



The Facts Behind SPACE Act

The SPACE Act 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. The 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 celestial resources; and
- affirms Congress's bipartisan commitment to the development of the commercial space industry.

Our aerospace economy was founded by two bicycle makers in a garage from Ohio. We've spent the last 50 years of the space age leading the way by daring to succeed, not fearing failure. We need to make sure the next 50 years are marked by that same freedom and spirit.

Frequently Asked Questions

Does this bill remove the FAA's ability to issue safety regulations?

NO. Nothing in this bill alters the FAA's current authorities. The bill preserves the 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. It also preserves FAA's ability to regulate spaceflight participant and crew safety as a result of an accident or unplanned event.

Does this bill require people to sign away their rights to gain relief from bad actors?

NO. The courts have given, and the FAA has included in regulations, direction for relief in the case of gross negligence or willful misconduct. The U.S. Court of Appeals for the Fourth Circuit held that claims of gross negligence are not waived under the 1988 Amendments to the Commercial Space Launch Act. Additionally, Part 440 of the FAA's regulations related to waivers of claim explicitly recognizes that Congress never intended for claims against gross negligence be waived. This is reinforced by previous Committee reports on updates to the Commercial Space Launch Act.

Does this bill prevent people from going to court if they get hurt?

NO. The Launch Liability Convention, to which the U.S. is a party, places international liability for space launch and reentry accidents on the federal government. Because the federal government is obligated by this treaty, the bill ensures that federal courts review lawsuits resulting from accidents since the federal government is responsible under the Launch Liability Convention, not the states. This provision also prevents venue shopping to ensure that suits are treated fairly. It is not the intent for this section to preempt state tort law. Federal courts should apply state substantive law to resolve claims and accept a reading of this section that disfavors pre-emption. The Committee also filed a manager's amendment to this section to affirm that courts should apply state substantive law.

Does the indemnification regime give a pass to industry if there is an accident?

NO. The industry is required to get \$500 million of third-party insurance or the maximum probable loss as calculated by the FAA, whichever is lower. This is the first pool of money used in the event of an accident, at no cost to the taxpayer. U.S. indemnification is far less favorable than all other spacefaring nation's coverage. Without this coverage, launches would likely go overseas. Any use of indemnification would be subject to approval of Congress and would require separate appropriation. Not a single taxpayer dime has ever been used – or needed – to cover damages from an accident or unplanned event.

Does Title II of this Act, which establishes a domestic legal framework to govern private property rights of resources obtained from asteroids, violate international law?

NO. There is nothing in this Act which calls for the United States to violate its international obligations. The exploration and use of outer space includes the right to remove, take possession, and use in-situ natural resources from celestial bodies. This right is affirmed by State practice and by the U.S. State Department in Congressional testimony and written correspondence. This provision is cosponsored by Sen. Murray (D) and Rep. Kilmer (D).

What is the purpose of Title III, Commercial Remote Sensing?

The U.S. private space-based remote sensing industry is experiencing unprecedented growth. The last time Congress updated the legislation governing these regulatory responsibilities was in 1998. There is a need to address new and emerging issues by strengthening Congressional oversight and reinforcing that the federal government should meet this increasing demand while protecting national security and maintaining the United States' status as a leader in the development and operation of remote sensing technologies. This Title has strong bipartisan support.

What is the purpose of Title IV, Office of Space Commerce?

This Act restores the Office's original name, "Office of Space Commerce," to more accurately reflect its commercial space responsibilities. In addition, the Act seeks to update the Office's functions to reflect the current state of the U.S. commercial space industry. The legislation streamlines the functions of the Office to preserve flexibility for the Department in executing the Office's responsibilities. This Title has strong bipartisan support.