



COMMITTEE ON  
**SCIENCE, SPACE, & TECHNOLOGY**  
Lamar Smith, Chairman

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**Statement of Space Subcommittee Chairman Brian Babin (R-Texas)**  
*H.R. 2809, the American Space Commerce Free Enterprise Act of 2017*

**Chairman Babin:** Good afternoon. I strongly support H.R. 2809, the American Space Commerce Free Enterprise Act of 2017.

I am grateful to have worked with Chairman Smith and Representative Bridenstine in the development of this bill. I am also very glad that this is a bipartisan bill, with the support of Representatives Perlmutter and Kilmer.

The *American Space Commerce Free Enterprise Act* is a common-sense bipartisan bill that streamlines regulatory processes, limits burdensome government intrusion, promotes American innovation and investment, protects national security, and satisfies our international obligations.

One of the fundamental drivers for this legislation has been that innovative American companies are pushing the boundaries.

When the Senate ratified the *Outer Space Treaty* fifty years ago, free enterprise in outer space was an idea, but not yet a reality.

Today, not only does U.S. free enterprise exist in outer space, it is innovating at an unprecedented pace. From asteroid mining, to private moon missions, to satellite servicing, to remote sensing constellations, there is great promise that American enterprise will soon unlock new wealth and scientific benefits.

But this promise is threatened. Threatened by expansive unchecked regulatory authority, cumbersome non-transparent regulatory processes, and misperceptions about United States Outer Space Treaty obligations.

For several years, the Space Subcommittee has heard concerns from stakeholders that they need greater regulatory certainty to attract investment and succeed. Stakeholders also reported that while they want to stay in America, due to regulatory burdens and uncertainty, they might need to go overseas.

The American Space Commerce Free Enterprise Act addresses these concerns without compromising our cherished principles of liberty.

It provides for presumptions of approval and requires the government to take affirmative steps before conditioning or denying proposed space or remote sensing operations.

It places the burden of demonstrating inconsistency with Outer Space Treaty obligations and national security requirements of the United States with the government, not the applicant.

It curtails vague, overreaching regulatory authority and prevents tolling of statutory adjudication timelines. It ensures U.S. industry receives a timely and transparent determination on applications.

The bill recognizes legitimate national security equities and provides for the condition or denial of authorized space activities with remote sensing systems that are a significant threat to U.S. national security in certain circumstances. But it protects against abuses of interagency discretion by requiring an explanation and evidence of the threat before conditions or denial can be made.

In order to ensure the Office of Space Commerce is empowered to represent the interests of our citizens and the private sector, the Director of the Office is elevated to be the "Assistant Secretary for Space Commerce."

The Act also advances important public policy interests.

The bill establishes a mandatory safety consultation between private and federal government operators. The goal of this consultation is for the affected parties to reach a voluntary agreement to mitigate safety risks.

For parties subject to U.S. jurisdiction, the Act provides for Federal district court jurisdiction for any civil action resulting from certified or permitted space operations. To protect against foreign harmful interference, the Act directs the President to protect against acts of foreign aggression and foreign harmful interference.

The act also addresses concerns of harmful contamination of the Earth or celestial bodies. Pursuant to our international obligations under the Outer Space Treaty, operations may be conditioned or denied by the Secretary of Commerce, in consultation with appropriate agencies, such as NASA to address harmful contamination. The bill posits long-standing United States policy, confirmed by both Department of State and NASA, that COSPAR planetary protection guidelines are not international obligations of the United States. This was done to allow all stakeholders, including the scientific community and industry, to work together as activities expand beyond scientific exploration and use, to address mutual interests. Not by proscribing COSPAR guidelines as binding international law, but by allowing the Outer Space Treaty to guide our activities.

I strongly support this bill and urge my colleagues to do the same.

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