

(2) 51 USC CHAPTER 509 - COMMERCIAL SPACE LAUNCH ACTIVITIES

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TITLE 51 – NATIONAL AND COMMERCIAL SPACE PROGRAMS

SUBTITLE V – Programs Targeting Commercial Opportunities

CHAPTER 509 - COMMERCIAL SPACE LAUNCH ACTIVITIES

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Sec. 50901. Findings and purposes

(a) Findings. - Congress finds that -

- (1) the peaceful uses of outer space continue to be of great value and to offer benefits to all mankind;
- (2) private applications of space technology have achieved a significant level of commercial and economic activity and offer the potential for growth in the future, particularly in the United States;
- (3) new and innovative equipment and services are being sought, produced, and offered by entrepreneurs in telecommunications, information services, microgravity research, human space flight, and remote sensing technologies;
- (4) the private sector in the United States has the capability of developing and providing private launching, reentry, and associated services that would complement the launching, reentry, and associated capabilities of the United States Government;
- (5) the development of commercial launch vehicles, reentry vehicles, and associated services would enable the United States to retain its competitive position internationally, contributing to the national interest and economic well-being of the United States;
- (6) providing launch services and reentry services by the private sector is consistent with the national security and foreign policy interests of the United States and would be facilitated by stable, minimal, and appropriate regulatory guidelines that are fairly and expeditiously applied;

(7) the United States should encourage private sector launches, reentries, and associated services and, only to the extent necessary, regulate those launches, reentries, and services to ensure compliance with international obligations of the United States and to protect the public health and safety, safety of property, and national security and foreign policy interests of the United States;

(8) space transportation, including the establishment and operation of launch sites, reentry sites, and complementary facilities, the providing of launch services and reentry services, the establishment of support facilities, and the providing of support services, is an important element of the transportation system of the United States, and in connection with the commerce of the United States there is a need to develop a strong space transportation infrastructure with significant private sector involvement;

(9) the participation of State governments in encouraging and facilitating private sector involvement in space-related activity, particularly through the establishment of a space transportation-related infrastructure, including launch sites, reentry sites, complementary facilities, and launch site and reentry site support facilities, is in the national interest and is of significant public benefit;

(10) the goal of safely opening space to the American people and their private commercial, scientific, and cultural enterprises should guide Federal space investments, policies, and regulations;

(11) private industry has begun to develop commercial launch vehicles capable of carrying human beings into space and greater private investment in these efforts will stimulate the Nation's commercial space transportation industry as a whole;

(12) space transportation is inherently risky, and the future of the commercial human space flight industry will depend on its ability to continually improve its safety performance;

(13) a critical area of responsibility for the Department of Transportation is to regulate the operations and safety of the emerging commercial human space flight industry;

(14) the public interest is served by creating a clear legal, regulatory, and safety regime for commercial human spaceflight; and

(15) the regulatory standards governing human space flight must evolve as the industry matures so that regulations neither stifle technology development nor expose crew or space flight participants to avoidable risks as the public comes to expect greater safety for crew and space flight participants from the industry.

(b) Purposes. - The purposes of this chapter are -

(1) to promote economic growth and entrepreneurial activity through use of the space environment for peaceful purposes;

(2) to encourage the United States private sector to provide launch vehicles, reentry vehicles, and associated services by -

(A) simplifying and expediting the issuance and transfer of commercial licenses;

(B) facilitating and encouraging the use of Government-developed space technology; and

(C) promoting the continuous improvement of the safety of launch vehicles designed to carry humans, including through the issuance of regulations, to the extent permitted by this chapter;

(3) to provide that the Secretary of Transportation is to oversee and coordinate the conduct of commercial launch and reentry operations, issue permits and commercial licenses and transfer commercial licenses authorizing those operations, and protect the public health and safety, safety of property, and national security and foreign policy interests of the United States; and

(4) to facilitate the strengthening and expansion of the United States space transportation infrastructure, including the enhancement of United States launch sites and launch-site support facilities, and development of reentry sites, with Government, State, and private sector involvement, to support the full range of United States space-related activities.

Sec. 50902. Definitions

In this chapter -

(1) "citizen of the United States" means -

(A) an individual who is a citizen of the United States;

(B) an entity organized or existing under the laws of the United States or a State; or

(C) an entity organized or existing under the laws of a foreign country if the controlling interest (as defined by the Secretary of Transportation) is held by an individual or entity described in sub clause (A) or (B) of this clause.

- (2) 'crew' means any employee of a licensee or transferee, or of a contractor or subcontractor of a licensee or transferee, who performs activities in the course of that employment directly relating to the launch, reentry, or other operation of or in a launch vehicle or reentry vehicle that carries human beings.
- (3) "executive agency" has the same meaning given that term in section 105 of title 5.
- (4) "launch" means to place or try to place a launch vehicle or reentry vehicle and any payload, crew, or space flight participant from Earth -
- (A) in a suborbital trajectory;
 - (B) in Earth orbit in outer space; or
 - (C) otherwise in outer space, including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States.
- (5) "launch property" means an item built for, or used in, the launch preparation or launch of a launch vehicle.
- (6) "launch services" means -
- (A) activities involved in the preparation of a launch vehicle, payload, crew (including crew training), or spaceflight participant for launch; and
 - (B) the conduct of a launch.
- (7) "launch site" means the location on Earth from which a launch takes place (as defined in a license the Secretary issues or transfers under this chapter) and necessary facilities at that location.
- (8) "launch vehicle" means -
- (A) a vehicle built to operate in, or place a payload or human beings in, outer space; and
 - (B) a suborbital rocket.
- (9) "obtrusive space advertising" means advertising in outer space that is capable of being recognized by a human being on the surface of the Earth without the aid of a telescope or other technological device.
- (10) "payload" means an object that a person undertakes to place in outer space by means of a launch vehicle or reentry vehicle, including components of the vehicle specifically designed or adapted for that object.
- (11) except in section 50904(c), 'permit' means an experimental permit issued under section 50906.
- (12) "person" means an individual and an entity organized or existing under the laws of a State or country.
- (13) "reenter" and "reentry" mean to return or attempt to return, purposefully, a reentry vehicle and its payload, crew, or space flight participants, if any, from Earth orbit or from outer space to Earth.
- (14) "reentry services" means -
- (A) activities involved in the preparation of a reentry vehicle payload, crew (including crew training), or space flight participant, if any, for reentry; and
 - (B) the conduct of a reentry.
- (15) "reentry site" means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).
- (16) "reentry vehicle" means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from Earth orbit or outer space to Earth, substantially intact.
- (17) 'space flight participant' means an individual, who is not crew, carried within a launch vehicle or reentry vehicle.
- (18) "State" means a State of the United States, the District of Columbia, and a territory or possession of the United States.
- (19) unless and until regulations take effect under section 50922(c)(2), 'suborbital rocket' means a vehicle, rocket-propelled in whole or in part, intended for flight on a suborbital trajectory, and the thrust of which is greater than its lift for the majority of the rocket-powered portion of its ascent.
- (20) 'suborbital trajectory' means the intentional flight path of a launch vehicle, reentry vehicle, or any portion thereof, whose vacuum instantaneous impact point does not leave the surface of the Earth.
- (21) "third party" means a person except -
- (A) the United States Government or the Government's contractors or subcontractors involved in launch services or reentry services;

- (B) a licensee or transferee under this chapter;
- (C) a licensee's or transferee's contractors, subcontractors, or customers involved in launch services or reentry services;
- (D) the customer's contractors or subcontractors involved in launch services or reentry services; or
- (E) crew or space flight participants.

(22) "United States" means the States of the United States, the District of Columbia, and the territories and possessions of the United States.

Sec. 50903. General authority

- (a) General. - The Secretary of Transportation shall carry out this chapter.
- (b) Facilitating Commercial Launches and Reentries. - In carrying out this chapter, the Secretary shall -
 - (1) encourage, facilitate, and promote commercial space launches and reentries by the private sector including those involving space flight participants; and
 - (2) take actions to facilitate private sector involvement in commercial space transportation activity, and to promote public-private partnerships involving the United States Government, State governments, and the private sector to build, expand, modernize, or operate a space launch and reentry infrastructure.
- (c) Safety. — In carrying out the responsibilities under subsection (b), the Secretary shall encourage, facilitate, and promote the continuous improvement of the safety of launch vehicles designed to carry humans, and the Secretary may, consistent with this chapter, promulgate regulations to carry out this subsection.
- (d) Executive Agency Assistance. - When necessary, the head of an executive agency shall assist the Secretary in carrying out this chapter.

Sec. 50904. Restrictions on launches, operations, and reentries

- (a) Requirement. – A license issued or transferred under this chapter, or a permit, is required for the following:
 - (1) for a person to launch a launch vehicle or to operate a launch site or reentry site, or to reenter a reentry vehicle, in the United States.
 - (2) for a citizen of the United States (as defined in section 50902(1)(A) or (B) of this title) to launch a launch vehicle or to operate a launch site or reentry site, or to reenter a reentry vehicle, outside the United States.
 - (3) for a citizen of the United States (as defined in section 50902(1)(C) of this title) to launch a launch vehicle or to operate a launch site or reentry site, or to reenter a reentry vehicle, outside the United States and outside the territory of a foreign country unless there is an agreement between the United States Government and the government of the foreign country providing that the government of the foreign country has jurisdiction over the launch or operation or reentry.
 - (4) for a citizen of the United States (as defined in section 50902(1)(C) of this title) to launch a launch vehicle or to operate a launch site or reentry site, or to reenter a reentry vehicle, in the territory of a foreign country if there is an agreement between the United States Government and the government of the foreign country providing that the United States Government has jurisdiction over the launch or operation or reentry. Notwithstanding this subsection, a permit shall not authorize a person to operate a launch site or reentry site.
- (b) Compliance With Payload Requirements. - The holder of a license or permit under this chapter may launch or reenter a payload only if the payload complies with all requirements of the laws of the United States related to launching or reentering a payload.
- (c) Preventing Launches and Reentries. - The Secretary of Transportation shall establish whether all required licenses, authorizations, and permits required for a payload have been obtained. If no license, authorization, or permit is required, the Secretary may prevent the launch or reentry if the Secretary decides the launch or reentry would jeopardize the public health and safety, safety of property, or national security or foreign policy interest of the United States.
- (d) Single License or Permit.—The Secretary of Transportation shall ensure that only 1 license or permit is required from the Department of Transportation to conduct activities involving crew or space flight participants, including launch and reentry, for which a license or permit is required under this chapter. The Secretary shall ensure that all Department of Transportation regulations relevant to the licensed or permitted activity are satisfied.

Sec. 50905. License applications and requirements

- (a) Applications. - (1) A person may apply to the Secretary of Transportation for a license or transfer of a license under this chapter in the form and way the Secretary prescribes. Consistent with the public health and safety, safety of property, and national security and foreign policy interests of the United States, the Secretary, not later than 180 days after receiving an application, shall issue or transfer a license if the Secretary decides in writing that the applicant complies, and will continue to comply, with this chapter and regulations prescribed under this chapter. The Secretary shall inform the applicant of any pending issue and action required to resolve the issue if the Secretary has not made a decision not later than 120 days after receiving an application. The Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 30 days after any occurrence when the Secretary has not taken action on a license application within the deadline established by this subsection.
- (2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel (including approval procedures for the purpose of protecting the health and safety of crews and space flight participants, to the extent permitted by subsections (b) and (c)) that may be used in conducting licensed commercial space launch or reentry activities.
- (b) Requirements. - (1) Except as provided in this subsection, all requirements of the laws of the United States applicable to the launch of a launch vehicle or the operation of a launch site or an entry site, or the reentry of a reentry vehicle, are requirements for a license or permit under this chapter.
- (2) The Secretary may prescribe -
- (A) any term necessary to ensure compliance with this chapter, including on-site verification that a launch, operation, or reentry complies with representations stated in the application;
 - (B) any additional requirement necessary to protect the public health and safety, safety of property, national security interests, and foreign policy interests of the United States;
 - (C) by regulation that a requirement of a law of the United States not be a requirement for a license or permit if the Secretary, after consulting with the head of the appropriate executive agency, decides that the requirement is not necessary to protect the public health and safety, safety of property, and national security and foreign policy interests of the United States;
 - (D) additional license requirements, for a launch vehicle carrying a human being for compensation or hire, necessary to protect the health and safety of crew or space flight participants, only if such requirements are imposed pursuant to final regulations issued in accordance with subsection (c); and
 - (E) regulations establishing criteria for accepting or rejecting an application for a license or permit under this chapter within 60 days after receipt of such application.
- (3) The Secretary may waive a requirement, including the requirement to obtain a license, for an individual applicant if the Secretary decides that the waiver is in the public interest and will not jeopardize the public health and safety, safety of property, and national security and foreign policy interests of the United States. The Secretary may not grant a waiver under this paragraph that would permit the launch or reentry of a launch vehicle or a reentry vehicle without a license or permit if a human being will be on board.
- (4) The holder of a license or a permit under this chapter may launch or reenter crew only if—
- (A) the crew has received training and has satisfied medical or other standards specified in the license or permit in accordance with regulations promulgated by the Secretary;
 - (B) the holder of the license or permit has informed any individual serving as crew in writing, prior to executing any contract or other arrangement to employ that individual (or, in the case of an individual already employed as of the date of enactment of the Commercial Space Launch Amendments Act of 2004, as early as possible, but in any event prior to any launch in which the individual will participate as crew), that the United States Government has not certified the launch vehicle as safe for carrying crew or space flight participants; and
 - (C) the holder of the license or permit and crew have complied with all requirements of the laws of the United States that apply to crew.

- (5) The holder of a license or a permit under this chapter may launch or reenter a space flight participant only if—
- (A) in accordance with regulations promulgated by the Secretary, the holder of the license or permit has informed the space flight participant in writing about the risks of the launch and reentry, including the safety record of the launch or reentry vehicle type, and the Secretary has informed the space flight participant in writing of any relevant information related to risk or probable loss during each phase of flight gathered by the Secretary in making the determination required by section 50914(a)(2) and (c);
 - (B) the holder of the license or permit has informed any spaceflight participant in writing, prior to receiving any compensation from that space flight participant or (in the case of a spaceflight participant not providing compensation) otherwise concluding any agreement to fly that space flight participant, that the United States Government has not certified the launch vehicle as safe for carrying crew or space flight participants;
 - (C) in accordance with regulations promulgated by the Secretary, the space flight participant has provided written informed consent to participate in the launch and reentry and written certification of compliance with any regulations promulgated under paragraph (6)(A); and
 - (D) the holder of the license or permit has complied with any regulations promulgated by the Secretary pursuant to paragraph (6).
- (6) (A) The Secretary may issue regulations requiring space flight participants to undergo an appropriate physical examination prior to a launch or reentry under this chapter. This subparagraph shall cease to be in effect three years after the date of enactment of the Commercial Space Launch Amendments Act of 2004.
- (B) The Secretary may issue additional regulations setting reasonable requirements for space flight participants, including medical and training requirements. Such regulations shall not be effective before the expiration of 3 years after the date of enactment of the Commercial Space Launch Amendments Act of 2004.
- (c) Safety Regulations.— (1) The Secretary may issue regulations governing the design or operation of a launch vehicle to protect the health and safety of crew and space flight participants.
- (2) Regulations issued under this subsection shall—
- (A) describe how such regulations would be applied when the Secretary is determining whether to issue a license under this chapter;
 - (B) apply only to launches in which a vehicle will be carrying a human being for compensation or hire;
 - (C) be limited to restricting or prohibiting design features or operating practices that—
 - (i) have resulted in a serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or spaceflight participants during a licensed or permitted commercial human space flight; or
 - (ii) contributed to an unplanned event or series of events during a licensed or permitted commercial human space flight that posed a high risk of causing a serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or space flight participants; and
 - (D) be issued with a description of the instance or instances when the design feature or operating practice being restricted or prohibited contributed to a result or event described in subparagraph (C).
- (3) Beginning on October 1, 2015, the Secretary may propose regulations under this subsection without regard to paragraph (2)(C) and (D). Any such regulations shall take into consideration the evolving standards of safety in the commercial space flight industry.
- (4) Nothing in this subsection shall be construed to limit the authority of the Secretary to issue requirements or regulations to protect the public health and safety, safety of property, national security interests, and foreign policy interests of the United States.
- (d) Procedures and Timetables. - The Secretary shall establish procedures and timetables that expedite review of a license or permit application and reduce the regulatory burden for an applicant.

Sec. 50906. Experimental permits

(a) A person may apply to the Secretary of Transportation for an experimental permit under this section in the form and manner the Secretary prescribes. Consistent with the protection of the public health and safety, safety of property, and national security and foreign policy interests of the United States, the Secretary, not later than 120 days after receiving an application pursuant to this section, shall issue a permit if the Secretary decides in writing that the applicant complies, and will continue to comply, with this chapter and regulations prescribed under this chapter. The Secretary shall inform the applicant of any pending issue and action required to resolve the issue if the Secretary has not made a decision not later than 90 days after receiving an application. The Secretary shall transmit to the Committee on Science of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 15 days after any occurrence when the Secretary has failed to act on a permit within the deadline established by this section.

(b) In carrying out subsection (a), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting commercial space launch or reentry activities pursuant to a permit.

(c) In order to encourage the development of a commercial spaceflight industry, the Secretary may when issuing permits use the authority granted under section 50905(b)(2)(C).

(d) The Secretary may issue a permit only for reusable suborbital rockets that will be launched or reentered solely for—

- (1) research and development to test new design concepts, new equipment, or new operating techniques;
- (2) showing compliance with requirements as part of the process for obtaining a license under this chapter; or
- (3) crew training prior to obtaining a license for a launch or reentry using the design of the rocket for which the permit would be issued.

(e) Permits issued under this section shall —

(1) authorize an unlimited number of launches and reentries for a particular suborbital rocket design for the uses described in subsection (d); and

(2) specify the type of modifications that may be made to the suborbital rocket without changing the design to an extent that would invalidate the permit.

(f) Permits shall not be transferable.

(g) A permit may not be issued for, and a permit that has already been issued shall cease to be valid for, a particular design for a reusable suborbital rocket after a license has been issued for the launch or reentry of a rocket of that design.

(h) No person may operate a reusable suborbital rocket under a permit for carrying any property or human being for compensation or hire.

(i) For the purposes of sections 50907, 50908, 50909, 50910, 50912, 50914, 50917, 50918, 50919, and 50923 of this chapter—

(1) a permit shall be considered a license;

(2) the holder of a permit shall be considered a licensee;

(3) a vehicle operating under a permit shall be considered to be licensed; and

(4) the issuance of a permit shall be considered licensing. This subsection shall not be construed to allow the transfer of a permit.

Sec. 50907. Monitoring activities

(a) General Requirements. - A licensee under this chapter must allow the Secretary of Transportation to place an officer or employee of the United States Government or another individual as an observer at a launch site or reentry site the licensee uses, at a production facility or assembly site a contractor of the licensee uses to produce or assemble a launch vehicle or reentry vehicle at a site used for crew or space flight participant training, or at a site at which a payload is integrated with a launch vehicle or reentry vehicle. The observer will monitor the activity of the licensee or contractor at the time and to the extent the Secretary considers reasonable to ensure compliance with the license or to carry out the duties of the Secretary under section 50904(c), 50905, and 50906 of this title. A licensee must cooperate with an observer carrying out this subsection.

(b) Contracts. - To the extent provided in advance in an appropriation law, the Secretary may make a contract with a person to carry out subsection (a) of this section.

Sec. 50908. Effective periods, and modifications, suspensions, and revocations, of licenses

- (a) **Effective Periods of Licenses.** - The Secretary of Transportation shall specify the period for which a license issued or transferred under this chapter is in effect.
- (b) **Modifications.** - (1) On the initiative of the Secretary or on application of the licensee, the Secretary may modify a license issued or transferred under this chapter if the Secretary decides the modification will comply with this chapter.
- (2) The Secretary shall modify a license issued or transferred under this chapter whenever a modification is needed for the license to be in conformity with a regulation that was issued pursuant to section 50905(c) after the issuance of the license. This paragraph shall not apply to permits.
- (c) **Suspensions and Revocations.** - The Secretary may suspend or revoke a license if the Secretary decides that -
- (1) the licensee has not complied substantially with a requirement of this chapter or a regulation prescribed under this chapter; or
- (2) the suspension or revocation is necessary to protect the public health and safety, the safety security or foreign policy interest of the United States.
- (d) **Additional Suspensions.**—(1) The Secretary may suspend a license when a previous launch or reentry under the license has resulted in a serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or space flight participants and the Secretary has determined that continued operations under the license are likely to cause additional serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or space flight participants.
- (2) Any suspension imposed under this subsection shall be for as brief a period as possible and, in any event, shall cease when the Secretary—
- (A) has determined that the licensee has taken sufficient steps to reduce the likelihood of a recurrence of the serious or fatal injury; or
- (B) has modified the license pursuant to subsection (b) to sufficiently reduce the likelihood of a recurrence of the serious or fatal injury.
- (3) This subsection shall not apply to permits.
- (e) **Effective Periods of Modifications, Suspensions, and Revocations.** - Unless the Secretary specifies otherwise, a modification, suspension, or revocation under this section takes effect immediately and remains in effect during a review under section 50912 of this title.
- (f) **Notification.** - The Secretary shall notify the licensee in writing of the decision of the Secretary under this section and any action the Secretary takes or proposes to take based on the decision.

Sec. 50909. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries

- (a) **General Authority.** - The Secretary of Transportation may prohibit, suspend, or end immediately the launch of a launch vehicle or the operation of a launch site or reentry site, or reentry of a reentry vehicle, licensed under this chapter if the Secretary decides the launch or operation or reentry is detrimental to the public health and safety, the safety of property, or a national security or foreign policy interest of the United States.
- (b) **Effective Periods of Orders.** - An order under this section takes effect immediately and remains in effect during a review under section 50912 of this title.

Sec. 50910. Preemption of scheduled launches or reentries

- (a) **General.** - With the cooperation of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation shall act to ensure that a launch or reentry of a payload is not preempted from access to a United States Government launch site, reentry site, or launch property, except for imperative national need, when a launch date commitment or reentry date commitment from the Government has been obtained for a launch or reentry licensed under this chapter. A licensee or transferee preempted from access to a launch site, reentry site, or launch property does not have to pay the Government any amount for launch services, or services related to are entry, attributable only to the scheduled launch or reentry of property, or a national prevented by the preemption.
- (b) **Imperative National Need Decisions.** - In consultation with the Secretary of Transportation, the Secretary of Defense or the Administrator shall decide when an imperative national need requires preemption under subsection (a) of this section. That decision may not be delegated.

(c) Reports. - In cooperation with the Secretary of Transportation, the Secretary of Defense or the Administrator, as appropriate, shall submit to Congress not later than 7 days after a decision to preempt under subsection (a) of this section, a report that includes an explanation of the circumstances justifying the decision and a schedule for ensuring the prompt launching or reentry of a preempted payload.

Sec. 50911. Space advertising

(a) Licensing. - Notwithstanding the provisions of this chapter or any other provision of law, the Secretary may not, for the launch of a payload containing any material to be used for the purposes of obtrusive space advertising -

- (1) issue or transfer a license under this chapter; or
- (2) waive the license requirements of this chapter.

(b) Launching. - No holder of a license under this chapter may launch a payload containing any material to be used for purposes of obtrusive space advertising.

(c) Commercial Space Advertising. - Nothing in this section shall apply to non obtrusive commercial space advertising, including advertising on -

- (1) commercial space transportation vehicles;
- (2) space infrastructure payloads;
- (3) space launch facilities; and
- (4) launch support facilities.

Sec. 50912. Administrative hearings and judicial review

(a) Administrative Hearings.-The Secretary of Transportation shall provide an opportunity for a hearing on the record to-

- (1) an applicant under this chapter, for a decision of the Secretary under section 50905(a) or 50906 of this title to issue or transfer a license with terms or deny the issuance or transfer of a license;
- (2) an owner or operator of a payload under this chapter, for a decision of the Secretary under section 50904(c) of this title to prevent the launch or reentry of the payload; and
- (3) a licensee under this chapter, for a decision of the Secretary under -
 - (A) section 50908(b) or (c) of this title to modify, suspend, or revoke a license; or
 - (B) section 50909(a) of this title to prohibit, suspend, or end a launch or operation of a launch site or reentry site, or reentry of a reentry vehicle, licensed by the Secretary.

(b) Judicial Review. - A final action of the Secretary under this chapter is subject to judicial review as provided in chapter 7 of title 5.

Sec. 50913. Acquiring United States Government property and Services

(a) General Requirements and Considerations. - (1) The Secretary of Transportation shall facilitate and encourage the acquisition by the private sector and State governments of -

- (A) launch or reentry property of the United States Government that is excess or otherwise is not needed for public use; and
- (B) launch services and reentry services, including utilities, of the Government otherwise not needed for public use.

(2) In acting under paragraph (1) of this subsection, the Secretary shall consider the commercial availability on reasonable terms of substantially equivalent launch property or launch services or reentry services from a domestic source, whether such source is located on or off a Federal range.

- (b) Price. - (1) In this subsection, "direct costs" means the actual costs that -
- (A) can be associated unambiguously with a commercial launch or reentry effort; and
 - (B) the Government would not incur if there were no commercial launch or reentry effort.
- (2) In consultation with the Secretary, the head of the executive agency providing the property or service under subsection (a) of this section shall establish the price for the property or service. The price for -
- (A) acquiring launch property by sale or transaction instead of sale is the fair market value;
 - (B) acquiring launch property (except by sale or transaction instead of sale) is an amount equal to the direct costs, including specific wear and tear and property damage, the Government incurred because of acquisition of the property; and
 - (C) launch services or reentry services is an amount equal to the direct costs, including the basic pay of Government civilian and contractor personnel, the Government incurred because of acquisition of the services.
- (3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.
- (c) Collection by Secretary. - The Secretary may collect a payment under this section with the consent of the head of the executive agency establishing the price. Amounts collected under this subsection shall be deposited in the Treasury. Amounts (except for excess launch property) shall be credited to the appropriation from which the cost of providing the property or services was paid.
- (d) Collection by Other Governmental Heads. - The head of a department, agency, or instrumentality of the Government may collect a payment for an activity involved in producing a launch vehicle or reentry vehicle, or the payload of either, for launch or reentry if the activity was agreed to by the owner or manufacturer of the launch vehicle, reentry vehicle, or payload.

Sec. 50914. Liability insurance and financial responsibility Requirements

- (a) General Requirements. - (1) When a launch or reentry license is issued or transferred under this chapter, the licensee or transferee shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by -
- (A) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out under the license; and
 - (B) the United States Government against a person for damage or loss to Government property resulting from an activity carried out under the license.
- (2) The Secretary of Transportation shall determine the amounts required under paragraph (1)(A) and (B) of this subsection, after consulting with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Air Force, and the heads of other appropriate executive agencies.
- (3) For the total claims related to one launch or reentry, a licensee or transferee is not required to obtain insurance or demonstrate financial responsibility of more than -
- (A) (i) \$500,000,000 under paragraph (1)(A) of this subsection; or
 - (ii) \$100,000,000 under paragraph (1)(B) of this subsection; or
 - (B) the maximum liability insurance available on the world market at reasonable cost if the amount is less than the applicable amount in clause (A)(i) or (ii) of this paragraph.
- (4) An insurance policy or demonstration of financial responsibility under this subsection shall protect the following, to the extent of their potential liability for involvement in launch services or reentry services, at no cost to the Government:
- (A) the Government.
 - (B) executive agencies and personnel, contractors, and subcontractors of the Government.
 - (C) contractors, subcontractors, and customers of the licensee or transferee.
 - (D) contractors and subcontractors of the customer.

(b) Reciprocal Waiver of Claims. - (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, and contractors and subcontractors of the customers, involved in launch services or reentry services under which each party to the waiver agrees to be responsible for property damage or loss it sustains, 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.

(2) The Secretary of Transportation shall make, for the Government, executive agencies of the Government involved in launch services or reentry services, and contractors and subcontractors involved in launch services or reentry services, a reciprocal waiver of claims with the licensee or transferee, contractors, subcontractors, crew, space flight participants, and customers of the licensee or transferee, and contractors and subcontractors of the customers, involved in launch services or reentry services under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees or by space flight participants resulting from an activity carried out under the applicable license. The waiver applies only to the extent that claims are more than the amount of insurance or demonstration of financial responsibility required under subsection(a)(1)(B) of this section. After consulting with the Administrator and the Secretary of the Air Force, the Secretary of Transportation may waive, for the Government and a department, agency, and instrumentality of the Government, the right to recover damages for damage or loss to Government property to the extent insurance is not available because of a policy exclusion the Secretary of Transportation decides is usual for the type of insurance involved.

(c) Determination of Maximum Probable Losses. - The Secretary of Transportation shall determine the maximum probable losses under subsection (a)(1)(A) and (B) of this section associated with an activity under a license not later than 90 days after a licensee or transferee requires a determination and submits all information the Secretary requires. The Secretary shall amend the determination as warranted by new information.

(d) Annual Report. - (1) Not later than November 15 of each year, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a report on current determinations made under subsection (c) of this section related to all issued licenses and the reasons for the determinations.

(2) Not later than May 15 of each year, the Secretary of Transportation shall review the amounts specified in subsection(a)(3)(A) of this section and submit a report to Congress that contains proposed adjustments in the amounts to conform with changed liability expectations and availability of insurance on the world market. The proposed adjustment takes effect 30 days after the report is submitted.

(e) Launches or Reentries Involving Government Facilities and Personnel. - The Secretary of Transportation shall establish requirements consistent with this chapter for proof of financial responsibility and other assurances necessary to protect the Government and its executive agencies and personnel from liability, death, bodily injury, or property damage or loss as a result of a launch or operation of a launch site or reentry site or a reentry involving a facility or personnel of the Government. The Secretary may not relieve the Government of liability under this subsection for death, bodily injury, or property damage or loss resulting from the willful misconduct of the Government or its agents.

(f) Collection and Crediting Payments. - The head of a department, agency, or instrumentality of the Government shall collect a payment owed for damage or loss to Government property under its jurisdiction or control resulting from an activity carried out under a launch or reentry license issued or transferred under this chapter. The payment shall be credited to the current applicable appropriation, fund, or account of the department, agency, or instrumentality.

Sec. 50915. Paying claims exceeding liability insurance and financial responsibility requirements

- (a) General Requirements. - (1) To the extent provided in advance in an appropriation law or to the extent additional legislative authority is enacted providing for paying claims in a compensation plan submitted under subsection (d) of this section, the Secretary of Transportation shall provide for the payment by the United States Government of a successful claim (including reasonable litigation or settlement expenses) of a third party against a licensee or transferee under this chapter, a contractor, subcontractor, or customer of the licensee or transferee, or a contractor or subcontractor of a customer, but not against a spaceflight participant, resulting from an activity carried out under the license issued or transferred under this chapter for death, bodily injury, or property damage or loss resulting from an activity carried out under the license. However, claims may be paid under this section only to the extent the total amount of successful claims related to one launch or reentry -
- (A) is more than the amount of insurance or demonstration of financial responsibility required under section 50914(a)(1)(A) of this title; and
 - (B) is not more than \$1,500,000,000 (plus additional amounts necessary to reflect inflation occurring after January 1, 1989) above that insurance or financial responsibility amount.
- (2) The Secretary may not provide for paying a part of a claim for which death, bodily injury, or property damage or loss results from willful misconduct by the licensee or transferee. To the extent insurance required under section 50914(a)(1)(A) of this title is not available to cover a successful third party liability claim because of an insurance policy exclusion the Secretary decides is usual for the type of insurance involved, the Secretary may provide for paying the excluded claims without regard to the limitation contained in section 50914(a)(1).
- (b) Notice, Participation, and Approval. - Before a payment under subsection (a) of this section is made -
- (1) notice must be given to the Government of a claim, or a civil action related to the claim, against a party described in subsection (a)(1) of this section for death, bodily injury, or property damage or loss;
 - (2) the Government must be given an opportunity to participate or assist in the defense of the claim or action; and
 - (3) the Secretary must approve any part of a settlement to be paid out of appropriations of the Government.
- (c) Withholding Payments. - The Secretary may withhold a payment under subsection (a) of this section if the Secretary certifies that the amount is not reasonable. However, the Secretary shall deem to be reasonable the amount of a claim finally decided by a court of competent jurisdiction.
- (d) Surveys, Reports, and Compensation Plans. - (1) If as a result of an activity carried out under a license issued or transferred under this chapter the total of claims related to one launch or reentry is likely to be more than the amount of required insurance or demonstration of financial responsibility, the Secretary shall -
- (A) survey the causes and extent of damage; and
 - (B) submit expeditiously to Congress a report on the results of the survey.
- (2) Not later than 90 days after a court determination indicates that the liability for the total of claims related to one launch or reentry may be more than the required amount of insurance or demonstration of financial responsibility, the President, on the recommendation of the Secretary, shall submit to Congress a compensation plan that -
- (A) outlines the total dollar value of the claims;
 - (B) recommends sources of amounts to pay for the claims;
 - (C) includes legislative language required to carry out the plan if additional legislative authority is required; and
 - (D) for a single event or incident, may not be for more than \$1,500,000,000.
- (3) A compensation plan submitted to Congress under paragraph (2) of this subsection shall -
- (A) have an identification number; and
 - (B) be submitted to the Senate and the House of Representatives on the same day and when the Senate and House are in session.
- (e) Congressional Resolutions. - (1) In this subsection, "resolution" -
- (A) means a joint resolution of Congress the matter after the resolving clause of which is as follows: "That the Congress approves the compensation plan numbered _ _ _ _ _ submitted to the Congress on _ _ _ _ _ , 20_ _ .", with the blank spaces being filled appropriately; but
 - (B) does not include a resolution that includes more than one compensation plan.

(2) The Senate shall consider under this subsection a compensation plan requiring additional appropriations or legislative authority not later than 60 calendar days of continuous session of Congress after the date on which the plan is submitted to Congress.

(3) A resolution introduced in the Senate shall be referred immediately to a committee by the President of the Senate. All resolutions related to the same plan shall be referred to the same committee.

(4) (A) If the committee of the Senate to which a resolution has been referred does not report the resolution within 20 calendar days after it is referred, a motion is in order to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of the plan.

(B) A motion to discharge may be made only by an individual favoring the resolution and is highly privileged (except that the motion may not be made after the committee has reported a resolution on the plan). Debate on the motion is limited to one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order. A motion to reconsider the vote by which the motion is agreed to or disagreed to is not in order.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed and another motion to discharge the committee from another resolution on the same plan may not be made.

(5) (A) After a committee of the Senate reports, or is discharged from further consideration of, a resolution, a motion to proceed to the consideration of the resolution is in order at any time, even though a similar previous motion has been disagreed to. The motion is highly privileged and is not debatable. An amendment to the motion is not in order. A motion to reconsider the vote by which the motion is agreed to or disagreed to is not in order.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph is limited to not more than 10 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(6) The following shall be decided in the Senate without debate:

(A) a motion to postpone related to the discharge from committee.

(B) a motion to postpone consideration of a resolution.

(C) a motion to proceed to the consideration of other business.

(D) an appeal from a decision of the chair related to the application of the rules of the Senate to the procedures related to a resolution.

(f) Application. - This section applies to a license issued or transferred under this chapter for which the Secretary receives a complete and valid application not later than December 31, 2013. * This section does not apply to permits.

Sec. 50916. Disclosing information

The Secretary of Transportation, an officer or employee of the United States Government, or a person making a contract with the Secretary under section 50907(b) of this title may disclose information under this chapter that qualifies for an exemption under section 552(b)(4) of title 5 or is designated as confidential by the person or head of the executive agency providing the information only if the Secretary decides withholding the information is contrary to the public or national interest.

* This extension of indemnification is from P.L. 108-428, November 30, 2004.

Sec. 50917. Enforcement and penalty

(a) Prohibitions. - A person may not violate this chapter, a regulation prescribed under this chapter, or any term of a license issued or transferred under this chapter.

(b) General Authority.

- (1) In carrying out this chapter, the Secretary of Transportation may -

(A) conduct investigations and inquiries;

(B) administer oaths;

(C) take affidavits; and

(D) under lawful process -

(i) enter at a reasonable time a launch site, reentry site, production facility, assembly site of a launch vehicle or reentry vehicle, crew or space flight participant training site, or site at which a payload is integrated with a launch vehicle or reentry vehicle to inspect an object to which this chapter applies or a record or report the Secretary requires be made or kept under this chapter; and

(ii) seize the object, record, or report when there is probable cause to believe the object, record, or report was used, is being used, or likely will be used in violation of this chapter.

(2) The Secretary may delegate a duty or power under this chapter related to enforcement to an officer or employee of another executive agency with the consent of the head of the agency.

(c) Civil Penalty.

- (1) After notice and an opportunity for a hearing on the record, a person the Secretary finds to have violated subsection (a) of this section is liable to the United States Government for a civil penalty of not more than \$100,000. A separate violation occurs for each day the violation continues

. (2) In conducting a hearing under paragraph (1) of this subsection, the Secretary may -

(A) subpoena witnesses and records; and

(B) enforce a subpoena in an appropriate district court of the United States.

(3) The Secretary shall impose the civil penalty by written notice. The Secretary may compromise or remit a penalty imposed, or that may be imposed, under this section.

(4) The Secretary shall recover a civil penalty not paid after the penalty is final or after a court enters a final judgment for the Secretary.

Sec. 50918. Consultation

(a) Matters Affecting National Security. - The Secretary of Transportation shall consult with the Secretary of Defense on a matter under this chapter affecting national security. The Secretary of Defense shall identify and notify the Secretary of Transportation of a national security interest relevant to an activity under this chapter.

(b) Matters Affecting Foreign Policy. - The Secretary of Transportation shall consult with the Secretary of State on a matter under this chapter affecting foreign policy. The Secretary of State shall identify and notify the Secretary of Transportation of a foreign policy interest or obligation relevant to an activity under this chapter.

(c) Other Matters. - In carrying out this chapter, the Secretary of Transportation shall consult with the head of another executive agency -

(1) to provide consistent application of licensing requirements under this chapter;

(2) to ensure fair treatment for all license applicants; and

(3) when appropriate.

Sec. 50919. Relationship to other executive agencies, laws, and international obligations

- (a) Executive Agencies. - Except as provided in this chapter, a person is not required to obtain from an executive agency a license, approval, waiver, or exemption to launch a launch vehicle or operate a launch site or reentry site, or to reenter a reentry vehicle.
- (b) Federal Communications Commission and Secretary of Commerce.- This chapter does not affect the authority of -
- (1) the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or
 - (2) the Secretary of Commerce under chapter 601 of this title
- (c) States and Political Subdivisions. - A State or political subdivision of a State -
- (1) may not adopt or have in effect a law, regulation, standard, or order inconsistent with this chapter; but
 - (2) may adopt or have in effect a law, regulation, standard, or order consistent with this chapter that is in addition to or more stringent than a requirement of, or regulation prescribed under, this chapter.
- (d) Consultation. - The Secretary of Transportation is encouraged to consult with a State to simplify and expedite the approval of a space launch or reentry activity.
- (e) Foreign Countries. - The Secretary of Transportation shall -
- (1) carry out this chapter consistent with an obligation the United States Government assumes in a treaty, convention, or agreement in force between the Government and the government of a foreign country; and
 - (2) consider applicable laws and requirements of a foreign country when carrying out this chapter.
- (f) Launch Not an Export; Reentry Not an Import. - A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports, except that payloads launched pursuant to foreign trade zone procedures as provided for under the Foreign Trade Zones Act (19 U.S.C. 81a-81u) shall be considered exports with regard to customs entry.
- (g) Non application. - This chapter does not apply to -
- (1) a launch, reentry, operation of a launch vehicle or reentry vehicle, operation of a launch site or reentry site, or other space activity the Government carries out for the Government; or
 - (2) planning or policies related to the launch, reentry, operation, or activity.

Sec. 50920. User fees

The Secretary of Transportation may collect a user fee for regulatory or other service conducted under this chapter only if specifically authorized by this chapter.

Sec. 50921. Office of Commercial Space Transportation

There are authorized to be appropriated to the Secretary of Transportation for the activities of the Office of the Associate Administrator for Commercial Space Transportation -

- (1) \$11,941,000 for fiscal year 2005;
- (2) \$12,299,000 for fiscal year 2006;
- (3) \$12,668,000 for fiscal year 2007;
- (4) \$13,048,000 for fiscal year 2008; and
- (5) \$13,440,000 for fiscal year 2009.

Sec. 50922. Regulations

- (a) In General. - The Secretary of Transportation, within 9 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include -
- (1) guidelines for industry and State governments to obtain sufficient insurance coverage for potential damages to third parties;
 - (2) procedures for requesting and obtaining licenses to launch a commercial launch vehicle;
 - (3) procedures for requesting and obtaining operator licenses for launch;
 - (4) procedures for requesting and obtaining launch site operator licenses; and
 - (5) procedures for the application of government indemnification.

(b) Reentry. - The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue a notice of proposed rulemaking to carry out this chapter that includes -

- (1) procedures for requesting and obtaining licenses to reenter a reentry vehicle;
- (2) procedures for requesting and obtaining operator licenses for reentry; and
- (3) procedures for requesting and obtaining reentry site operator licenses.

(c) Amendments. — (1) Not later than 12 months after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary shall publish proposed regulations to carry out that Act, including regulations relating to crew, space flight participants, and permits for launch or reentry of reusable suborbital rockets. Not later than 18 months after such date of enactment, the Secretary shall issue final regulations.

- (2) (A) Starting 3 years after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary may issue final regulations changing the definition of suborbital rocket under this chapter. No such regulation may take effect until 180 days after the Secretary has submitted the regulation to the Congress.
(B) The Secretary may issue regulations under this paragraph only if the Secretary has determined that the definition in section 50902 does not describe, or will not continue to describe, all appropriate vehicles and only those vehicles. In making that determination, the Secretary shall take into account the evolving nature of the commercial space launch industry.

(d) Effective Date. — (1) Licenses for the launch or reentry of launch vehicles or reentry vehicles with human beings on board and permits may be issued by the Secretary prior to the issuance of the regulations described in subsection (c).

(2) As soon as practicable after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary shall issue guidelines or advisory circulars to guide the implementation of that Act until regulations are issued.

(3) Notwithstanding paragraphs (1) and (2), no licenses for the launch or reentry of launch vehicles or reentry vehicles with human beings on board or permits may be issued starting three years after the date of enactment of the Commercial Space Launch Amendments Act of 2004 unless the final regulations described in subsection (c) have been issued.

Sec. 50923. Report to Congress

The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that -

- (1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and
- (2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.