

**24-10-106. Immunity and partial waiver.**

(1) A public entity shall be immune from liability in all claims for injury which lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant except as provided otherwise in this section. Sovereign immunity is waived by a public entity in an action for injuries resulting from:

(a) The operation of a motor vehicle, owned or leased by such public entity, by a public employee while in the course of employment, except emergency vehicles operating within the provisions of section 42-4-108 (2) and (3), C.R.S.;

(b) The operation of any public hospital, correctional facility, as defined in section 17-1-102, C.R.S., or jail by such public entity;

(c) A dangerous condition of any public building;

(d) (I) A dangerous condition of a public highway, road, or street which physically interferes with the movement of traffic on the paved portion, if paved, or on the portion customarily used for travel by motor vehicles, if unpaved, of any public highway, road, street, or sidewalk within the corporate limits of any municipality, or of any highway which is a part of the federal interstate highway system or the federal primary highway system, or of any highway which is a part of the federal secondary highway system, or of any highway which is a part of the state highway system on that portion of such highway, road, street, or sidewalk which was designed and intended for public travel or parking thereon. As used in this section, the phrase "physically interferes with the movement of traffic" shall not include traffic signs, signals, or markings, or the lack thereof. Nothing in this subparagraph (I) shall preclude a particular dangerous accumulation of snow, ice, sand, or gravel from being found to constitute a dangerous condition in the surface of a public roadway when the entity fails to use existing means available to it for removal or mitigation of such accumulation and when the public entity had actual notice through the proper public official responsible for the roadway and had a reasonable time to act.

(II) A dangerous condition caused by the failure to realign a stop sign or yield sign which was turned, without authorization of the public entity, in a manner which reassigned the right-of-way upon intersecting public highways, roads, or streets, or the failure to repair a traffic control signal on which conflicting directions are displayed;

(III) A dangerous condition caused by an accumulation of snow and ice which physically interferes with public access on walks leading to a public building open for public business when a public entity fails to use existing means available to it for removal or mitigation of such accumulation and when the public entity had actual notice of such condition and a reasonable time to act.

(e) A dangerous condition of any public hospital, jail, public facility located in any park or recreation area maintained by a public entity, or public water, gas, sanitation, electrical, power, or swimming facility. Nothing in this paragraph (e) or in paragraph (d) of this subsection (1) shall be construed to prevent a public entity from asserting sovereign immunity for an injury caused by the natural condition of any unimproved property, whether or not such property is located in a park or recreation area or on a highway, road, or street right-of-way.

(f) The operation and maintenance of any public water facility, gas facility, sanitation facility, electrical facility, power facility, or swimming facility by such public entity;

(g) The operation and maintenance of a qualified state capital asset that is the subject of a leveraged leasing agreement pursuant to the provisions of part 10 of article 82 of this title;

(h) Failure to perform an education employment required background check as described in section 13-80-103.9, C.R.S.

(1.5) (a) The waiver of sovereign immunity created in paragraphs (b) and (e) of subsection (1) of this section does not apply to claimants who have been convicted of a crime and incarcerated in a correctional facility or jail pursuant to such conviction, and such correctional facility or jail shall be immune from liability as set forth in subsection (1) of this section.

(b) The waiver of sovereign immunity created in paragraphs (b) and (e) of subsection (1) of this section does apply to claimants who are incarcerated but not yet convicted of the crime for which such claimants are being incarcerated if such claimants can show injury due to negligence.

(c) The waiver of sovereign immunity created in paragraph (e) of subsection (1) of this section does not apply to any backcountry landing facility located in whole or in part within any park or recreation area maintained by a public entity. For purposes of this paragraph (c), "backcountry landing facility" means any area of land or water that is unpaved, unlighted, and in a primitive condition and is used or intended for the landing and takeoff of aircraft, and includes any land or water appurtenant to such area.

(2) Nothing in this section or in section 24-10-104 shall be construed to constitute a waiver of sovereign immunity where the injury arises from the act, or failure to act, of a public employee where the act is the type of act for which the public employee would be or heretofore has been personally immune from liability.

(3) In addition to the immunity provided in subsection (1) of this section, a public entity shall also have the same immunity as a public employee for any act or failure to act for which a public employee would be or heretofore has been personally immune from liability.

(4) No rule of law imposing absolute or strict liability shall be applied in any action against a public entity or a public employee for an injury resulting from a dangerous condition of, or the operation and maintenance of, a public water facility or public sanitation facility. No liability shall be imposed in any such action unless negligence is proven.

**Source:** L. 71: p. 1206, § 1. C.R.S. 1963: § 130-11-6. L. 79: (1)(b) amended, p. 702, § 76, effective June 21. L. 86: IP(1), (1)(b), (1)(d), (1)(e), (1)(f), and (2) amended and (3) added, p. 875, § 5, effective July 1. L. 87: (4) added, p. 931, § 1, effective May 13. L. 92: (1)(d) amended, p. 1116, § 2, effective July 1. L. 94: (1.5) added, p. 2087, § 1, effective July 1; (1)(a) amended, p. 2556, § 53, effective January 1, 1995. L. 2002: (1.5)(c) added, p. 63, § 1, effective March 22. L. 2004: (1)(g) added, p. 1056, § 1, effective May 21. L. 2008: (1)(h) added, p. 2226, § 4, effective June 5.

## ANNOTATION

### Analysis

#### I. General Consideration.

#### II. Subsection (1).

#### A. Paragraph (a).

#### B. Paragraph (b).

**24-10-114. Limitations on judgments.**

(1) The maximum amount that may be recovered under this article in any single occurrence, whether from one or more public entities and public employees, shall be:

- (a) For any injury to one person in any single occurrence, the sum of one hundred fifty thousand dollars;
- (b) For an injury to two or more persons in any single occurrence, the sum of six hundred thousand dollars; except that, in such instance, no person may recover in excess of one hundred fifty thousand dollars.

(1.5) For purposes of subsection (1) of this section, an assignment or subrogation to recover damages paid or payable for an injury shall not be deemed to be a separate occurrence.

(2) The governing body of a public entity, by resolution, may increase any maximum amount set out in subsection (1) of this section that may be recovered from the public entity for the type of injury described in the resolution. The amount of the recovery that may be had shall not exceed the amount set out in such resolution for the type of injury described therein. Any such increase may be reduced, increased, or repealed by the governing body by resolution. A resolution adopted pursuant to this subsection (2) shall apply only to injuries occurring subsequent to the adoption of such resolution.

(3) Nothing in this section shall be construed to permit the recovery of damages for types of actions authorized under part 2 of article 21 of title 13, C.R.S., in an amount in excess of the amounts specified in said article.

(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 accident or injury arising out of the operation and maintenance of the public passenger rail service by a public entity.

(5) Notwithstanding the maximum amounts that may be recovered from a public entity set forth in subsection (1) of this section, a judgment or judgments may be claimed and rendered against the state in excess of the maximum amounts only if the general assembly acting by bill authorizes payment of all or a portion of the judgment which exceeds the maximum amount. Any claimant may present proof of judgment to the general assembly and request payment of that portion of the judgment which exceeds the maximum amount. Any portion of a judgment approved for payment by the general assembly shall be paid from the general fund.

**Source:** L. 71: p. 1210, § 1. C.R.S. 1963: § 130-11-14. L. 79: (1)(a) and (1)(b) amended, p. 863, § 4, effective July 1. L. 81: (2) amended, p. 1152, § 1, effective April 30. L. 86: IP(1) and (4) amended, p. 879, §§ 11, 12, effective July 1. L. 92: (1) amended and (5) added, p. 1118, § 6, effective January 1, 1993. L. 2006: (1.5) added, p. 455, § 3, effective April 18. L. 2007: (4) amended, p. 1025, § 2, effective July 1.