

Second Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 06-0074.01 Bart Miller

**HOUSE BILL 06-1049**

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**HOUSE SPONSORSHIP**

**Witwer,**

**SENATE SPONSORSHIP**

**Grossman,**

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**House Committees**

Agriculture, Livestock, & Natural Resources

**Senate Committees**

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**A BILL FOR AN ACT**

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

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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.)*

In the statutes governing landowner liability toward persons using land made available for public recreational purposes, specifies that the definition of "land" and the exception to liability for maintaining an attractive nuisance include land subject to mining operations under federal or state law that were abandoned or left in inadequate reclamation status prior to certain dates.

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.*

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

2           **SECTION 1.** 33-41-103 (2) (e) (II), Colorado Revised Statutes,  
3 is amended to read:

4           **33-41-103. Limitation on landowner's liability.** (2) (e) For  
5 purposes of this subsection (2) only, unless the context otherwise  
6 requires:

7           (II) "Land" means real property, or a body of water and the real  
8 property appurtenant thereto, OR REAL PROPERTY THAT WAS SUBJECT TO  
9 MINING OPERATIONS UNDER STATE OR FEDERAL LAW AND THAT HAS BEEN  
10 ABANDONED OR LEFT IN AN INADEQUATE RECLAMATION STATUS PRIOR TO  
11 AUGUST 3, 1977, FOR COAL MINING OPERATIONS, OR JULY 1, 1976, FOR  
12 HARD ROCK MINING OPERATIONS, which is leased to a public entity or for  
13 which an easement or other right is granted to a public entity for  
14 recreational purposes OR FOR WHICH THE LANDOWNER HAS ACQUIESCED  
15 TO PUBLIC USE OF EXISTING TRAILS THAT HAVE HISTORICALLY BEEN USED  
16 BY THE PUBLIC FOR RECREATIONAL PURPOSES. "Land", as used in this  
17 subsection (2), does not include real property, buildings, or portions  
18 thereof which are not the subject of a lease, easement, or other right of  
19 use granted to a public entity; EXCEPT THAT, LAND ON WHICH A  
20 LANDOWNER HAS ACQUIESCED TO PUBLIC USE OF EXISTING TRAILS THAT  
21 HAVE HISTORICALLY BEEN USED BY THE PUBLIC FOR RECREATIONAL  
22 PURPOSES NEED NOT BE SUBJECT TO A LEASE, EASEMENT, OR OTHER RIGHT  
23 OF USE GRANTED TO A PUBLIC ENTITY. NOTHING IN THIS SUBPARAGRAPH  
24 (II) SHALL BE CONSTRUED TO CREATE A PRESCRIPTIVE EASEMENT ON  
25 LANDS ON WHICH A LANDOWNER HAS ACQUIESCED TO PUBLIC USE OF  
26 EXISTING TRAILS THAT HAVE HISTORICALLY BEEN USED BY THE PUBLIC

1 FOR RECREATIONAL PURPOSES. THE INCIDENTAL USE OF SUCH PRIVATE  
2 PROPERTY FOR RECREATIONAL PURPOSES SHALL NOT ESTABLISH OR  
3 PRESUME FACTS TO SUPPORT LAND USE CLASSIFICATION OR ZONING.

4 **SECTION 2.** 33-41-104 (1) (c), Colorado Revised Statutes, is  
5 amended to read:

6 **33-41-104. When liability is not limited.** (1) Nothing in this  
7 article limits in any way any liability which would otherwise exist:

8 (c) For maintaining an attractive nuisance; except that, if the  
9 property used for public recreational purposes CONTAINS MINING  
10 OPERATIONS THAT WERE ABANDONED OR LEFT IN AN INADEQUATE  
11 RECLAMATION STATUS AS PROVIDED IN SECTION 33-41-103 (2) (e) (II) OR  
12 was constructed or is used for or in connection with the diversion,  
13 storage, conveyance, or use of water, the property and the water OR  
14 ABANDONED MINING OPERATIONS within such property shall not constitute  
15 an attractive nuisance;

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

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