

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0721.01 Michael Dohr

SENATE BILL 08-115

SENATE SPONSORSHIP

Brophy, Harvey, Penry, Renfroe, Schultheis, Cadman, Kopp, and Tochtrop

HOUSE SPONSORSHIP

Stephens, Gardner C., Lambert, Liston, Lundberg, McNulty, and Sonnenberg

Senate Committees

State, Veterans & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING A CIVIL ACTION FOR DAMAGES SUFFERED IN A GUN-FREE**
102 **ZONE.**

Bill Summary

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

Creates a civil action to enable a person who is injured in a gun-free zone to recover damages as a result of criminal conduct in the zone if a reasonable person would believe the possession of a firearm in the zone could have helped the person defend himself or herself. Waives sovereign immunity for a claim based on criminal conduct in a gun-free zone.

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.

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

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

5 **13-21-127. Gun-free zone liability.** (1) (a) IN ADDITION TO ANY
6 OTHER REMEDIES PROVIDED UNDER THIS ARTICLE, A PERSON WHO SUFFERS
7 INJURY AS A RESULT OF CRIMINAL CONDUCT THAT OCCURS IN A GUN-FREE
8 ZONE SHALL HAVE A PRIVATE RIGHT OF ACTION FOR DAMAGES AGAINST
9 THE PERSON, ORGANIZATION, ENTITY, OR AGENCY OF GOVERNMENT THAT
10 CREATED THE GUN-FREE ZONE. IN AN ACTION BROUGHT PURSUANT TO
11 THIS SECTION, THE PLAINTIFF SHALL HAVE THE BURDEN OF PROVING BY A
12 PREPONDERANCE OF THE EVIDENCE THAT A REASONABLE PERSON WOULD
13 BELIEVE THAT POSSESSION OF A FIREARM COULD HAVE HELPED THE
14 PLAINTIFF DEFEND HIMSELF OR HERSELF AGAINST THE CRIMINAL CONDUCT.

15 (b) IF THE CONDUCT IS THE RESULT OF A TERRORIST ATTACK OR
16 THE PLAINTIFF IS DISABLED, OVER SIXTY-FIVE YEARS OF AGE, OR A
17 MEMBER OF A RACIAL OR ETHNIC MINORITY GROUP, THE PLAINTIFF SHALL
18 BE ENTITLED TO TREBLE DAMAGES.

19 (c) (I) FOR PURPOSES OF THIS SECTION, "CRIMINAL CONDUCT"
20 MEANS ANY OF THE CRIMES SPECIFIED IN SUBPARAGRAPH (II) OF THIS
21 PARAGRAPH (c) COMMITTED, CONSPIRED TO BE COMMITTED, OR
22 ATTEMPTED TO BE COMMITTED BY A PERSON DURING WHICH, OR IN THE
23 IMMEDIATE FLIGHT THEREFROM, THE PERSON USED, OR POSSESSED AND
24 THREATENED THE USE OF, A DEADLY WEAPON.

25 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) APPLIES TO THE
26 FOLLOWING CRIMES:

- 1 (A) MURDER;
- 2 (B) FIRST OR SECOND DEGREE ASSAULT;
- 3 (C) KIDNAPPING;
- 4 (D) A SEXUAL OFFENSE PURSUANT TO PART 4 OF ARTICLE 3 OF
- 5 TITLE 18, C.R.S.;
- 6 (E) AGGRAVATED ROBBERY;
- 7 (F) FIRST DEGREE ARSON; AND
- 8 (G) FIRST DEGREE BURGLARY.

9 (2) A PERSON, ORGANIZATION, ENTITY, OR AGENCY OF
10 GOVERNMENT SHALL NOT BE LIABLE FOR CONDUCT DESCRIBED IN
11 SUBSECTION (1) OF THIS SECTION IF THE PERSON, ORGANIZATION, ENTITY,
12 OR AGENCY OF GOVERNMENT PROVIDES REASONABLE SECURITY MEASURES
13 IN THE GUN-FREE ZONE. REASONABLE SECURITY MEASURES SHALL
14 INCLUDE, BUT ARE NOT LIMITED TO PROVIDING ARMED SECURITY GUARDS
15 OR METAL DETECTORS.

16 (3) FOR THE PURPOSES OF THIS SECTION, "GUN-FREE ZONE" MEANS
17 A BUILDING, PLACE, AREA, OR CURTILAGE THAT IS OPEN TO THE PUBLIC, OR
18 IN OR UPON A PUBLIC CONVEYANCE, WHERE A PERSON'S RIGHT OR ABILITY
19 TO KEEP ARMS OR TO BEAR ARMS IS INFRINGED, RESTRICTED, OR
20 DIMINISHED IN ANY WAY BY STATUTE, POLICY, RULE, REGULATION,
21 ORDINANCE, STATEMENT, OR POSTED SIGN.

22 **SECTION 2.** 24-10-106 (1), Colorado Revised Statutes, is
23 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24 **24-10-106. Immunity and partial waiver.** (1) A public entity
25 shall be immune from liability in all claims for injury which lie in tort or
26 could lie in tort regardless of whether that may be the type of action or the
27 form of relief chosen by the claimant except as provided otherwise in this

1 section. Sovereign immunity is waived by a public entity in an action for
2 injuries resulting from:

3 (h) CRIMINAL CONDUCT IN A GUN-FREE ZONE AS DESCRIBED IN
4 SECTION 13-21-127, C.R.S.

5 **SECTION 3. Effective date - applicability.** This act shall take
6 effect July 1, 2008, and shall apply to causes of action accruing on or
7 after said date.

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