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114TH CONGRESS
1ST SESSION

H. R. 2262

To facilitate a pro-growth environment for the developing commercial space industry by encouraging private sector investment and creating more stable and predictable regulatory conditions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2015

Mr. MCCARTHY (for himself, Mr. SMITH of Texas, Mr. PALAZZO, Mr. ROHRABACHER, Mr. LUCAS, Mr. MCCAUL, Mr. POSEY, Mr. KNIGHT, Mr. BABIN, Mr. HULTGREN, Mr. BRIDENSTINE, Mr. WEBER of Texas, and Mr. MOOLENAAR) introduced the following bill; which was referred to the Committee on Science, Space, and Technology

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A BILL

To facilitate a pro-growth environment for the developing commercial space industry by encouraging private sector investment and creating more stable and predictable regulatory conditions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Spurring Private Aerospace Competitiveness and Entrepreneurship Act of 2015'' or the ''SPACE Act of 2015''.

SEC. 2. CONSENSUS STANDARDS.

Section 50905(c) of title 51, United States Code, is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraph (4) as paragraph (8); and

(3) by inserting after paragraph (2) the following:

''(3) INTERIM INDUSTRY VOLUNTARY CONSENSUS STANDARDS REPORT.—The Secretary, in consultation with the Commercial Space Transportation Advisory Committee, or its successor organization, shall provide a report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the progress of the commercial space transportation industry in developing voluntary consensus standards or any other construction that promotes best practices to improve the industry. Such report shall include, at a minimum—

''(A) any voluntary industry consensus standards or any other construction that have been accepted by the industry at large;

''(B) the identification of areas that have the potential to become voluntary industry con-

sensus standards or another potential construction that are currently under consideration by the industry at large;

"(C) an assessment from the Secretary on the general progress of the industry in adopting voluntary consensus standards or any other construction;

"(D) lessons learned about voluntary industry consensus standards or any other construction, best practices, and commercial space launch operations;

"(E) any lessons learned associated with the development, potential application, and acceptance of voluntary industry consensus standards or any other construction, best practices, and commercial space launch operations; and

"(F) recommendations, findings, or observations from the Commercial Space Transportation Advisory Committee, or its successor organization, on the progress of the industry in developing industry consensus standards or any other construction.

This report, with the appropriate updates in the intervening periods, shall be transmitted to such committees no later than December 31, 2016, December

31, 2018, and December 31, 2020. Each report shall describe and assess the progress achieved as of 6 months prior to the specified transmittal date.

''(4) INTERIM REPORT ON KNOWLEDGE AND OPERATIONAL EXPERIENCE.—The Secretary shall provide a report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the of the Senate on the status of the knowledge and operational experience acquired by the industry while providing flight services for compensation or hire to support the development of a safety framework. Interim reports shall be transmitted to such committees no later than December 31, 2018, and December 31, 2020. Each report shall describe and assess the progress achieved as of 6 months prior to the specified transmittal date.

''(5) INDEPENDENT REVIEW.—No later than December 31, 2021, an independent, private systems engineering and technical assistance organization or standards development organization contracted by the Secretary shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assess-

ment of the readiness of the commercial space industry and the Federal Government to transition to a safety framework that may include regulations. As part of the review, the contracted organization shall evaluate—

"(A) the progress of the commercial space industry in adopting industry voluntary standards or any other construction as reported by the Secretary in the interim assessments included in reports provided under paragraph (4); and

"(B) the knowledge and operational experience obtained by the commercial space industry while providing services for compensation or hire as reported by the Secretary in the interim knowledge and operational reports provided under paragraph (4).

"(6) LEARNING PERIOD.—Beginning on December 31, 2023, the Secretary may propose regulations under this subsection without regard to paragraph (2)(C) and (D). The development of any such regulations shall take into consideration the evolving standards of the commercial space flight industry as identified through the reports published under paragraphs (3) and (4).

''(7) COMMUNICATION AND TRANSPARENCY.—Nothing in this subsection shall be construed to limit the authority of the Secretary of Transportation to discuss potential approaches, potential performance standards, or any other topic related to this subsection with the commercial space industry including observations, findings, and recommendations from the Commercial Space Transportation Advisory Committee, or its successor organization, prior to the issuance of a notice of proposed rulemaking. Such discussions shall not be construed to permit the Secretary to promulgate industry regulations except as otherwise provided in this section.''.

SEC. 3. INTERNATIONAL LAUNCH COMPETITIVENESS.

(a) PURPOSE.—The purpose of this section is to provide for updating the methodology used to calculate the maximum probable loss from claims under section 50914 of title 51, United States Code, with a validated risk profile approach to provide reasonable maximum probable loss values associated with potential third party losses from commercially licensed launches. An appropriately updated methodology will help ensure that the Federal Government is not exposed to greater financial risks than intended and that launch companies are not required to purchase more insurance coverage than necessary.

(b) MAXIMUM PROBABLE LOSS PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to update the methodology used to calculate maximum probable loss from claims under section 50914 of title 51, United States Code, through the use of a validated risk profile approach. Such plan shall include, at a minimum—

(1) an evaluation of the reasonableness of the current single casualty estimate and, if needed, the steps the Secretary will take to update such estimate;

(2) an evaluation, in consultation with the Administrator of the National Aeronautics and Space Administration and the heads of other relevant executive agencies, of the reasonableness of the dollar value of the insurance requirement required by the Secretary for launch providers to cover damage to Government property resulting from a commercially licensed space launch activity, and recommendations as to a reasonable calculation if, as determined by the Secretary, the current statutory threshold is insufficient;

(3) a schedule of when updates to the methodology and calculations for the totality of the Maximum Probable Loss will be implemented, and a detailed explanation of any changes to the current calculation; and

(4) consideration of the impact of the cost of its implementation on the licensing process, both in terms of the cost to industry of collecting and providing the requisite data and cost to the Government of analyzing the data.

(c) INDEPENDENT ASSESSMENT.—Not later than 270 days after transmittal of the plan under subsection (b), the Comptroller General shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment of—

(1) the conclusions and analysis provided by the Secretary of Transportation in the plan required under subsection (b);

(2) the implementation schedule proposed by the Secretary in such plan;

(3) the suitability of the plan for implementation; and

(4) any further actions needed to implement the plan or otherwise accomplish the purpose of this section.

(d) LAUNCH LIABILITY EXTENSION.—Section 50915(f) of title 51, United States Code, is amended by striking ''December 31, 2016'' and inserting ''December 31, 2023''.

SEC. 4. LAUNCH LICENSE FLEXIBILITY.

Section 50906 of title 51, United States Code, is amended—

(1) in subsection (d), by striking ''launched or reentered'' and inserting ''launched or reentered under that permit'';

(2) by amending subsection (d)(1) to read as follows:

''(1) research and development to test design concepts, equipment, or operating techniques;'';

(3) in subsection (d)(3), by striking ''prior to obtaining a license'';

(4) in subsection (e)(1), by striking ''suborbital rocket design'' and inserting ''suborbital rocket or rocket design''; and

(5) by amending subsection (g) to read as follows:

''(g) The Secretary may issue a permit under this section notwithstanding any license issued under this chapter. The issuance of a license under this chapter shall not invalidate a permit under this section.''.

SEC. 5. GOVERNMENT ASTRONAUTS.

(a) DEFINITIONS.—Section 50902 of title 51, United States Code, is amended—

(1) by redesignating paragraphs (4) through (22) as paragraphs (5) through (23), respectively;

(2) by inserting after paragraph (3) the following new paragraph:

''(4) 'government astronaut' means an individual designated as such by the Administrator of the National Aeronautics and Space Administration, pursuant requirements established by the Administrator, who—

''(A) is an employee of—

''(i) the United States Government, including the United States Armed Forces; or

''(ii) a foreign government that is a party to the Intergovernmental Agreement Among the Government of Canada, Governments of Member States of the European Space Agency, the Government of

Japan, the Government of the Russian Federation, and the Government of the United States of America Concerning Cooperation on the Civil International Space Station, signed on January 29, 1998; and

''(B) is carried within a launch vehicle or reentry vehicle in the course of his or her employment, which may include performance of activities directly relating to the launch, reentry, or other operation of the launch vehicle or reentry vehicle.'';

(3) in paragraph (5), as so redesignated by paragraph (1) of this subsection, by inserting ''government astronaut,'' after ''crew,'';

(4) in paragraph (7)(A), as so redesignated by paragraph (1) of this subsection, by inserting ''government astronaut,'' after ''(including crew training),'';

(5) in paragraph (14), as so redesignated by paragraph (1) of this subsection, by inserting ''government astronauts,'' after ''crew,'';

(6) in paragraph (15)(A), as so redesignated by paragraph (1) of this subsection, by inserting ''government astronaut,'' after ''(including crew training),'';

(7) by amending paragraph (18), as so redesignated by paragraph (1) of this subsection, to read as follows:

''(18) 'space flight participant' means an individual, who is not crew or a government astronaut, carried within a launch vehicle or reentry vehicle.''; and

(8) in paragraph (22)(E), as so redesignated by paragraph (1) of this subsection, by inserting '', government astronauts,'' after ''crew''.

(b) RESTRICTIONS ON LAUNCHES, OPERATIONS, AND REENTRIES; SINGLE LICENSE OR PERMIT.—Section 50904(d) of title 51, United States Code, is amended by inserting '', government astronauts,'' after ''crew''.

(c) LICENSE APPLICATIONS AND REQUIREMENTS; APPLICATIONS.—Section 50905 of title 51, United States Code, is amended—

(1) in subsection (a)(2), by striking ''crews and space flight participants'' and inserting ''crew, government astronauts, and space flight participants'';

(2) in subsection (b)(2)(D), by inserting '', government astronauts,'' after ''crew''; and

(3) in subsection (c)—

(A) in paragraph (1), by inserting '', government astronauts,'' after ''crew''; and

(B) in paragraph (2), by striking ''to crew or space flight participants'' each place it appears and inserting ''to crew, government astronauts, or space flight participants''.

(d) MONITORING ACTIVITIES.—Section 50907(a) of title 51, United States Code, is amended by striking ''crew or space flight participant training'' and inserting ''crew, government astronaut, or space flight participant training''.

(e) ADDITIONAL SUSPENSIONS.—Section 50908(d)(1) of title 51, United States Code, is amended by striking ''to crew or space flight participants'' each place it appears and inserting ''to crew, government astronauts, or space flight participants''.

SEC. 6. INDEMNIFICATION FOR SPACE FLIGHT PARTICIPANTS.

Chapter 509 of title 51, United States Code, is amended—

(1) in section 50914(a)(4), by adding at the end the following:

''(E) space flight participants.''; and

(2) in section 50915(a)(1)—

(A) by striking ''or a contractor'' and inserting ''a contractor''; and

(B) by striking ''but not against'' and inserting ''or''.

SEC. 7. FEDERAL JURISDICTION.

Section 50914 of title 51, United States Code, is amended by adding at the end the following:

''(g) FEDERAL JURISDICTION.—Any action or tort arising from a licensed launch or reentry shall be the sole jurisdiction of the Federal courts and shall be decided under Federal law.''.

SEC. 8. CROSS-WAIVERS.

Section 50914(b)(1) of title 51, United States Code, is amended to read as follows: ''(1) A launch or reentry license issued or transferred under this chapter shall contain a provision requiring the licensee or transferee to make a reciprocal waiver of claims with its contractors, subcontractors, and customers, the contractors and subcontractors of the customers, and any space flight participants, involved in launch services or reentry services or participating in a flight under which each party to the waiver agrees to be responsible for property damage or loss it or they sustain, or for personal injury to, death of, or property damage or loss sustained by its own employees resulting from an activity carried out under the applicable license.''.

SEC. 9. ORBITAL TRAFFIC MANAGEMENT.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, as none currently exists, there may be a need for a framework that addresses space traffic management of United States Government assets and United States private sector assets to minimize the proliferation of debris and decrease the congestion of the orbital environment.

(b) STUDY REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Administrator of the National Aeronautics and Space Administration shall enter into an arrangement with an independent, private systems engineering and technical assistance organization to study frameworks for the management of space traffic and orbital activities. The study shall include the following:

(1) An assessment of current regulations, Government best practices, and industry standards that apply to space traffic management and orbital debris mitigation.

(2) An assessment of current statutory authority granted to the Federal Communications Commission, the Federal Aviation Administration, and the National Oceanic and Atmospheric Administration and how those agencies utilize and coordinate those authorities.

(3) A review of all space traffic management and orbital debris requirements under treaties and other international agreements to which the United States is a signatory, and other nonbinding international arrangements in which the United States participates, and the manner in which the Federal Government complies with those requirements.

(4) An assessment of existing Federal Government assets used to conduct space traffic management and space situational awareness.

(5) An assessment of the risk associated with smallsats as well as any necessary Government coordination for their launch and utilization.

(6) An assessment of existing private sector information sharing activities associated with space situational awareness and space traffic management.

(7) Recommendations related to the framework for the protection of the health, safety, and welfare of the public and economic vitality of the space industry.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Com-

mittee on Commerce, Science, and Transportation of the Senate the report required in subsection (b).

(d) DEPARTMENT OF DEFENSE AUTHORITIES.—Congress recognizes the vital and unique role played by the Department of Defense in protecting national security assets in space. Nothing in this section shall be construed to amend authorities granted to the Department of Defense to safeguard the national security.

SEC. 10. STATE COMMERCIAL LAUNCH FACILITIES.

It is the Sense of Congress that State involvement, development, ownership, and operation of launch facilities can help enable growth of the Nation's commercial suborbital and orbital space endeavors and support both commercial and Government space programs. It is further the sense of Congress that State launch facilities and the people and property within the affected launch areas of those State facilities are subject to risks if the commercial launch vehicle fails or experiences an anomaly. To ensure the success of the commercial launch industry and the safety of the people and property in the affected launch areas, it is the further sense of Congress that States and State launch facilities should seek to take proper measures to secure their investments and the safety of third parties

from potential damages that could be suffered from commercial launch activities.

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