

AMENDED IN SENATE JUNE 4, 2013
AMENDED IN ASSEMBLY APRIL 3, 2013
AMENDED IN ASSEMBLY MARCH 19, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 737

Introduced by Assembly Member Fox
(Coauthors: ~~Assembly Members Bonilla, Brown, Daly, Garcia,~~
~~Harkey, Roger Hernández, Muratsuchi, Perea, Torres, Wagner,~~
~~Wieckowski, and Williams)~~
(Coauthor: Senator Berryhill)

February 21, 2013

~~An act to add Article 7 (commencing with Section 12100.1) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code, relating to unmanned aircraft systems, and declaring the urgency thereof, to take effect immediately. An act to amend Sections 2210 and 2212 of, to add Section 2213 to, and to repeal Article 5 (commencing with Section 2210) of Chapter 5 of Title 7 of Part 4 of Division 3 of, the Civil Code, relating to civil liability.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 737, as amended, Fox. ~~Governor's Office of Business and Economic Development: unmanned aircraft systems: test sites: Space flight liability.~~

The Space Flight Liability and Immunity Act requires a space flight entity, as defined, to collect a signed warning statement from each participant in space flight activities. The warning statement is required to inform the participant that there is limited civil liability for bodily injury sustained as a result of the inherent risks associated with space

flight activities. The act limits the liability of a space flight entity that complies with these provisions. The act also provides that limited liability under these provisions does not limit or prevent the liability of a space flight entity that commits an act of gross negligence or willful or wanton disregard for the safety of the participant, that intentionally causes a participant injury, or that has actual knowledge or reasonably should have known of a dangerous condition, as provided.

This bill would include a manufacturer or supplier of components, services, or vehicles that have been reviewed by the United States Federal Aviation Administration as part of issuing a license, permit, or other authorization pursuant to specified provisions of federal law relating to commercial space launch activities as a space flight entity with limited liability for any participant injury. This bill would additionally provide that limited liability under these provisions does not limit or prevent the liability of a space flight entity that manufactures or supplies a product with a defect. This bill would prohibit a space flight entity's liability from being limited unless the space flight entity presents to and files with the Secretary of State a certification of insurance, as specified. This bill would repeal the Space Flight Liability and Immunity Act on July 1, 2021.

~~Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil unmanned aircraft systems into the national airspace system by September 30, 2015. Existing federal law requires the Administrator of the Federal Aviation Administration (FAA) to develop and implement operational and certification requirements for the operation of public unmanned aircraft systems in the national airspace system by December 31, 2015. Existing federal law requires the administrator to establish a program, as prescribed, to integrate unmanned aircraft systems into the national airspace system at 6 test sites. Pursuant to this requirement, the administrator announced a request for proposals from state and local governments to establish these test sites.~~

~~Existing law establishes the Governor's Office of Business and Economic Development, under the control of a director who is responsible to the Governor, to serve as the Governor's lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. The office, among others, makes recommendations to the Governor and the Legislature regarding policies, programs, and actions to advance statewide economic goals.~~

~~This bill would require the director to prepare a proposal to establish a test site in California and would authorize the director to consult with the Governor’s Military Council and other specified entities in developing the proposal. This bill would require the director to coordinate with any local government that submits a proposal.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2210 of the Civil Code is amended to
2 read:

3 2210. For purposes of this article:

4 (a) “Participant” means a space flight participant as defined in
5 Section 50902 of Title 51 of the United States Code.

6 (b) “Participant injury” means a bodily injury, including death,
7 emotional injury, or property damage, sustained by the participant.

8 (c) “Space flight activities” means launch services or reentry
9 services as defined in Section 50902 of Title 51 of the United
10 States Code.

11 (d) “Space flight entity” means any public or private entity that
12 holds, either directly or through a corporate subsidiary or parent,
13 a license, permit, or other authorization issued by the United States
14 Federal Aviation Administration pursuant to ~~the federal~~
15 ~~Commercial Space Launch Amendments Act Chapter 509~~
16 ~~(commencing with Section 50901) of 2004 (51 U.S.C. Sec. 50905~~
17 ~~et seq.)~~, Subtitle V of Title 51 of the United States Code, including,
18 but not limited to, a safety approval and a payload determination.
19 “Space flight entity” shall also include a manufacturer or supplier
20 of components, services, or vehicles that have been reviewed by
21 the United States Federal Aviation Administration as part of
22 issuing a license, permit, or other authorization pursuant to
23 Chapter 509 (commencing with Section 50901) of Subtitle V of
24 Title 51 of the United States Code.

25 SEC. 2. Section 2212 of the Civil Code is amended to read:

26 2212. (a) Except as provided in subdivision (c), a space flight
27 entity shall not be liable for participant injury arising out of space
28 flight activities if both of the following apply:

1 (1) The participant has been informed of the risks associated
 2 with space flight activities as required by federal law and Section
 3 2211.

4 (2) The participant has given his or her informed consent that
 5 he or she is voluntarily participating in space flight activities after
 6 having been informed of the risks associated with those activities,
 7 as required by federal law and Section 2211.

8 (b) If informed consent is given pursuant to subdivision (a), a
 9 participant, his or her representative, including the heirs,
 10 administrators, executors, assignees, next of kin, and estate of the
 11 participant, or any person who attempts to bring a claim on behalf
 12 of the participant for a participant injury, shall not be authorized
 13 to maintain an action against, or recover from, a space flight entity
 14 for a participant injury that resulted from the risks associated with
 15 space flight activities, except as provided in subdivision (c).

16 (c) Nothing in this section shall prevent or limit the liability of
 17 a space flight entity that does any of the following:

18 (1) Commits an act or omission that constitutes gross negligence
 19 or willful or wanton disregard for the safety of the participant, and
 20 that act or omission proximately causes a participant injury.

21 (2) Intentionally causes a participant injury.

22 (3) Has actual knowledge or reasonably should have known of
 23 a dangerous condition on the land or in the facilities or equipment
 24 used in space flight activities and the dangerous condition
 25 proximately causes injury, damage, or death to the participant.

26 (4) *Manufactures or supplies a product with a defect.*

27 (d) Any limitation on legal liability afforded by this section to
 28 a space flight entity is in addition to any other limitations of legal
 29 liability otherwise provided by law.

30 ~~(e) Nothing in this section shall be construed to limit the liability~~
 31 ~~of a manufacturer of a part or component used in space flight~~
 32 ~~activities if a defective part or component proximately causes an~~
 33 ~~injury to the participant.~~

34 *(e) A space flight entity shall present to and file with the*
 35 *Secretary of State a certificate of insurance coverage in the amount*
 36 *of one million dollars (\$1,000,000) or more that covers liability*
 37 *by the space flight entity for all space flight activities. A space*
 38 *flight entity that fails to maintain this insurance requirement shall*
 39 *not have their liability limited pursuant to subdivision (a).*

40 SEC. 3. Section 2213 is added to the Civil Code, to read:

1 2213. *This article shall remain in effect only until July 1, 2021,*
2 *and as of that date is repealed.*

3 ~~SECTION 1. The Legislature finds and declares all of the~~
4 ~~following:~~

5 ~~(a) California has experienced deeper and more sustained job~~
6 ~~losses in the aerospace manufacturing industry than has the rest~~
7 ~~of the country over the last two decades. From 1990 through 2012,~~
8 ~~payrolls in California's aerospace manufacturing industry fell by~~
9 ~~65.9 percent compared to a 34.6-percent decrease in the rest of the~~
10 ~~country and a 43.7-percent decrease in the country as a whole.~~

11 ~~(b) In 2010, employment in California's aerospace~~
12 ~~manufacturing industries totaled 109,700 jobs. Over three-fifths~~
13 ~~of these jobs were in the aerospace products and parts~~
14 ~~manufacturing sector, and the remainder were in the search,~~
15 ~~detection, guidance, aeronautical, and nautical systems and~~
16 ~~instruments manufacturing sector. The aerospace manufacturing~~
17 ~~industry paid wages totaling \$10.7 billion in 2010. Nearly 3 out~~
18 ~~of every 10 jobs in the American guided missiles and space~~
19 ~~vehicles manufacturing industry were located in California in 2010.~~

20 ~~(c) On February 14, 2012, President Obama signed into law the~~
21 ~~Federal Aviation Modernization and Reform Act of 2012. The act~~
22 ~~requires the Federal Aviation Administration to designate six sites~~
23 ~~throughout the United States as unmanned aircraft systems test~~
24 ~~sites in order to safely integrate unmanned aircraft systems into~~
25 ~~the national airspace system.~~

26 ~~(d) Unmanned aircraft systems represent one of the fastest~~
27 ~~growing segments of the aerospace industry. Given the potential~~
28 ~~for defense-related cutbacks currently under discussion at the~~
29 ~~national level, it is in California's interest to pursue the location~~
30 ~~of an unmanned aircraft systems test site in California.~~

31 ~~(e) The expanded use of unmanned aircraft systems represents~~
32 ~~a major step in aviation innovation and will present economic~~
33 ~~opportunities for the communities that are selected for these test~~
34 ~~sites and for the aerospace industry.~~

35 ~~(f) A study conducted by the Association for Unmanned Vehicle~~
36 ~~Systems International indicates that the industry has the potential~~
37 ~~to create 100,000 jobs in the provision of unmanned aircraft in the~~
38 ~~two largest markets for unmanned aircraft, namely agriculture and~~
39 ~~public safety.~~

1 ~~(g) California has a well-established and highly developed~~
2 ~~aerospace industry that has a skilled and experienced workforce~~
3 ~~and a tradition of entrepreneurship and innovation.~~

4 ~~(h) California has a network of educational and research~~
5 ~~institutions that has helped foster innovation in the aerospace~~
6 ~~industry and develop a high technology sector.~~

7 ~~(i) Aerospace manufacturing jobs are high-paying jobs providing~~
8 ~~liveable wages that spur economic growth.~~

9 ~~(j) The development of a coordinated proposal for California~~
10 ~~to establish an unmanned aircraft systems test site can be~~
11 ~~accomplished only by bringing together advocates, policymakers,~~
12 ~~industry, local governments, and the public to address concerns,~~
13 ~~obtain information, research issues, and evaluate alternative~~
14 ~~proposals.~~

15 ~~SEC. 2. Article 7 (commencing with Section 12100.1) is added~~
16 ~~to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government~~
17 ~~Code, to read:~~

18

19 ~~Article 7. Unmanned Aircraft Systems Test Sites~~

20

21 ~~12100.1. (a) The director shall prepare a proposal to establish~~
22 ~~an unmanned aircraft systems test site in California according to~~
23 ~~the directions contained in the Federal Aviation Administration's~~
24 ~~Screening Information Request DTFAC13-R-00002. The director~~
25 ~~shall complete the preparation of this proposal and submit this~~
26 ~~proposal no later than May 6, 2013.~~

27 ~~(b) In preparing and developing the proposal, the director may~~
28 ~~consult with the Governor's Military Council and other relevant~~
29 ~~entities, including, but not limited to:~~

- 30 ~~(1) The Office of Planning and Research.~~
- 31 ~~(2) The Military Department.~~
- 32 ~~(3) The Department of Veterans Affairs.~~
- 33 ~~(4) The Employment Development Department.~~
- 34 ~~(5) The Department of Transportation.~~
- 35 ~~(6) Representatives of the aerospace industry.~~
- 36 ~~(7) The California Unmanned Aircraft Systems Portal~~
37 ~~Consortium.~~
- 38 ~~(8) The Southern California Unmanned Systems Alliance.~~
- 39 ~~(9) Any other California applicant.~~
- 40 ~~(10) Representatives of local government.~~

1 ~~(11) Education and training entities.~~
2 ~~12100.3.—The director shall coordinate with any local~~
3 ~~government that submits a proposal to establish a test site to the~~
4 ~~Federal Aviation Administration.~~
5 ~~SEC. 3.—This act is an urgency statute necessary for the~~
6 ~~immediate preservation of the public peace, health, or safety within~~
7 ~~the meaning of Article IV of the Constitution and shall go into~~
8 ~~immediate effect. The facts constituting the necessity are:~~
9 ~~In order to develop a coordinated proposal to establish an~~
10 ~~unmanned aircraft systems test site in California before the deadline~~
11 ~~set by the Federal Aviation Administration, it is necessary that this~~
12 ~~act take effect immediately.~~