

**First Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 09-0122.01 Duane Gall

**SENATE BILL 09-013**

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**SENATE SPONSORSHIP**

**Gibbs and Schwartz, Penry**

**HOUSE SPONSORSHIP**

**Levy and King S.,**

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**Senate Committees**  
Judiciary

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE EXTENSION OF CIVIL IMMUNITY TO PERSONS**  
102 **ENGAGED IN EMERGENCY RESPONSE ACTIVITIES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Interim Committee on Wildfire Issues in Wild Land-Urban Interface Areas.** Enacts the "Marc Mullenix Volunteer Firefighter Protection Act", providing limited civil immunity for:

- ! Fire departments and other entities that donate surplus firefighting equipment for later use; and
- ! Volunteer firefighters, their commanders, and the organizations that employ them in connection with fires

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

SENATE  
Amended 2nd Reading  
February 13, 2009

and other emergencies.

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

2           **SECTION 1. Short title.** This act shall be known and may be  
3 cited as the "Marc Mullenix Volunteer Firefighter Protection Act".

4           **SECTION 2.** Part 1 of article 21 of title 13, Colorado Revised  
5 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW  
6 SECTIONS to read:

7           **13-21-113.3. Donation of firefighting equipment - exemption**  
8 **from civil and criminal liability - definition.** (1) A FIRE DEPARTMENT  
9 OR OTHER PERSON OR ENTITY THAT DONATES SURPLUS FIREFIGHTING  
10 EQUIPMENT TO A FIRE DEPARTMENT SHALL NOT BE LIABLE FOR DAMAGES  
11 IN ANY CIVIL ACTION OR SUBJECT TO PROSECUTION IN ANY CRIMINAL  
12 PROCEEDING RESULTING FROM THE NATURE, AGE, CONDITION, OR  
13 PACKAGING OF SUCH EQUIPMENT; EXCEPT THAT THIS EXEMPTION SHALL  
14 NOT APPLY TO THE GROSSLY NEGLIGENT, WILLFUL, WANTON, OR RECKLESS  
15 ACTS OF DONORS THAT RESULT IN INJURY TO RECIPIENTS OF SUCH  
16 EQUIPMENT.

17           (2) AS USED IN THIS SECTION:

18           (a) "FIRE DEPARTMENT" HAS THE MEANING SET FORTH IN SECTION  
19 24-33.5-1202, C.R.S., AND INCLUDES A FIRE DEPARTMENT THAT USES PAID  
20 FIREFIGHTERS, VOLUNTEER FIREFIGHTERS, OR BOTH.

21           (b) "FIREFIGHTING EQUIPMENT" MEANS ANY AND ALL EQUIPMENT  
22 DESIGNED FOR OR TYPICALLY USED IN THE PREVENTION AND SUPPRESSION  
23 OF FIRE, THE PROTECTION OF FIREFIGHTERS, OR THE RESCUE AND  
24 EXTRICATION OF VICTIMS OF FIRE OR OTHER EMERGENCIES, INCLUDING  
25 WITHOUT LIMITATION HOSES, FIRE TRUCKS, RESCUE VEHICLES,

1 EXTRICATION EQUIPMENT, PROTECTIVE CLOTHING, AND BREATHING  
2 APPARATUS.

3 (3) A FIRE DEPARTMENT THAT RECEIVES DONATED FIREFIGHTING  
4 EQUIPMENT PURSUANT TO THIS SECTION SHALL NOT SELL OR OFFER TO  
5 SELL ANY SUCH DONATED EQUIPMENT. THIS PROHIBITION SHALL NOT  
6 AFFECT THE TRANSFER OF SUCH DONATED EQUIPMENT, WITHOUT  
7 CONTEMPLATION OF REMUNERATION, BETWEEN FIRE DEPARTMENTS FOR  
8 FUTURE USE.

9 (4) NOTHING IN THIS SECTION LIMITS THE AUTHORITY OF ANY  
10 APPROPRIATE AGENCY TO REGULATE, PROHIBIT, OR PLACE CONDITIONS ON  
11 THE USE OF SPECIFIC FIREFIGHTING EQUIPMENT.

12 **13-21-113.7. Immunity of volunteer firefighters and their**  
13 **employers or organizations - definition.** (1) A VOLUNTEER  
14 FIREFIGHTER, AS DEFINED IN SECTION 31-30-1102, C.R.S., WHO, IN GOOD  
15 FAITH, TAKES PART IN FIREFIGHTING EFFORTS OR PROVIDES EMERGENCY  
16 CARE, RESCUE, ASSISTANCE, OR RECOVERY SERVICES AT THE SCENE OF AN  
17 EMERGENCY AND ANY PERSON WHO, IN GOOD FAITH, COMMANDS, DIRECTS,  
18 EMPLOYS, SPONSORS, OR REPRESENTS ANY SUCH VOLUNTEER FIREFIGHTER  
19 SHALL NOT BE LIABLE FOR CIVIL DAMAGES AS A RESULT OF AN ACT OR  
20 OMISSION BY SUCH VOLUNTEER FIREFIGHTER OR OTHER PERSON IN  
21 CONNECTION WITH THE EMERGENCY; EXCEPT THAT THIS EXEMPTION SHALL  
22 NOT APPLY TO GROSSLY NEGLIGENT, WILLFUL, WANTON, OR RECKLESS  
23 ACTS OR OMISSIONS.

24 (2) AS USED IN THIS SECTION, "EMERGENCY" MEANS A FIRE, FIRE  
25 ALARM RESPONSE, MOTOR VEHICLE ACCIDENT, RESCUE CALL, HAZARDOUS  
26 MATERIALS INCIDENT, EARTHQUAKE, FLOOD, SEVERE WEATHER EVENT,  
27 TERRORIST ATTACK, OUTBREAK OF A HARMFUL BIOLOGICAL AGENT OR

1 INFECTIOUS DISEASE, OR ANY OTHER INCIDENT TO WHICH A RESPONSE BY  
2 A FIRE DEPARTMENT IS APPROPRIATE OR REQUESTED.

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