This provision closes a loophole that carved out an exception for spaceflight participants from indemnification coverage. By including them in the provision, spaceflight participants that may participate in a launch as a result of a contest or other means are not burdened with financial exposure above the limits

Launch License Flexibility: The Act closes a statutory loophole that would have negated an experimental permit once a launch license was issued for the same vehicle design. This provision will foster greater innovation by allowing an experimental permit holder to continue testing while a license holder conducts operations.

Authorized by Representative Lamar Smith, Chairman, Committee on Science, Space, and Technology

Licensing and Space Support Vehicle Reports: The Act calls for a report on streamlining the FAA’s licensing and permitting process in order to enable non-launch flight operations, as well as the potential for licensing and permitting space support vehicles.

Federal Jurisdiction: The Launch Liability Convention, to which the U.S. is a party, places liability for space launch and reentry accidents on the federal government. This provision would ensure that the federal courts review lawsuits resulting from accidents since the federal government is ultimately the responsible party as a result of the treaty, not the states. This provision also prevents venue shopping to ensure that suits are treated fairly.

Cross Waivers: Current law requires that all parties involved in launch waive claims against each other. This provision would include spaceflight participants in this cross waiver requirement to ensure consistency and reinforce the informed consent requirements.

Space Authority, Orbital Traffic Management, and Space Situational Awareness: The Act requires reports on the current roles and responsibilities within the government, private sector, and international community related to space authority, space situational awareness, orbital traffic management, and orbital debris mitigation measures.

Commercial Human Spaceflight Regulations: The Act preserves FAA’s ability to regulate commercial human spaceflight in order to protect the uninvolved public, national security, public health and safety, safety of property, and foreign policy. Similarly, the Act preserves FAA’s ability to regulate spaceflight participant and crew safety as a result of an accident or unplanned event.

The Act extends the learning period to 2023 to allow the FAA to gain data to inform possible future regulations or some other safety framework, and calls for a progress report on the status of the knowledge the industry and FAA have gained. The Act also allows for industry to develop consensus standards in the interim and coordinate those efforts with the FAA. This will allow the nascent industry to grow in a stable regulatory environment without the threat of arbitrary regulations impacting their ability to innovate.

Government Astronauts: Current law only allows for two categories for individuals carried within a spacecraft – crew and space flight participants. Now that NASA is procuring astronaut access to the ISS, a new category is necessary to outline the roles, responsibilities and protections for astronauts on a commercial human spaceflight launch.

Streamlined Commercial Space Launch Activities and State Commercial Launch facilities: The Act calls for reports that identify efficiencies between federal agency launch activities as well as the impacts of expanding Space Commercial Launch Facility coverage.

Extension of the International Space Station (ISS) and Space Launch System (SLS) Update: The bill extends the operation of the ISS from 2020 to 2024 in order to maximize the research conducted on orbit and provide certainty for private investment, and outlines a policy for using SLS.

Space Resource Rights, Commercial Remote Sensing, and Space Commerce: The Act also affirms that U.S. citizens are entitled to space resources they obtain in outer space; provides for oversight of the commercial remote sensing licensing process, and updates the name of the Office of Space Commerce.

Endorsed by: *Commercial Spaceflight Federation, Space Exploration Technologies Corporation (SpaceX), Virgin Galactic, Blue Origin, XCOR Aerospace, Planetary Resources, Moon Express, Masten Rocket Technology Innovators, World View, Bigelow Aerospace, Spaceport America, Mojave Air and Space Port, Spaceport Camden, Midland Development Corporation, Satellite Industry Association, Space Frontier Foundation, National Space Society, and Students for the Development and Exploration of Space.*