

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:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Facilitating Commer-
3 cial Enterprise in Space Act of 2017”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) The United States has a robust and innova-
7 tive private sector that is investing in, developing,
8 and placing into outer space, spacecraft and pay-
9 loads.

10 (2) Private sector activities in space, respon-
11 sibly carried out, can further the national security,
12 foreign policy, and economic interests of the United
13 States.

14 (3) An efficient and transparent licensing proc-
15 ess for private remote sensing space systems is bene-
16 ficial for economic growth and the maintenance of
17 national security and international obligations.

1 (4) Authorization and supervision mechanisms
2 for planned private sector activities in outer space
3 could be improved to address existing gaps in such
4 mechanisms for nontraditional endeavors as well as
5 to mitigate administrative burdens on private sector
6 entities.

7 **SEC. 3. MISSION CERTIFICATION.**

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

10 (1) in section 50902—

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

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

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

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

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

25 “(22) ‘space object’—

1 “(A) means—

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

9 “(ii) all items carried on such object
10 that are intended for use in outer space
11 outside of, and independent of, the oper-
12 ation of such object;

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

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

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

21 “(C) does not include—

22 “(i) an article on board a space object
23 that is only intended for use inside the
24 space object;

1 “(ii) an article manufactured or proc-
2 essed in outer space that is a material; or

3 “(iii) an article intended for use out-
4 side of a space object as part of the cer-
5 tified operations of the space object.”;

6 (2) in section 50919(g)(1)—

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

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

11 (3) by inserting after section 50923 the fol-
12 lowing:

13 **“§ 50924. Mission certification**

14 “(a) IN GENERAL.—The Secretary of Transpor-
15 tation, in coordination with appropriate executive agen-
16 cies, is authorized to grant certifications to conduct mis-
17 sions as provided in this section. The Secretary shall grant
18 such certifications to the extent consistent with the inter-
19 national obligations, foreign policy, and national security
20 interests of the United States, and with United States
21 Government uses of outer space. Such certifications may
22 include such conditions as the Secretary, in coordination
23 with appropriate executive agencies, determines necessary
24 for compliance with United States international obliga-
25 tions, the preservation of the foreign policy interests and

1 national security of the United States, and the protection
2 of United States Government uses of outer space.

3 “(b) PROHIBITION ON OPERATING WITHOUT CER-
4 TIFICATION.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), no person that is subject to the jurisdic-
7 tion or control of the United States may, directly or
8 through any subsidiary or affiliate, conduct a mis-
9 sion without a certification under this section.

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

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

19 “(B) An activity for which a license is re-
20 quired by the Department of Transportation
21 under chapter 509 of this title, by the Federal
22 Communications Commission under the Com-
23 munications Act of 1934 (47 U.S.C. 151 et
24 seq.), or by the Secretary of Commerce under
25 chapter 601 of this title, which shall be suffi-

1 cient to fulfill the obligations of the United
2 States under the Treaty on Principles Gov-
3 erning the Activities of States in the Explo-
4 ration and Use of Outer Space, including the
5 Moon and Other Celestial Bodies (signed at
6 Washington, Moscow, and London on January
7 27, 1967, ratified by the United States on Oc-
8 tober 10, 1967; 18 UST 2410).

9 “(C) A mission, or aspect thereof, con-
10 ducted for or with one or more executive agen-
11 cies, unless the Secretary and the relevant head
12 of each such agency determine that a certifi-
13 cation under this section is required to provide
14 effective supervision of such mission or aspect.

15 “(c) APPLICATION.—An applicant for a certification
16 under this section shall submit to the Secretary an appli-
17 cation containing such information and affirmations as the
18 Secretary may require, at such time and in such manner
19 as the Secretary may require.

20 “(d) HARMFUL CONTAMINATION.—

21 “(1) REVIEW.—The Secretary, in coordination
22 with the Administrator of the National Aeronautics
23 and Space Administration, shall review the informa-
24 tion and affirmations submitted by an applicant for
25 a certification pursuant to subsection (c) to assess

1 the adequacy of the proposed mission to avoid harm-
2 ful contamination of the Moon and other celestial
3 bodies and to avoid adverse changes in the environ-
4 ment of the Earth resulting from the introduction of
5 extraterrestrial matter. If the Secretary, in coordina-
6 tion with the Administrator of the National Aero-
7 nautics and Space Administration, determines that
8 the proposed mission will not adequately avoid such
9 harmful occurrences, the Secretary may require the
10 applicant to submit additional information, place
11 conditions on the approval of such application, or
12 deny such application.

13 “(2) TECHNICAL ASSISTANCE.—As part of the
14 review under paragraph (1), the Administrator of
15 the National Aeronautics and Space Administration
16 shall provide, without seeking reimbursement, as re-
17 quested by the applicant, technical assistance to the
18 proposed mission on avoidance of such harmful oc-
19 currences.

20 “(e) MITIGATION OF SPACE DEBRIS.—The Sec-
21 retary, in coordination with appropriate executive agen-
22 cies, shall review the information and affirmations sub-
23 mitted by an applicant for a certification pursuant to sub-
24 section (c) to assess the adequacy of the proposed mission
25 to mitigate space debris in the conduct and termination

1 of the mission. If the Secretary determines that the pro-
2 posed mission will not adequately mitigate space debris,
3 the Secretary may require the applicant to submit addi-
4 tional information, place conditions on the approval of
5 such application, or deny such application.

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

13 “(g) MISSION CERTIFICATION REGISTRY.—

14 “(1) IN GENERAL.—The Secretary shall main-
15 tain a registry of certifications issued pursuant to
16 this section and the information contained therein.

17 “(2) MATERIAL CHANGE.—The Secretary is au-
18 thorized to require the holder of a certification under
19 this section to provide updated information on the
20 mission covered by such certification on a periodic
21 basis and whenever such mission experiences a mate-
22 rial change to operations that would affect any affir-
23 mation or information originally submitted in sup-
24 port of such certification pursuant to subsection (c).

25 In the event of a material change to the mission, the

1 Secretary, in coordination with appropriate executive
2 agencies, shall make such modifications to the cer-
3 tification of the mission as the Secretary determines
4 is necessary for compliance with United States inter-
5 national obligations, preservation of the foreign pol-
6 icy interests and national security of the United
7 States, and the protection of United States Govern-
8 ment uses of outer space.

9 “(3) REVOCATION.—In the event that the Sec-
10 retary determines that there is no practicable way
11 for a mission to maintain the compliance, preserva-
12 tion, or protection described in paragraph (2), the
13 Secretary is authorized to revoke the certification of
14 such mission.”.

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

“51924. Mission certification.”.

18 **SEC. 4. COMMERCIAL REMOTE SENSING AMENDMENTS.**

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

21 (1) in subsection (a), by adding at the end be-
22 fore the period “, which shall be located in the prin-
23 cipal physical location of the Office of the Secretary
24 of Commerce”;

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

4 (3) in subsection (c)—

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

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

9 (C) by adding at the end the following:

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

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

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

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

20 “(4) COMPLIANCE DETERMINATION.—

21 “(A) IN GENERAL.—Granting of a license
22 under this subchapter shall be deemed a deter-
23 mination that the license application addresses
24 the national security concerns of the United

1 States and fulfills applicable international obli-
2 gations.

3 “(B) MATERIAL CHANGE.—In the event of
4 a material change to the operations of a system
5 licensed under this subchapter that would affect
6 any affirmation or information originally sub-
7 mitted in support of the license, the Secretary,
8 in coordination with the heads of appropriate
9 Executive agencies, shall make such modifica-
10 tions to the license as the Secretary determines
11 are necessary for—

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

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

16 “(C) REVOCATION.—With respect to a ma-
17 terial change described in subparagraph (B), if
18 the Secretary determines that there is no prac-
19 ticable way for the licensed operations to, due
20 to such material change, maintain compliance
21 with United States international obligations or
22 to address national security concerns, the Sec-
23 retary is authorized to revoke the license.”; and
24 (2) in subsection (c)—

1 (A) by striking “120” and inserting “75”;

2 and

3 (B) by inserting “The deadline for final ac-

4 tion may be extended an additional 30 days at

5 the request of the applicant.” after “receipt of

6 such application.”.

7 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated to the Office

9 of Space Commerce of the Department of Commerce

10 \$5,000,000 for fiscal year 2018.

