

## CHAPTER 262

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**GOVERNMENT - STATE**

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SENATE BILL 07-219

BY SENATOR(S) Fitz-Gerald, Boyd, Shaffer, and Williams;  
also REPRESENTATIVE(S) Levy, Frangas, and Labuda.

**AN ACT**

**CONCERNING LIMITATIONS ON THE LIABILITY OF RAILROADS THAT MAKE THEIR PROPERTY AVAILABLE FOR THE PROVISION OF PUBLIC PASSENGER RAIL SERVICE, AND, IN CONNECTION THEREWITH, CLARIFYING THE STATUS OF PUBLIC LIGHT RAIL VEHICLES UNDER THE "COLORADO GOVERNMENTAL IMMUNITY ACT".**

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

**SECTION 1.** 24-10-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-10-103. Definitions.** As used in this article, unless the context otherwise requires:

(2.7) "MOTOR VEHICLE" MEANS A MOTOR VEHICLE AS DEFINED IN SECTION 42-1-102, C.R.S., AND A LIGHT RAIL CAR OR ENGINE OWNED OR LEASED BY A PUBLIC ENTITY.

**SECTION 2.** 24-10-114 (4), Colorado Revised Statutes, is amended to read:

**24-10-114. Limitations on judgments.** (4) (a) A public entity shall not be liable either directly or by indemnification for punitive or exemplary damages or for damages for outrageous conduct, except as otherwise determined by a public entity pursuant to section 24-10-118 (5).

(b) A RAILROAD OPERATING IN INTERSTATE COMMERCE THAT SELLS TO A PUBLIC ENTITY, OR ALLOWS THE PUBLIC ENTITY TO USE, SUCH RAILROAD'S PROPERTY OR TRACKS FOR THE PROVISION OF PUBLIC PASSENGER RAIL SERVICE SHALL NOT BE LIABLE EITHER DIRECTLY OR BY INDEMNIFICATION FOR PUNITIVE OR EXEMPLARY DAMAGES OR FOR DAMAGES FOR OUTRAGEOUS CONDUCT TO ANY PERSON FOR ANY

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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.*

ACCIDENT OR INJURY ARISING OUT OF THE OPERATION AND MAINTENANCE OF THE PUBLIC PASSENGER RAIL SERVICE BY A PUBLIC ENTITY.

**SECTION 3.** 24-10-115 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-10-115. Authority for public entities other than the state to obtain insurance.** (1) A public entity, other than the state, either by itself or in conjunction with any one or more public entities may:

(d) INSURE AGAINST ALL OR PART OF ITS LIABILITY OR THE LIABILITY OF A RAILROAD FOR CLAIMS ARISING FROM THE PASSENGER RAIL OPERATIONS OF A PUBLIC ENTITY ON PROPERTY OR TRACKS OWNED BY, OR PURCHASED FROM, A RAILROAD.

**SECTION 4.** 24-10-115 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-10-115. Authority for public entities other than the state to obtain insurance.** (2) The insurance authorized by subsection (1) of this section may be provided by:

(d) ANY RISK MANAGEMENT POOL OF PUBLIC PASSENGER RAIL SERVICES AUTHORIZED TO BE CREATED PURSUANT TO THE FEDERAL "PRODUCT LIABILITY RISK RETENTION ACT OF 1981", 15 U.S.C. SEC. 3901 ET SEQ., AS AMENDED.

**SECTION 5.** 24-10-115, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-10-115. Authority for public entities other than the state to obtain insurance.** (7) POLICIES WRITTEN, SELF-INSURANCE FUNDS ESTABLISHED, OR RISK MANAGEMENT POOLS ENTERED INTO BY A PUBLIC ENTITY FOR THE PURPOSE OF INSURING A PUBLIC ENTITY AS DESCRIBED IN PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION SHALL MAINTAIN SUCH LEVELS OF INSURANCE AS ARE SUFFICIENT TO INSURE AGAINST THE MAXIMUM LIABILITY PERMITTED AGAINST A RAILROAD OR ITS INDEMNITOR PURSUANT TO 49 U.S.C. SEC. 28103.

**SECTION 6. Effective date - applicability.** (1) This act shall take effect July 1, 2007.

(2) The provisions of this act shall apply to acts or omissions occurring on or after the applicable effective date of this act; except that this act shall not apply to a railroad operating in interstate commerce until an agreement is executed between such railroad and the board of directors of the regional transportation district, created in article 9 of title 32, Colorado Revised Statutes, for the operation of a fixed guideway corridor pursuant to the transportation plan adopted by the board and adopted by the voters on November 2, 2004.

**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: May 22, 2007