

## CHAPTER 7

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**NATURAL RESOURCES**


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**HOUSE BILL 06-1049**

BY REPRESENTATIVE(S) Witwer, Balmer, Berens, Boyd, Buescher, Cadman, Clapp, Coleman, Crane, Curry, Decker, Gallegos, Gardner, Hall, Harvey, Hefley, Hoppe, King, Knoedler, Larson, Lindstrom, Lundberg, Madden, Marshall, Massey, May M., McCluskey, McFadyen, Paccione, Penry, Rose, Stafford, Welker, and White;  
 also SENATOR(S) Grossman, Bacon, Brophy, Dyer, Evans, Fitz-Gerald, Gordon, Groff, Isgar, Keller, Kester, Lamborn, McElhany, Mitchell, Shaffer, Teck, Tochtrop, Traylor, Veiga, Williams, and Windels.

**AN ACT**

**CONCERNING LIMITATIONS ON LIABILITY FOR OWNERS OF ABANDONED MINING OPERATIONS ON LAND  
 MADE AVAILABLE FOR PUBLIC RECREATIONAL PURPOSES.**

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

**SECTION 1.** 33-41-103 (2) (e) (II), Colorado Revised Statutes, is amended 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) "Land" means real property, or a body of water and the real property appurtenant thereto, OR REAL PROPERTY THAT WAS SUBJECT TO MINING OPERATIONS UNDER STATE OR FEDERAL LAW AND THAT HAS BEEN ABANDONED OR LEFT IN AN INADEQUATE RECLAMATION STATUS PRIOR TO AUGUST 3, 1977, FOR COAL MINING OPERATIONS, OR JULY 1, 1976, FOR HARD ROCK MINING OPERATIONS, which is leased to a public entity or for which an easement or other right is granted to a public entity for recreational purposes OR FOR WHICH THE LANDOWNER HAS ACQUIESCED TO PUBLIC USE OF EXISTING TRAILS THAT HAVE HISTORICALLY BEEN USED BY THE PUBLIC FOR RECREATIONAL PURPOSES. "Land", as used in this subsection (2), does not include real property, buildings, or portions thereof which are not the subject of a lease, easement, or other right of use granted to a public entity; EXCEPT THAT, LAND ON WHICH A LANDOWNER HAS ACQUIESCED TO PUBLIC USE OF EXISTING TRAILS THAT HAVE HISTORICALLY BEEN USED BY THE PUBLIC FOR RECREATIONAL PURPOSES NEED NOT BE SUBJECT TO A LEASE, EASEMENT, OR OTHER RIGHT OF USE GRANTED TO A PUBLIC ENTITY. NOTHING IN THIS SUBPARAGRAPH (II) SHALL BE CONSTRUED TO

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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.*

CREATE A PRESCRIPTIVE EASEMENT ON LANDS ON WHICH A LANDOWNER HAS ACQUIESCED TO PUBLIC USE OF EXISTING TRAILS THAT HAVE HISTORICALLY BEEN USED BY THE PUBLIC FOR RECREATIONAL PURPOSES. THE INCIDENTAL USE OF SUCH PRIVATE PROPERTY FOR RECREATIONAL PURPOSES SHALL NOT ESTABLISH OR PRESUME FACTS TO SUPPORT LAND USE CLASSIFICATION OR ZONING.

**SECTION 2.** 33-41-104 (1) (c), Colorado Revised Statutes, 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 CONTAINS MINING OPERATIONS THAT WERE ABANDONED OR LEFT IN AN INADEQUATE RECLAMATION STATUS AS PROVIDED IN SECTION 33-41-103 (2) (e) (II) OR was constructed or is used for or in connection with the diversion, storage, conveyance, or use of water, the property and the water OR ABANDONED MINING OPERATIONS within such property shall not constitute an attractive nuisance;

**SECTION 3. Effective date - applicability.** This act shall take effect upon passage and shall apply to acts occurring on or after said date.

**SECTION 4. 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 8, 2006