

CHAPTER 331

**COURTS**

**SENATE BILL 93-231**

BY SENATORS Owens, Groff, Bishop, Mutzebaugh, Rizzuto, and Wattenberg;  
also REPRESENTATIVES Coffman, Dyer, Acquafresca, Agler, Chlouber, Foster, Jerke, Martin, and Taylor.

**AN ACT**

**CONCERNING LIMITATIONS ON THE LIABILITY OF OWNERS IN CONNECTION WITH SPECTATORS OF PROFESSIONAL BASEBALL GAMES.**

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

**SECTION 1.** Part 1 of article 21 of title 13, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**13-21-120. Colorado baseball spectator safety act - legislative declaration - limitation on actions - duty to post warning notice.** (1) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO BASEBALL SPECTATOR SAFETY ACT OF 1993".

(2) THE GENERAL ASSEMBLY RECOGNIZES THAT PERSONS WHO ATTEND PROFESSIONAL BASEBALL GAMES MAY INCUR INJURIES AS A RESULT OF THE RISKS INVOLVED IN BEING A SPECTATOR AT SUCH BASEBALL GAMES. HOWEVER, THE GENERAL ASSEMBLY ALSO FINDS THAT ATTENDANCE AT SUCH PROFESSIONAL BASEBALL GAMES PROVIDES A WHOLESOME AND HEALTHY FAMILY ACTIVITY WHICH SHOULD BE ENCOURAGED. THE GENERAL ASSEMBLY FURTHER FINDS THAT THE STATE WILL DERIVE ECONOMIC BENEFIT FROM SPECTATORS ATTENDING PROFESSIONAL BASEBALL GAMES. IT IS THEREFORE THE INTENT OF THE GENERAL ASSEMBLY TO ENCOURAGE ATTENDANCE AT PROFESSIONAL BASEBALL GAMES. LIMITING THE CIVIL LIABILITY OF THOSE WHO OWN PROFESSIONAL BASEBALL TEAMS AND THOSE WHO OWN STADIUMS WHERE PROFESSIONAL BASEBALL GAMES ARE PLAYED WILL HELP CONTAIN COSTS, KEEPING TICKET PRICES MORE AFFORDABLE.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(a) "OWNER" MEANS A PERSON, INCLUDING A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY, WHO IS IN LAWFUL POSSESSION AND CONTROL OF A PROFESSIONAL BASEBALL TEAM OR A PERSON, INCLUDING A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY, WHO IS IN LAWFUL POSSESSION AND CONTROL OF A STADIUM IN WHICH A PROFESSIONAL BASEBALL GAME IS PLAYED. "OWNER" SHALL ALSO INCLUDE THE OWNER'S SHAREHOLDERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS.

(b) "PROFESSIONAL BASEBALL GAME" MEANS ANY BASEBALL GAME, WHETHER FOR EXHIBITION OR COMPETITION, IN WHICH THE PARTICIPATING BASEBALL TEAMS ARE MEMBERS OF A LEAGUE OF PROFESSIONAL BASEBALL CLUBS, COMMONLY KNOWN AS A MAJOR LEAGUE OR A MINOR LEAGUE, AND WHICH TEAMS ARE COMPRISED OF PAID BASEBALL PLAYERS. "PROFESSIONAL BASEBALL GAME" SHALL ALSO INCLUDE PREGAME ACTIVITIES AND SHALL INCLUDE ANY BASEBALL GAME OR PREGAME ACTIVITY REGARDLESS OF THE TIME OF DAY WHEN THE GAME IS PLAYED.

(c) "SPECTATOR" MEANS A PERSON WHO IS PRESENT AT A PROFESSIONAL BASEBALL GAME FOR THE PURPOSE OF OBSERVING SUCH GAME, WHETHER OR NOT A FEE IS PAID BY SUCH "SPECTATOR".

(4) (a) SPECTATORS OF PROFESSIONAL BASEBALL GAMES ARE PRESUMED TO HAVE KNOWLEDGE OF AND TO ASSUME THE INHERENT RISKS OF OBSERVING PROFESSIONAL BASEBALL GAMES, INsofar AS THOSE RISKS ARE OBVIOUS AND NECESSARY. THESE RISKS INCLUDE, BUT ARE NOT LIMITED TO, INJURIES WHICH RESULT FROM BEING STRUCK BY A BASEBALL OR A BASEBALL BAT.

(b) EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, THE ASSUMPTION OF RISK SET FORTH IN THIS SUBSECTION (4) SHALL BE A COMPLETE BAR TO SUIT AND SHALL SERVE AS A COMPLETE DEFENSE TO A SUIT AGAINST AN OWNER BY A SPECTATOR FOR INJURIES RESULTING FROM THE ASSUMED RISKS, NOTWITHSTANDING THE PROVISIONS OF SECTIONS 13-21-111 AND 13-21-111.5. EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, AN OWNER SHALL NOT BE LIABLE FOR AN INJURY TO A SPECTATOR RESULTING FROM THE INHERENT RISKS OF ATTENDING A PROFESSIONAL BASEBALL GAME, AND, EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, NO SPECTATOR NOR SPECTATOR'S REPRESENTATIVE SHALL MAKE ANY CLAIM AGAINST, MAINTAIN AN ACTION AGAINST, OR RECOVER FROM AN OWNER FOR INJURY, LOSS, OR DAMAGE TO THE SPECTATOR RESULTING FROM ANY OF THE INHERENT RISKS OF ATTENDING A PROFESSIONAL BASEBALL GAME.

(c) NOTHING IN THIS SECTION SHALL PRECLUDE A SPECTATOR FROM SUING ANOTHER SPECTATOR FOR ANY INJURY TO PERSON OR PROPERTY RESULTING FROM SUCH OTHER SPECTATOR'S ACTS OR OMISSIONS.

(5) NOTHING IN SUBSECTION (4) OF THIS SECTION SHALL PREVENT OR LIMIT THE LIABILITY OF AN OWNER WHO:

(a) FAILS TO MAKE A REASONABLE AND PRUDENT EFFORT TO DESIGN, ALTER, AND MAINTAIN THE PREMISES OF THE STADIUM IN REASONABLY SAFE CONDITION RELATIVE TO THE NATURE OF THE GAME OF BASEBALL;

(b) INTENTIONALLY INJURES A SPECTATOR; OR

(c) FAILS TO POST AND MAINTAIN THE WARNING SIGNS REQUIRED PURSUANT TO SUBSECTION (6) OF THIS SECTION.

(6) (a) EVERY OWNER OF A STADIUM WHERE PROFESSIONAL BASEBALL GAMES ARE PLAYED SHALL POST AND MAINTAIN SIGNS WHICH CONTAIN THE WARNING NOTICE SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (6). SUCH SIGNS SHALL BE PLACED IN CONSPICUOUS PLACES AT THE ENTRANCES OUTSIDE THE STADIUM AND AT STADIUM FACILITIES WHERE TICKETS TO PROFESSIONAL BASEBALL GAMES ARE SOLD. THE WARNING NOTICE SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (6) SHALL APPEAR ON THE SIGN IN BLACK LETTERS, WITH EACH LETTER TO BE A MINIMUM OF ONE INCH IN HEIGHT.

(b) THE SIGNS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL CONTAIN THE FOLLOWING WARNING NOTICE:

### WARNING

UNDER COLORADO LAW, A SPECTATOR OF PROFESSIONAL BASEBALL ASSUMES THE RISK OF ANY INJURY TO PERSON OR PROPERTY RESULTING FROM ANY OF THE INHERENT DANGERS AND RISKS OF SUCH ACTIVITY AND MAY NOT RECOVER FROM AN OWNER OF A BASEBALL TEAM OR AN OWNER OF A STADIUM WHERE PROFESSIONAL BASEBALL IS PLAYED FOR INJURY RESULTING FROM THE INHERENT DANGERS AND RISKS OF OBSERVING PROFESSIONAL BASEBALL, INCLUDING BUT NOT LIMITED TO, BEING STRUCK BY A BASEBALL OR A BASEBALL BAT.

(7) INsofar AS ANY PROVISION OF LAW OR STATUTE IS INCONSISTENT WITH THE PROVISIONS OF THIS SECTION, THIS SECTION SHALL CONTROL.

**SECTION 2. Effective date.** This act shall take effect January 1, 1994, and shall apply to causes of action accruing on or after said date.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 9, 1993