

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 09-0122.01 Duane Gall

SENATE BILL 09-013

SENATE SPONSORSHIP

Gibbs and Schwartz, Penry

HOUSE SPONSORSHIP

Levy and King S.,

Senate Committees
Judiciary

House Committees
Judiciary

A BILL FOR AN ACT

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

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.*

HOUSE
3rd Reading Unam ended
March 30, 2009

HOUSE
Am ended 2nd Reading
March 26, 2009

SENATE
3rd Reading Unam ended
February 17, 2009

SENATE
Am ended 2nd Reading
February 13, 2009

and other emergencies.

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. THE TERM INCLUDES,
21 WITHOUT LIMITATION, NOT-FOR-PROFIT NONGOVERNMENTAL ENTITIES
22 THAT ARE ORGANIZED TO PROVIDE FIREFIGHTING SERVICES.

23 (b) "FIREFIGHTING EQUIPMENT" MEANS ANY AND ALL EQUIPMENT
24 DESIGNED FOR OR TYPICALLY USED IN THE PREVENTION AND SUPPRESSION
25 OF FIRE, THE PROTECTION OF FIREFIGHTERS, OR THE RESCUE AND

1 EXTRICATION OF VICTIMS OF FIRE OR OTHER EMERGENCIES, INCLUDING
2 WITHOUT LIMITATION HOSES, FIRE TRUCKS, RESCUE VEHICLES,
3 EXTRICATION EQUIPMENT, PROTECTIVE CLOTHING, AND BREATHING
4 APPARATUS.

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

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

14 **13-21-113.7. Immunity of volunteer firefighters, incident**
15 **management teams, and their employers or organizations -**

16 **definitions.** (1) A VOLUNTEER FIREFIGHTER WHO, IN GOOD FAITH, TAKES
17 PART IN FIREFIGHTING EFFORTS OR PROVIDES EMERGENCY CARE, RESCUE,
18 ASSISTANCE, OR RECOVERY SERVICES AT THE SCENE OF AN EMERGENCY,
19 ANY INCIDENT MANAGEMENT TEAM, AND ANY PERSON WHO, IN GOOD
20 FAITH, COMMANDS, DIRECTS, EMPLOYS, SPONSORS, OR REPRESENTS ANY
21 SUCH VOLUNTEER FIREFIGHTER OR INCIDENT MANAGEMENT TEAM SHALL
22 NOT BE LIABLE FOR CIVIL DAMAGES AS A RESULT OF AN ACT OR OMISSION
23 BY SUCH VOLUNTEER FIREFIGHTER, INCIDENT MANAGEMENT TEAM, OR
24 OTHER PERSON IN CONNECTION WITH THE EMERGENCY; EXCEPT THAT THIS
25 EXEMPTION SHALL NOT APPLY TO GROSSLY NEGLIGENT, WILLFUL,
26 WANTON, OR RECKLESS ACTS OR OMISSIONS.

27

1 (2) AS USED IN THIS SECTION:

2 (a) "EMERGENCY" MEANS ANY INCIDENT TO WHICH A RESPONSE BY
3 A FIRE DEPARTMENT OR INCIDENT MANAGEMENT TEAM IS APPROPRIATE OR
4 REQUESTED, INCLUDING, WITHOUT LIMITATION:

5 (I) A FIRE, FIRE ALARM RESPONSE, MOTOR VEHICLE ACCIDENT,
6 RESCUE CALL, OR HAZARDOUS MATERIALS INCIDENT;

7 (II) A NATURAL OR MAN-MADE DISASTER SUCH AS AN
8 EARTHQUAKE, FLOOD, OR SEVERE WEATHER EVENT;

9 (III) A TERRORIST ATTACK; OR

10 (IV) AN OUTBREAK OF A HARMFUL BIOLOGICAL AGENT OR
11 INFECTIOUS DISEASE.

12 (b) "FIRE DEPARTMENT" HAS THE MEANING SET FORTH IN SECTION
13 24-33.5-1202, C.R.S., AND INCLUDES A FIRE DEPARTMENT THAT USES PAID
14 FIREFIGHTERS, VOLUNTEER FIREFIGHTERS, OR BOTH. THE TERM INCLUDES,
15 WITHOUT LIMITATION, NOT-FOR-PROFIT NONGOVERNMENTAL ENTITIES
16 THAT ARE ORGANIZED TO PROVIDE FIREFIGHTING SERVICES.

17 (c) "INCIDENT MANAGEMENT TEAM" MEANS AN AD HOC OR
18 STANDING TEAM OF TRAINED PERSONNEL FROM DIFFERENT DEPARTMENTS,
19 ORGANIZATIONS, AGENCIES, AND JURISDICTIONS ACTIVATED TO MANAGE
20 THE LOGISTICAL, FISCAL, PLANNING, OPERATIONAL, SAFETY, AND
21 COMMUNITY ISSUES RELATED TO AN EMERGENCY OR OTHER INCIDENT.

22 (d) "VOLUNTEER FIREFIGHTER" HAS THE MEANING SET FORTH IN
23 SECTION 31-30-1102, C.R.S., AND INCLUDES VOLUNTEER FIREFIGHTERS OF
24 NOT-FOR-PROFIT NONGOVERNMENTAL ENTITIES THAT ARE ORGANIZED TO
25 PROVIDE FIREFIGHTING SERVICES.

26 **SECTION 3.** 24-32-2605, Colorado Revised Statutes, is amended
27 BY THE ADDITION OF A NEW SUBSECTION to read:

1 **24-32-2605. Immunity.** (1.7) NO STATE COMMISSION OR AGENCY
2 OR COUNTY OR MUNICIPAL AGENCY, INCLUDING LOCAL EMERGENCY
3 PLANNING COMMITTEES, INCIDENT MANAGEMENT TEAMS, CITIZEN CORPS
4 COUNCILS, CITIZEN EMERGENCY RESPONSE TEAMS, MEDICAL RESERVE
5 CORPS, FIRE PROTECTION DISTRICTS, AND VOLUNTEER FIRE, AMBULANCE,
6 OR EMERGENCY SERVICE AND RESCUE GROUPS, NOR THEIR OFFICERS,
7 OFFICIALS, DIRECTORS, EMPLOYEES, TRAINEES, OR VOLUNTEERS, WHEN
8 ENGAGED IN PLANNING, TRAINING, OR RESPONSE ACTIVITIES REGARDING
9 A NATURAL DISASTER, HAZARDOUS MATERIAL RELEASE, PUBLIC HEALTH
10 EMERGENCY, OR ACT OF TERRORISM OR THE THREAT OF ANY SUCH
11 DISASTER, RELEASE, EMERGENCY, OR ACT, SHALL BE LIABLE FOR THE
12 DEATH OF OR INJURY TO ANY PERSON OR FOR THE LOSS OF OR DAMAGE TO
13 PROPERTY OR THE ENVIRONMENT EXCEPT FOR GROSS NEGLIGENCE OR
14 WILLFUL AND WANTON ACTS OR OMISSIONS.

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