Katy Perry Has No Savior in Space: A Disastrous Gap in the Space Law Framework

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You probably saw it all over the news last week. Six brave women launched into space aboard Blue Origin's self-flying rocket, NS-31, becoming America's first all-female space crew in more than 60 years.

Katy Perry's rendition of "What a Wonderful World" echoed through the spacecraft. Gayle King reflected on society whilst floating in zero gravity. And Jeff Bezos arguably topped the gift-giving threshold by giving Lauren Sanchez the gift of a trip to space.

But amidst all the glitz and the glam, one extremely important piece of news was missed.

On Friday, 18 April, Transportation Secretary Sean Duffy stated on X:

"The U.S. commercial space industry is an inspiring project which showcases American ingenuity and exceptionalism. But the last FAA guidelines under the Commercial Space Astronaut Wings Program were clear: Crewmembers who travel into space must have "demonstrated activities during flight that were essential to public safety, or contributed to human space flight safety."

The crew who flew to space this week on an automated flight by Blue Origin were brave and glam, but you cannot identify as an astronaut.

They do not meet the FAA astronaut criteria." (emphasis added)

Yet it is precisely that missing piece of news – the bureaucratic line between "*astronaut*" and "*passenger*" – that should make every space-tourism enthusiast sit bolt upright.

Under the Federal Aviation Administration's ("FAA") now retired Commercial Space Astronaut Wings, a would-be spacefarer had to do more than cross the 50-mile line. They had to perform "*activities during flight that were essential to public safety, or contributed to human space-flight safety*" before the coveted wings—and the formal title—could be pinned to their lapel. Those criteria were tightened in July 2021 and, by the end of 2023, the entire wings program was shuttered; today the agency merely lists qualifying individuals on a website, preserving the same "*essential activity*" test in spirit if not in jewelry.

Blue Origin's New Shepard capsule is almost entirely automated. The crew floated, they filmed, they fell back to Earth—safe, sound, and, in the FAA's eyes, still civilians.

That hair-split has consequences far beyond bragging rights. At the international level, the 1967 Outer Space Treaty anoints "*astronauts*" as the "*envoys of mankind*," and its 1968 Rescue Agreement obliges every State Party to "*render all possible assistance*" to any such envoy who lands in distress on its territory—or even splashes down on the high seas. Those treaty drafters were thinking of government test pilots in pressure suits, not pop icons in custom Dior flight suits. Because the treaties never bothered to define the word they canonized, national regulators now hold the definitional gavel. If Washington declines to call Perry and company "*astronauts*," Peru, Poland, or Palau are under no treaty duty to fish them out of the jungle or the drink.

Imagine, then, that NS-31 had suffered a guidance glitch and come down in Venezuelan waters. Under the Rescue Agreement,

Caracas must "*immediately take all possible steps*" to retrieve and repatriate the astronauts. But if the six women are legally mere "*spaceflight participants*," Venezuela would face no such black-letter obligation; any rescue would be an act of goodwill, diplomacy, or maybe TikTok optics—but not treaty law. Blue Origin's insurance actuaries can quantify many risks, yet they cannot force a coastal state to launch a search-and-rescue flotilla for people who, officially, are just very high-altitude tourists.

The gap widens when one looks homeward. Title 51 of the U.S. Code requires commercial operators to obtain the informed consent of every "*space flight participant*" and to certify that the vehicle meets minimum safety standards, but it imposes no federal duty on anyone—NASA, the Coast Guard, or the Air Force—to mount a transoceanic recovery if the capsule drifts outside American jurisdiction. The statutory silence is deafening.

Why does it matter? Because suborbital jaunts are no longer curiosity acts. Blue Origin alone has flown fifty-eight private individuals above the Kármán Line since 2021, and Virgin Galactic is booking seats monthly. The odds of an off-nominal splashdown, however small, compound with every launch. If a mishap strands a celebrity crew on foreign soil, the ensuing diplomatic scramble will expose the ambiguity in real time—and, cynically, in real headlines.

There are fixes. Congress could graft a mandatory-assistance clause onto 51 U.S.C. § 50905, promising U.S. rescue assets to any licensed commercial flight and demanding reciprocal treatment abroad. The Artemis Accords could adopt a side letter clarifying that "*astronaut*" status attaches to any human who crosses into space under an Article VI "*authorization and continuing supervision*." Or the United States could push a protocol through the U.N. Committee on the Peaceful Uses of Outer Space to extend Rescue-Agreement duties to "*spaceflight participants*," closing the loophole before it

swallows a casualty.

Until then, the legal safety net stops where the FAA’s definition stops. Katy Perry may have sung Louis Armstrong on the edge of the void, but if the capsule had tumbled into a geopolitical gray zone, the world’s binding duty to save the NS-31 crew would have been—like weightlessness itself—alarmingly thin air.

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