AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____
OFFERED BY MS. EDDIE BERNICE JOHNSON OF
TEXAS

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Facilitating Commercial Enterprise in Space Act of 2017”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States has a robust and innovative private sector that is investing in, developing, and placing into outer space, spacecraft and pay-loads.

(2) Private sector activities in space, responsibly carried out, can further the national security, foreign policy, and economic interests of the United States.

(3) An efficient and transparent licensing process for private remote sensing space systems is beneficial for economic growth and the maintenance of national security and international obligations.
(4) Authorization and supervision mechanisms for planned private sector activities in outer space could be improved to address existing gaps in such mechanisms for nontraditional endeavors as well as to mitigate administrative burdens on private sector entities.

SEC. 3. MISSION CERTIFICATION.

(a) IN GENERAL.—Chapter 509 of title 51, United States Code, is amended—

(1) in section 50902—

(A) by redesignating paragraphs (21) through (25) as paragraphs (23) through (27), respectively;

(B) by redesignating paragraphs (12) through (20) as paragraphs (13) through (21), respectively;

(C) by inserting after paragraph (11) the following:

“(12) ‘mission’ means the operation of a space object, with or without human occupants, in outer space, including on the Moon and other celestial bodies.”; and

(D) by inserting after paragraph (21) (as so redesignated) the following:

“(22) ‘space object’—
“(A) means—

“(i) a human-made object located in outer space, including on the Moon and other celestial bodies, with or without human occupants, that was launched from Earth, such as a satellite or a spacecraft, including component parts of the object; and

“(ii) all items carried on such object that are intended for use in outer space outside of, and independent of, the operation of such object;

“(B) includes any human-made object that is—

“(i) manufactured or assembled in outer space; and

“(ii) intended for operations in outer space outside of, and independent of, the operations of such object in which the manufacturing or assembly occurred; and

“(C) does not include—

“(i) an article on board a space object that is only intended for use inside the space object;
“(ii) an article manufactured or processed in outer space that is a material; or

“(iii) an article intended for use outside of a space object as part of the certified operations of the space object.”;

(2) in section 50919(g)(1)—

(A) in subparagraph (A), by inserting “mission,” after “reentry site,”; and

(B) in subparagraph (B), by inserting “mission,” after “operation,”; and

(3) by inserting after section 50923 the following:

§ 50924. Mission certification

“(a) IN GENERAL.—The Secretary of Transportation, in coordination with appropriate executive agencies, is authorized to grant certifications to conduct missions as provided in this section. The Secretary shall grant such certifications to the extent consistent with the international obligations, foreign policy, and national security interests of the United States, and with United States Government uses of outer space. Such certifications may include such conditions as the Secretary, in coordination with appropriate executive agencies, determines necessary for compliance with United States international obligations, the preservation of the foreign policy interests and
national security of the United States, and the protection
of United States Government uses of outer space.

“(b) Prohibition on Operating Without Cert-
ification.—

“(1) In general.—Except as provided in para-
graph (2), no person that is subject to the jurisdic-
tion or control of the United States may, directly or
through any subsidiary or affiliate, conduct a mis-

tion without a certification under this section.

“(2) Exemptions.—The following classes of
missions are exempt from the prohibition under
paragraph (1):

“(A) A launch, reentry, operation of a
launch vehicle or reentry vehicle, or other space
activity the Government carries out for the Gov-
ernment, or planning or policies related to such
launch, reentry, operation, or activity, subject
to section 50919(g)(1).

“(B) An activity for which a license is re-
quired by the Department of Transportation
under chapter 509 of this title, by the Federal
Communications Commission under the Com-
munications Act of 1934 (47 U.S.C. 151 et
seq.), or by the Secretary of Commerce under
chapter 601 of this title, which shall be suffi-
cient to fulfill the obligations of the United States under the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (signed at Washington, Moscow, and London on January 27, 1967, ratified by the United States on October 10, 1967; 18 UST 2410).

“(C) A mission, or aspect thereof, conducted for or with one or more executive agencies, unless the Secretary and the relevant head of each such agency determine that a certification under this section is required to provide effective supervision of such mission or aspect.

“(c) Application.—An applicant for a certification under this section shall submit to the Secretary an application containing such information and affirmations as the Secretary may require, at such time and in such manner as the Secretary may require.

“(d) Harmful Contamination.—

“(1) Review.—The Secretary, in coordination with the Administrator of the National Aeronautics and Space Administration, shall review the information and affirmations submitted by an applicant for a certification pursuant to subsection (c) to assess
the adequacy of the proposed mission to avoid harmful contamination of the Moon and other celestial bodies and to avoid adverse changes in the environment of the Earth resulting from the introduction of extraterrestrial matter. If the Secretary, in coordination with the Administrator of the National Aeronautics and Space Administration, determines that the proposed mission will not adequately avoid such harmful occurrences, the Secretary may require the applicant to submit additional information, place conditions on the approval of such application, or deny such application.

“(2) TECHNICAL ASSISTANCE.—As part of the review under paragraph (1), the Administrator of the National Aeronautics and Space Administration shall provide, without seeking reimbursement, as requested by the applicant, technical assistance to the proposed mission on avoidance of such harmful occurrences.

“(e) MITIGATION OF SPACE DEBRIS.—The Secretary, in coordination with appropriate executive agencies, shall review the information and affirmations submitted by an applicant for a certification pursuant to subsection (c) to assess the adequacy of the proposed mission to mitigate space debris in the conduct and termination
of the mission. If the Secretary determines that the proposed mission will not adequately mitigate space debris, the Secretary may require the applicant to submit additional information, place conditions on the approval of such application, or deny such application.

“(f) LIKELIHOOD OF POTENTIAL COLLISIONS.—The Secretary, in coordination with appropriate executive agencies, shall review the planned operational trajectories of each proposed mission for a certification under this section to determine the likelihood of potential collisions. The Secretary shall notify an applicant of any such potential collision that the Secretary determines is likely to occur.

“(g) MISSION CERTIFICATION REGISTRY.—

“(1) IN GENERAL.—The Secretary shall maintain a registry of certifications issued pursuant to this section and the information contained therein.

“(2) MATERIAL CHANGE.—The Secretary is authorized to require the holder of a certification under this section to provide updated information on the mission covered by such certification on a periodic basis and whenever such mission experiences a material change to operations that would affect any affirmation or information originally submitted in support of such certification pursuant to subsection (c).

In the event of a material change to the mission, the
Secretary, in coordination with appropriate executive agencies, shall make such modifications to the certification of the mission as the Secretary determines is necessary for compliance with United States international obligations, preservation of the foreign policy interests and national security of the United States, and the protection of United States Government uses of outer space.

“(3) REVOCATION.—In the event that the Secretary determines that there is no practicable way for a mission to maintain the compliance, preservation, or protection described in paragraph (2), the Secretary is authorized to revoke the certification of such mission.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 509 of title 51, United States Code, is amended by adding at the end the following new item:

“51924. Mission certification.”.

SEC. 4. COMMERCIAL REMOTE SENSING AMENDMENTS.

(a) Section 50702 of title 51, United States Code, is amended—

(1) in subsection (a), by adding at the end before the period “, which shall be located in the principal physical location of the Office of the Secretary of Commerce”;

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(2) in subsection (b), by adding at the end the following: “The Director shall report to the Deputy Secretary of Commerce.”; and

(3) in subsection (c)—

(A) in paragraph (4) by striking “and” at the end;

(B) in paragraph (5) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(6) to conduct the activities authorized in sub-
chapter III of chapter 601.”.

(b) Section 60121 of title 51, United States Code, is amended—

(1) in subsection (a) by adding at the end the following:

“(3) LIMITATION ON LICENSING.—Sensing technology that is not capable of imaging the Earth shall not be subject to the licensing requirements of this subchapter.

“(4) COMPLIANCE DETERMINATION.—

“(A) IN GENERAL.—Granting of a license under this subchapter shall be deemed a deter-
mination that the license application addresses the national security concerns of the United
States and fulfills applicable international obligations.

“(B) MATERIAL CHANGE.—In the event of a material change to the operations of a system licensed under this subchapter that would affect any affirmation or information originally submitted in support of the license, the Secretary, in coordination with the heads of appropriate Executive agencies, shall make such modifications to the license as the Secretary determines are necessary for—

“(i) compliance with United States international obligations; and

“(ii) the national security of the United States.

“(C) REVOCATION.—With respect to a material change described in subparagraph (B), if the Secretary determines that there is no practicable way for the licensed operations to, due to such material change, maintain compliance with United States international obligations or to address national security concerns, the Secretary is authorized to revoke the license.”; and

(2) in subsection (c)—
(A) by striking “120” and inserting “75”;
and
(B) by inserting “The deadline for final action may be extended an additional 30 days at the request of the applicant.” after “receipt of such application.”.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Office of Space Commerce of the Department of Commerce $5,000,000 for fiscal year 2018.