

CHAPTER 23

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**NATURAL RESOURCES**

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**HOUSE BILL 97-1132**

BY REPRESENTATIVES Reeser, Entz, June, Schwarz, Nichol, Sullivant, Udall, and S. Williams;  
also SENATORS Ament, Dennis, J. Johnson, Bishop, Chlouber, Martinez, Powers, Tebedo, Wattenberg, and Weddig.

**AN ACT**

CONCERNING PROVISIONS RELATING TO THE LIMITATION ON LIABILITY OF PRIVATE LANDOWNERS WHO  
VOLUNTARILY OPEN THEIR LAND FOR PUBLIC RECREATIONAL PURPOSES.

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

**SECTION 1.** 33-41-101, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**33-41-101. Legislative declaration.** The purpose of this article is to encourage owners of land ~~within rural areas~~ to make land and water areas available for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

**SECTION 2.** 33-41-102 (1), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

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

(1) "Charge" means a consideration paid for entry upon or use of the land or any facilities thereon or adjacent thereto; EXCEPT THAT, IN A CASE OF LAND LEASED TO A PUBLIC ENTITY OR IN WHICH A PUBLIC ENTITY HAS BEEN GRANTED AN EASEMENT OR OTHER RIGHTS TO USE LAND FOR RECREATIONAL PURPOSES, ANY CONSIDERATION RECEIVED BY THE OWNER FOR SUCH LEASE, EASEMENT, OR OTHER RIGHT SHALL NOT BE DEEMED A CHARGE WITHIN THE MEANING OF THIS ARTICLE NOR SHALL ANY CONSIDERATION RECEIVED BY AN OWNER FROM ANY FEDERAL GOVERNMENTAL AGENCY FOR THE PURPOSES OF ADMITTING ANY PERSON CONSTITUTE SUCH A CHARGE.

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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.*

**SECTION 3.** The introductory portion to 33-41-103 (2) (a), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**33-41-103. Limitation on landowner's liability.** (2) (a) TO THE EXTENT LIABILITY IS FOUND, NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, the total amount of damages ~~which~~ THAT may be recovered from a private landowner who leases land or a portion thereof to a public entity for recreational purposes or who grants an easement or other rights to use land or a portion thereof to a public entity for recreational purposes for injuries resulting from the use of the land by invited guests for recreational purposes shall be:

**SECTION 4.** 33-41-103 (2) (e), Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**33-41-103. Limitation on landowner's liability.** (2) (e) For purposes of this subsection (2) only, unless the context otherwise requires:

(II.7) "MANAGEMENT" MEANS THE ENTIRE RANGE OF ACTIVITIES, WHETHER UNDERTAKEN OR NOT BY THE PUBLIC ENTITY, ASSOCIATED WITH CONTROLLING, DIRECTING, ALLOWING, AND ADMINISTERING THE USE, OPERATION, PROTECTION, DEVELOPMENT, REPAIR, AND MAINTENANCE OF PRIVATE LAND FOR PUBLIC RECREATIONAL PURPOSES.

**SECTION 5.** 33-41-104 (1) (c), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**33-41-104. When liability is not limited.** (1) Nothing in this article limits in any way any liability which would otherwise exist:

(c) For maintaining an attractive nuisance; EXCEPT THAT, IF THE PROPERTY USED FOR PUBLIC RECREATIONAL PURPOSES WAS CONSTRUCTED OR IS USED FOR OR IN CONNECTION WITH THE DIVERSION, STORAGE, CONVEYANCE, OR USE OF WATER, THE PROPERTY AND THE WATER WITHIN SUCH PROPERTY SHALL NOT CONSTITUTE AN ATTRACTIVE NUISANCE.

**SECTION 6.** Article 41 of title 33, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

**33-41-105.5. Prevailing party - attorney fees and costs.** THE PREVAILING PARTY IN ANY CIVIL ACTION BY A RECREATIONAL USER FOR DAMAGES AGAINST A LANDOWNER WHO ALLOWS THE USE OF THE LANDOWNER'S PROPERTY FOR PUBLIC RECREATIONAL PURPOSES SHALL RECOVER THE COSTS OF THE ACTION TOGETHER WITH REASONABLE ATTORNEY FEES AS DETERMINED BY THE COURT.

**SECTION 7. 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: March 21, 1997