

H.R. _____, the Spurring Private Aerospace Competitiveness and Entrepreneurship Act of 2015
(The SPACE Act of 2015)

Sponsors: Majority Leader Kevin McCarthy, Chairman Lamar Smith, Rep. Steven Palazzo.

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.

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 through 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.

International Launch Competitiveness: International law places liability for damages resulting from space accidents on the launching nation. All spacefaring nations require some form of third-party liability insurance and liability indemnification for commercial launch services. The current U.S. risk-sharing structure expires in 2016. This Act would extend indemnification through 2023 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.

Launch License Flexibility: The Act closes a statutory loophole that would negate an experimental permit once a launch license is 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.

Government Astronauts: Current law only allows for two categories of individuals carried within a commercial 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.

Indemnification for Spaceflight Participants: This provision includes spaceflight participants in 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.

Federal Jurisdiction: 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. 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 a launch waive claims against each other. This provision would include spaceflight participants in this cross waiver requirement to ensure consistency and reinforce informed consent requirements.

Orbital Traffic Management: The Act requires a report on the current roles and responsibilities within the federal government, private sector, and international community related to space situational awareness, orbital traffic management, and orbital debris mitigation measures.

State Commercial Launch Facilities: This provision finds that states and launch operators should seek to ensure that their activities and investments are properly protected in the event of an accident.