

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 24-0436.01 Richard Sweetman x4333

SENATE BILL 24-058

SENATE SPONSORSHIP

Baisley and Roberts, Fenberg, Gardner, Kirkmeyer, Liston, Lundeen, Priola, Rodriguez, Smallwood, Van Winkle, Will

HOUSE SPONSORSHIP

Titone and Bird, Joseph

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING LANDOWNER LIABILITY UNDER THE COLORADO**
102 **RECREATIONAL USE STATUTE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

In current law, the "Colorado Recreational Use Statute" (CRUS) protects landowners (owners) from liability resulting from the use of their lands by other individuals for recreational purposes. However, the CRUS does not limit an owner's liability for injuries or death resulting from the owner's willful or malicious failure to guard or warn against a known

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
3rd Reading Unamended
February 2, 2024

SENATE
Amended 2nd Reading
February 1, 2024

dangerous condition, use, structure, or activity likely to cause harm (willful or malicious failure).

The bill states that under such circumstances, an owner does not commit a willful or malicious failure if:

- The owner posts a warning sign at the primary access point where the individual entered the land, which sign satisfies certain criteria;
- The owner maintains photographic or other evidence of the sign; and
- The dangerous condition, use, structure, or activity that caused the injury or death is described by the sign.

The bill requires an individual who accesses land for recreational purposes to stay on the designated recreational trail, route, area, or roadway unless the owner expressly allows otherwise, or be deemed a trespasser.

Currently, the CRUS states that "owner" includes the possessor of any interest in land. The bill clarifies that "owner" includes a possessor or holder of a conservation easement.

The bill states that the CRUS may not be construed to limit an owner's ability to restrict or prohibit the use of the owner's land for any recreational purposes.

The bill also updates certain archaic language within the CRUS.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 33-41-102, **amend**
3 the introductory portion, (3), and (5); and **add** (4.2) as follows:

4 **33-41-102. Definitions.** As used in this ~~article~~ ARTICLE 41, unless
5 the context otherwise requires:

6 (3) "Owner" includes: ~~but is not limited to,~~

7 (a) The possessor of a fee interest;

8 (b) A tenant, lessee, OR occupant;

9 (c) The possessor of any other interest in land, INCLUDING A
10 POSSESSOR OR HOLDER OF A CONSERVATION EASEMENT, or any person
11 having a right to grant permission to use the land; or

12 (d) Any public entity, as defined in the "Colorado Governmental
13 Immunity Act", article 10 of title 24, C.R.S., ~~which~~ THAT has an interest

1 in land.

2 (4.2) "PRIMARY ACCESS POINT" MEANS A LOCATION AT A
3 TRAILHEAD OR ALONG A TRAIL, ROUTE, AREA, OR ROADWAY UPON AN
4 OWNER'S LAND WHERE THE OWNER ALLOWS INDIVIDUALS TO LEGALLY
5 ENTER THE LAND FOR RECREATIONAL PURPOSES.

6 (5) "Recreational purpose" ~~includes, but is not limited to,~~ MEANS
7 any ~~sports~~ HOBBY, DIVERSION, SPORT, or other recreational activity ~~of~~
8 ~~whatever nature~~ undertaken by a person while using the land, including
9 ponds, lakes, reservoirs, streams, paths, and trails appurtenant ~~thereto, of~~
10 ~~another and~~ TO THE LAND. THE TERM includes but is not limited to ~~any~~
11 ~~hobby, diversion, or other sports or other recreational activity such as:~~
12 hunting, fishing, camping, picnicking, hiking, TRAIL RUNNING, horseback
13 riding, snowshoeing, cross country skiing, BACKCOUNTRY SKIING AND
14 SNOWBOARDING, bicycling, riding or driving motorized recreational
15 vehicles, swimming, tubing, PADDLEBOARDING, KAYAKING, RAFTING,
16 diving, spelunking, sight-seeing, exploring, hang gliding, PARAGLIDING,
17 rock climbing, ICE CLIMBING, kite flying, roller skating, bird watching,
18 gold panning, target shooting, ice skating, ice fishing, AND photography.
19 ~~or engaging in any other form of sports or other recreational activity.~~

20 **SECTION 2.** In Colorado Revised Statutes, 33-41-103, **amend**
21 (2)(e) introductory portion; and **repeal** (2)(e)(III) as follows:

22 **33-41-103. Limitation on owner's liability.** (2) (e) For purposes
23 of AS USED IN this subsection (2), ~~only,~~ unless the context otherwise
24 requires:

25 (III) ~~"Recreational purposes" includes, but is not limited to, any~~
26 ~~sports or other recreational activity of whatever nature undertaken by an~~
27 ~~invited guest while using the land, including ponds, lakes, reservoirs,~~

1 ~~streams, paths, and trails appurtenant to, of another and includes, but is~~
2 ~~not limited to, any hobby, diversion, or other sports or other recreational~~
3 ~~activity such as: Fishing, picnicking, hiking, horseback riding,~~
4 ~~snowshoeing, cross country skiing, bicycling, swimming, tubing, diving,~~
5 ~~sight-seeing, exploring, kite flying, bird watching, gold panning, ice~~
6 ~~skating, ice fishing, photography, or engaging in any other form of sports~~
7 ~~or other recreational activity, as well as any activities related to such~~
8 ~~sports or recreational activities, and any activities directly or indirectly~~
9 ~~resulting from such sports or recreational activity.~~

10 **SECTION 3.** In Colorado Revised Statutes, 33-41-104, **add** (2),
11 (3), and (4) as follows:

12 **33-41-104. When liability is not limited - warning signage -**
13 **trespassers.** (2) FOR THE PURPOSES OF SUBSECTION (1)(a) OF THIS
14 SECTION, IN THE EVENT THAT AN INDIVIDUAL WHO LAWFULLY ENTERS
15 LAND AT A PRIMARY ACCESS POINT IS INJURED OR KILLED ON THE LAND BY
16 A KNOWN DANGEROUS CONDITION, USE, STRUCTURE, OR ACTIVITY THAT
17 IS LIKELY TO CAUSE HARM, THE OWNER DOES NOT COMMIT A WILLFUL OR
18 MALICIOUS FAILURE TO GUARD OR WARN AGAINST THE KNOWN
19 DANGEROUS CONDITION, USE, STRUCTURE, OR ACTIVITY LIKELY TO CAUSE
20 HARM IF:

21 (a) PRIOR TO THE INJURY OR DEATH, THE OWNER POSTS A SIGN AT
22 THE PRIMARY ACCESS POINT WHERE THE INDIVIDUAL ENTERED THE LAND,
23 WHICH SIGN:

24 (I) INCLUDES THE FOLLOWING TEXT:

25 WARNING!
26 YOU ARE ENTERING THIS LAND FOR
27 RECREATIONAL PURPOSES. IF YOU LEAVE THE

1 DESIGNATED TRAIL, ROUTE, AREA, OR ROADWAY
2 YOU WILL BE DEEMED TRESPASSING. THERE ARE
3 INHERENT DANGERS AND RISKS ASSOCIATED
4 WITH USING THIS LAND THAT MAY CAUSE
5 SERIOUS INJURY OR DEATH, INCLUDING
6 CHANGING WEATHER CONDITIONS; OPEN AND
7 OBVIOUS VARIATIONS IN STEEPNESS, SURFACE
8 CONDITIONS, AND CONSISTENCY OF TERRAIN,
9 SUCH AS FOREST GROWTH, ROCKS, STUMPS,
10 WATERWAYS, STREAMBEDS, CLIFFS, EXTREME
11 TERRAIN, AND TREES; WILDLIFE; AND MINING OR
12 AGRICULTURAL ACTIVITIES, STRUCTURES,
13 REMNANTS, EQUIPMENT, OR OPERATIONS.
14 (II) IS AT LEAST:
15 (A) EIGHT INCHES IN WIDTH AND TEN INCHES IN LENGTH; OR
16 (B) EIGHT INCHES IN LENGTH AND TEN INCHES IN WIDTH; AND
17 (III) IS POSTED IN A LOCATION AND MANNER THAT MAKES THE SIGN
18 VISIBLE TO AN INDIVIDUAL AT THE PRIMARY ACCESS POINT;
19 (b) THE OWNER MAINTAINS PHOTOGRAPHIC OR OTHER EVIDENCE
20 OF EACH SUCH SIGN; AND
21 (c) THE DANGEROUS CONDITION, USE, STRUCTURE, OR ACTIVITY
22 THAT CAUSED THE INJURY OR DEATH IS DESCRIBED BY THE SIGN.
23 (3) ANY KNOWN DANGEROUS CONDITION, USE, STRUCTURE, OR
24 ACTIVITY LIKELY TO CAUSE HARM THAT IS NOT DESCRIBED BY THE SIGN IS
25 NOT COVERED BY SUBSECTION (2) OF THIS SECTION AND REMAINS SUBJECT
26 TO THE PROVISIONS OF SUBSECTION (1)(a) OF THIS SECTION.
27 (4) AN INDIVIDUAL WHO ACCESSES LAND FOR RECREATIONAL

1 PURPOSES SHALL STAY ON THE DESIGNATED RECREATIONAL TRAIL, ROUTE,
2 AREA, OR ROADWAY UNLESS THE OWNER EXPRESSLY ALLOWS OTHERWISE.
3 AN INDIVIDUAL WHO LEAVES A DESIGNATED RECREATIONAL TRAIL,
4 ROUTE, AREA, OR ROADWAY IS DEEMED TO BE TRESPASSING.

5 **SECTION 4.** In Colorado Revised Statutes, 33-41-105, **amend**
6 (1) introductory portion and (1)(c); and **add** (1)(d) as follows:

7 **33-41-105. Article not to create liability, relieve obligation, or**
8 **limit owner authority.** (1) Nothing in this ~~article~~ ARTICLE 41 shall be
9 construed to:

10 (c) Limit any liability of any owner to any person for damages
11 resulting from any occurrence ~~which~~ THAT took place prior to January 1,
12 1970; OR

13 (d) LIMIT AN OWNER'S AUTHORITY TO:

14 (I) RESTRICT OR PROHIBIT THE USE OF THE OWNER'S LAND, OR
15 PORTIONS OF THE OWNER'S LAND, FOR ANY RECREATIONAL PURPOSE; OR

16 (II) ESTABLISH TIMES WHEN THE OWNER'S LAND IS CLOSED AND
17 UNAVAILABLE TO INDIVIDUALS TO USE FOR RECREATIONAL PURPOSES,
18 INCLUDING SEASONAL CLOSURES.

19 **SECTION 5. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly; except
22 that, if a referendum petition is filed pursuant to section 1 (3) of article V
23 of the state constitution against this act or an item, section, or part of this
24 act within such period, then the act, item, section, or part will not take
25 effect unless approved by the people at the general election to be held in
26 November 2024 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.