



# H.R. 2262 Spurring Private Aerospace Competitiveness and Entrepreneurship Act of 2015 (Rep. McCarthy, R-CA)

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**FLOOR SCHEDULE:** SCHEDULED FOR CONSIDERATION ON MAY 21, 2015, UNDER A STRUCTURED RULE

**TOPLINE SUMMARY:** [H.R. 2262](#), the SPACE Act of 2015, would facilitate growth in the space industry by encouraging private sector investment, improving safety, and establishing a more predictable regulatory framework.

**CONSERVATIVE CONCERNS:** There are no major substantive concerns.

- **Expand the Size and Scope of the Federal Government? No**
- **Encroach into State or Local Authority? No**
- **Delegate Any Legislative Authority to the Executive Branch? No**
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No**

**DETAILED SUMMARY AND ANALYSIS:** This bill would direct the Department of Transportation (DOT), the National Aeronautics and Space Administration (NASA), and the Government Accountability Office (GAO) to submit various reports to the Congress regarding commercial space operations and services. In addition, this bill would amend the [Commercial Space Launch Amendments Act of 2004](#) to preserve the Federal Aviation Administration's (FAA) ability to regulate commercial human spaceflight.

**COST:** The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 2262 would cost about \$5 million over the next few years, assuming appropriation of the necessary amounts. H.R. 2262 would not affect direct spending or revenues and pay-as-you-go procedures do not apply.

Section 101 would extend the learning period through December 31 2025, to allow the FAA to gather relevant data to develop possible future regulations or safety framework. This section would require the Secretary of Treasury to issue a series of biennial reports in consultation with the Commercial Space Transportation Advisory Committee (COMSTAC), detailing what has been learned about voluntary industry consensus standards and other best practices. Additionally, the secretary would be required to evaluate the status of the knowledge and operational experience gained by the industry throughout the 10-year extension of the learning period. This section would also require an independent review assessing the progress made by the industry and the secretary in developing industry consensus standards and the body of knowledge gained throughout the learning period.

Section 102 would provide an update to the maximum probable loss methodology, allowing the continuation of a risk-sharing regime. Under the [Outer Space Treaty](#)—of which the United States is a signatory—each nation is liable for third-party damages resulting from space accidents. All nations participating in space travel must have some form of third-party liability insurance and indemnification for commercial launch services. The current

American risk-sharing structure expires in 2016. Section 102 would also extend indemnification through December 31, 2025, and requires the secretary, no later than 180 days after enactment of this act, to provide a plan to update the methodology used to calculate maximum probable loss using a validated risk profile approach. This section would require an independent assessment of the secretary's findings and analysis. This section is intended to keep American launches within the U.S., eliminating the need to go overseas to nations with more favorable liability protection.

Section 103 would close a statutory loophole created by subsection 2(c) of the [Commercial Space Launch Act Amendments of 2004](#), which invalidates an experimental permit issued once a launch license is issued for the same vehicle design. Closing this loophole allows innovators to continue to work on and test their designs under their experimental permit, while the license holder conducts operations.

Section 104 would add a third category, "government astronaut," to the list of individuals carried within a commercial spacecraft, allowing government astronauts to be protected under the licensing structure for launch vehicles. Because NASA has astronaut access to the International Space Station, this category is needed to outline roles, protections, and responsibilities of astronauts on commercial human spaceflight launches.

Section 105 would allow for spaceflight participants to be included in indemnification coverage. Presently, the Commercial Space Launch Act distinguishes between individuals that purchase a launch, those that sponsor a spaceflight participant, and the spaceflight participants themselves. This gap in coverage for space flight participants discriminates against spaceflight participants that are not wealthy enough to acquire third-party liability insurance. This change addresses this inequality and requires the government and launch providers to cover all parties under the launch provider's insurance for the maximum probable loss as an additional party to the launch.

Section 106 would ensure that federal courts have jurisdiction over lawsuits resulting from accidents. Under the [Launch Liability Convention](#), the federal government, not the states, maintains accident liability. This section would also prevent venue shopping amongst the states, ensuring all lawsuits are treated fairly.

Section 107 would amend current law requiring all parties involved in a launch to waive claims against each other to include spaceflight participants. The inclusion of spaceflight participants in the cross waiver requirement encourages consistency and reinforces informed consent requirements.

Section 108 would require an independent study and report on the framework for (1) the management of space traffic and orbital activities; and (2) the assessment of current regulations, best practices, and industry standards that apply to traffic management and orbital debris mitigation. This report does not in any way intend to alter the authorities granted to the Department of Defense to safeguard national security.

Section 109 would address the role of state and commercial launch operators. This provision finds they must seek to ensure their investments and activities are properly protected in the event of an accident.

Section 110 would address space support vehicles in the commercial space industry. Not less than one year following the enactment of this legislation, the comptroller general must submit a report to Congress which details the usage of space support vehicles and their operators who may be party to a launch.

Section 111 would streamline commercial space launch activities by directing the secretary—in consultation with other federal agencies—to (1) identify any duplicative requirements and approvals for commercial launch and reentry operations; and (2) issue a report identifying ways to easier facilitate commercial space launch and any findings of duplicative requirements.

Section 112 would provide flexibility to NASA and other federal agencies to utilize the capabilities of the Space Launch System (SLS). Expanding the use of the SLS will increase its launch rate and therefore increase safety. The SLS will be able to carry out a wide breadth of functions for the federal government at a reimbursable rate, decreasing costs of the overall program and increasing safety.

The House Report (H. Rept. 114-119) accompanying H.R. 1731 can be found [here](#). A section-by-section analysis can be found [here](#).

## AMENDMENTS MADE IN ORDER

- [Castro #2](#) would ensure that the Orbital Traffic Management study includes input from nonprofit organizations that conduct research in space traffic and orbital activities.
- [Rohrbacher #5](#) would create an independent study on the subject of indemnification for spaceflight participants examining options, unintended consequences, issues with third-party liability, and potential costs to the federal government.
- [Edwards #7](#) (substitute amendment) would extend the launch liability period and safety regulation requirements to December 31, 2020, instead of December 31, 2025. It also includes language to maintain viability of the ISS through September 30, 2024. It would substitute the text of S. 1297, a bipartisan Senate companion of this legislation.
- [Jackson Lee #8](#) would facilitate the participation of the Historic Black Colleges and Universities Undergraduate Program, the Hispanic Serving Institutions, and National Indian institutions in fellowships, study, and work opportunities in the commercial space industry.
- [Smith # 11](#) (manager’s amendment) would make technical corrections and requires a report from the Government Accountability Office on state and municipal spaceports in the existing indemnification system.
- [Grijalva #12](#) would expand the coverage of experimental permits to include suborbital or reusable launch vehicles, allowing for non-venue testing.
- [Jackson Lee #14](#) would enable outreach to women- and minority-owned businesses concerning business opportunities in the commercial space industry.

## OUTSIDE GROUPS SUPPORT:

[Satellite Industry Association](#)

[National Space Society](#)

**COMMITTEE ACTION:** This bill was introduced on May 12, 2015 and was referred to the House Committee on Science, Space and Technology, which ordered it to be [reported](#) (amended) on May 13, 2015.

**ADMINISTRATION POSITION:** According to the [statement of administration policy](#), though “the Administration does not oppose House passage of the bill, it has serious concerns with certain provisions of the bill.”

**CONSTITUTIONAL AUTHORITY:** Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3: The Congress shall have power to regulate commerce with nations, and among the several states, and with Indian tribes, and Article I, Section 8, Clause 18: Congress shall have power to make all Laws which shall be necessary and proper for carrying into Execution the Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department of Officer thereof.

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