

Recreation Liability from States Surrounding Nebraska

KANSAS

K.S.A. § 58-3201. Limiting liability of property owners to persons entering premises for recreational purposes.

The purpose of this act is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

History: L. 1965, ch. 559, § 1; July 1.

K.S.A. § 58-3202. Limiting liability of property owners to persons entering premises for recreational purposes; definitions.

As used in this act: (a) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty and includes agricultural and nonagricultural land.

(b) "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.

(c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

(d) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land.

(e) "Agricultural land" means land suitable for use in farming and includes roads, water, watercourses and private ways located upon or within the boundaries of such agricultural land and buildings, structures and machinery or equipment when attached to such agricultural land.

(f) "Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock.

(g) "Nonagricultural land" means all land other than agricultural land.

History: L. 1965, ch. 559, § 2; L. 1988, ch. 198, § 1; July 1.

K.S.A. § 58-3203. Limited liability of property owners; owner's duty of care.

Except as specifically recognized by or provided in [K.S.A. 58-3206](#) and amendments thereto, an owner of land who makes all or any part of the land available to the public for recreational purposes owes no duty of care to keep the premises, or that part of the premises so made available, safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure or activity on such premises to persons entering for such purposes. An owner of land who does take actions to keep the premises safe or to warn persons of a dangerous condition, use, structure or activity on the premises shall not be deprived of the protection which this law would provide had the owner not taken such actions or given such warning.

History: L. 1965, ch. 559, § 3; L. 1995, ch. 167, § 1; Apr. 27.

K.S.A. § 58-3204. Same; owner's responsibility.

Except as specifically recognized by or provided in [K.S.A. 58-3206](#), and amendments thereto, an owner of land who either directly or indirectly invites or permits any person to use such property, or any part of such property, for recreational purposes or an owner of nonagricultural land who either directly or indirectly invites or permits without charge any person to use such property, or any part of such property, for recreational purposes does not thereby:

- (a) Extend any assurance that the premises are safe for any purpose.
- (b) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.
- (c) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

History: L. 1965, ch. 559, § 4; L. 1988, ch. 198, § 2; L. 1995, ch. 167, § 2; Apr. 27.

K.S.A. § 58-3205. Same; application to lands leased to state or subdivision.

Unless otherwise agreed in writing, the provisions of [K.S.A. 58-3203](#) and [58-3204](#) shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

History: L. 1965, ch. 559, § 5; July 1.

K.S.A. § 58-3206. Same; nonapplication of act to certain liabilities.

Nothing in this act limits in any way any liability which otherwise exists:

- (a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.
- (b) For injury suffered in any case where the owner of nonagricultural land charges the person or persons who enter or go on the nonagricultural land for the recreational use thereof, except that in the case of nonagricultural land leased to the state or a subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of this section.

History: L. 1965, ch. 559, § 6; L. 1988, ch. 198, § 3; July 1.

K.S.A. § 58-3207. Same; construction of act as to certain liabilities and obligations.

Nothing in this act shall be construed to:

- (a) Create a duty of care or ground of liability for injury to persons or property.
- (b) Relieve any person using the land of another for recreational purposes from any obligation which such person may have in the absence of this act to exercise care in his or her use of such land and in his or her activities thereon, or from the legal consequences of failure to employ such care.

History: L. 1965, ch. 559, § 7; July 1.

TEXAS

Tex. Civ. Prac. & Rem. Code Ann. § 75.001. Definitions

In this chapter:

- (1) "Agricultural land" means land that is located in this state and that is suitable for:
 - (A) use in production of plants and fruits grown for human or animal consumption, or plants grown for the production of fibers, floriculture, viticulture, horticulture, or planting seed;
 - (B) forestry and the growing of trees for the purpose of rendering those trees into lumber, fiber, or other items used for industrial, commercial, or personal consumption; or
 - (C) domestic or native farm or ranch animals kept for use or profit.
- (2) "Premises" includes land, roads, water, watercourse, private ways, and buildings, structures, machinery, and equipment attached to or located on the land, road, water, watercourse, or private way.
- (3) "Recreation" means an activity such as:
 - (A) hunting;
 - (B) fishing;
 - (C) swimming;
 - (D) boating;
 - (E) camping;
 - (F) picnicking;

(G) hiking;

(H) pleasure driving, including off-road motorcycling and off-road automobile driving and the use of all-terrain vehicles;

(I) nature study, including bird-watching;

(J) cave exploration;

(K) waterskiing and other water sports;

(L) any other activity associated with enjoying nature or the outdoors;

(M) bicycling and mountain biking;

(N) disc golf; or

(O) on-leash and off-leash walking of dogs.

(4) "Governmental unit" has the meaning assigned by Section 101.001.

History: Stats. 1995 74th Leg. Sess. Ch. 520, effective August 28, 1995; Stats. 1997 75th Leg. Sess. Ch. 56, effective September 1, 1997; Stats. 2005 79th Leg. Sess., Ch. 116 (S.B. 1224), § 1, effective September 1, 2005; Stats. 2005 79th Leg. Sess., Ch. 932 (H.B. 616), § 1, effective September 1, 2005.

Tex. Civ. Prac. & Rem. Code Ann. § 75.002. Liability Limited

(a) An owner, lessee, or occupant of agricultural land:

(1) does not owe a duty of care to a trespasser on the land; and

(2) is not liable for any injury to a trespasser on the land, except for wilful or wanton acts or gross negligence by the owner, lessee, or other occupant of agricultural land.

(b) If an owner, lessee, or occupant of agricultural land gives permission to another or invites another to enter the premises for recreation, the owner, lessee, or occupant, by giving the permission, does not:

(1) assure that the premises are safe for that purpose;

(2) owe to the person to whom permission is granted or to whom the invitation is extended a greater degree of care than is owed to a trespasser on the premises; or

(3) assume responsibility or incur liability for any injury to any individual or property caused by any act of the person to whom permission is granted or to whom the invitation is extended.

(c) If an owner, lessee, or occupant of real property other than agricultural land gives permission to another to enter the premises for recreation, the owner, lessee, or occupant, by giving the permission, does not:

(1) assure that the premises are safe for that purpose;

(2) owe to the person to whom permission is granted a greater degree of care than is owed to a trespasser on the premises; or

(3) assume responsibility or incur liability for any injury to any individual or property caused by any act of the person to whom permission is granted.

(d) Subsections (a), (b), and (c) shall not limit the liability of an owner, lessee, or occupant of real property who has been grossly negligent or has acted with malicious intent or in bad faith.

(e) In this section, "recreation" means, in addition to its meaning under Section 75.001, the following activities only if the activities take place on premises owned, operated, or maintained by a governmental unit for the purposes of those activities:

(1) hockey and in-line hockey;

(2) skating, in-line skating, roller-skating, skateboarding, and roller-blading;

(3) soap box derby use; and

(4) paintball use.

(f) Notwithstanding Subsections (b) and (c), if a person enters premises owned, operated, or maintained by a governmental unit and engages in recreation on those premises, the governmental unit does not owe to the person a greater degree of care than is owed to a trespasser on the premises.

(g) Any premises a governmental unit owns, operates, or maintains and on which the recreational activities described in Subsections (e)(1)-(4) are conducted shall post and maintain a clearly readable sign in a clearly visible location on or near the premises. The sign shall contain the following warning language:

WARNING

TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE) LIMITS THE LIABILITY OF A GOVERNMENTAL UNIT FOR DAMAGES ARISING DIRECTLY FROM HOCKEY, IN-LINE HOCKEY, SKATING, IN-LINE SKATING, ROLLER-SKATING, SKATEBOARDING, ROLLER-BLADING, PAINTBALL USE, OR SOAP BOX DERBY USE ON PREMISES THAT THE GOVERNMENTAL UNIT OWNS, OPERATES, OR MAINTAINS FOR THAT PURPOSE.

WARNING

(h) An owner, lessee, or occupant of real property in this state is liable for trespass as a result of migration or transport of any air contaminant, as defined in [Section 382.003\(2\), Health and Safety Code](#), other than odor, only upon a showing of actual and substantial damages by a plaintiff in a civil action.

History: Stats. 1997 75th Leg. Sess. Ch. 56, effective September 1, 1997, Stats. 1999 76th Leg. Sess. Ch. 734, effective September 1, 1999; Stats. 2003 78th Leg. Sess. Ch. 204, effective September 1, 2003; Stats. 2003 78th Leg. Sess. Ch. 739, effective September 1, 2003; Stats. 2005 79th Leg. Sess., Ch. 116 (S.B. 1224), § 2, effective September 1, 2005; Stats. 2005 79th Leg. Sess., Ch. 932 (H.B. 616), § 2, effective September 1, 2005; Stats. 2007, 80th Leg. Sess., Ch. 227, effective May 25, 2007.

Tex. Civ. Prac. & Rem. Code § 75.003. Application and Effect of Chapter

(a) This chapter does not relieve any owner, lessee, or occupant of real property of any liability that would otherwise exist for deliberate, wilful, or malicious injury to a person or to property.

(b) This chapter does not affect the doctrine of attractive nuisance, except that the doctrine may not be the basis for liability of an owner, lessee, or occupant of agricultural land for any injury to a trespasser over the age of 16 years.

(c) Except for a governmental unit, this chapter applies only to an owner, lessee, or occupant of real property who:

(1) does not charge for entry to the premises;

(2) charges for entry to the premises, but whose total charges collected in the previous calendar year for all recreational use of the entire premises of the owner, lessee, or occupant are not more than 20 times the total amount of ad valorem taxes imposed on the premises for the previous calendar year; or

(3) has liability insurance coverage in effect on an act or omission described by Section 75.004(a) and in the amounts equal to or greater than those provided by that section.

(d) This chapter does not create any liability.

(e) Except as otherwise provided, this chapter applies to a governmental unit.

(f) This chapter does not waive sovereign immunity.

(g) To the extent that this chapter limits the liability of a governmental unit under circumstances in which the governmental unit would be liable under Chapter 101, this chapter controls.

(h) In the case of agricultural land, an owner, lessee, or occupant of real property who does not charge for entry to the premises because the individuals entering the premises for recreation are invited social guests satisfies the requirement of Subsection (c)(1).

History: Stats. 1995 74th Leg. Sess. Ch. 520, effective August 28, 1995, Stats. 1997 75th Leg. Sess. Ch. 56, effective September 1, 1997; Stats. 2003 78th Leg. Sess. Ch. 429, effective September 1, 2003.

Tex. Civ. Prac. & Rem. Code § 75.004. Limitation on Monetary Damages for Private Landowners

- (a) Subject to Subsection (b), the liability of an owner, lessee, or occupant of agricultural land used for recreational purposes for an act or omission by the owner, lessee, or occupant relating to the premises that results in damages to a person who has entered the premises is limited to a maximum amount of \$ 500,000 for each person and \$ 1 million for each single occurrence of bodily injury or death and \$ 100,000 for each single occurrence for injury to or destruction of property. In the case of agricultural land, the
- (b) total liability of an owner, lessee, or occupant for a single occurrence is limited to \$ 1 million, and the liability also is subject to the limits for each single occurrence of bodily injury or death and each single occurrence for injury to or destruction of property stated in this subsection.

(b) This section applies only to an owner, lessee, or occupant of agricultural land used for recreational purposes who has liability insurance coverage in effect on an act or omission described by Subsection (a) and in the amounts equal to or greater than those provided by Subsection (a). The coverage may be provided under a contract of insurance or other plan of insurance authorized by statute. The limit of liability insurance coverage applicable with respect to agricultural land may be a combined single limit in the amount of \$ 1 million for each single occurrence.

(c) This section does not affect the liability of an insurer or insurance plan in an action under Chapter 541, Insurance Code, or an action for bad faith conduct, breach of fiduciary duty, or negligent failure to settle a claim.

(d) This section does not apply to a governmental unit.

- (c)
- (d) History: Stats. 1995 74th Leg. Sess. Ch. 520, effective August 28, 1995, Stats. 1997 75th Leg. Sess. Ch. 56, effective September 1, 1997; Stats. 2005 79th Leg. Sess., Ch. 728 (H.B. 2018), § 11.106, effective September 1, 2005.

(e) **SOUTH DAKOTA**

- (f)
- (g) **S.D. Codified Laws § 20-9-12.**

Terms used in [§§ 20-9-12](#) to [20-9-18](#), inclusive, mean:

(1) "Charge," the admission price or fee asked in return for invitation or permission to enter or go upon the land. Any nonmonetary gift to an owner that is less than one hundred dollars in value may not be construed to be a charge;

(2) "Land," land, trails, water, watercourses, private ways and agricultural structures, and machinery or equipment if attached to the realty;

(3) "Outdoor recreational purpose," includes, but is not limited to, any of the following activities, or any combination thereof: hunting, fishing, swimming other than in a swimming pool, boating, canoeing, camping, picnicking, hiking, biking, off road driving, nature study, water skiing, winter sports, snowmobiling, viewing or enjoying historical, archaeological, scenic or scientific sites;

(4) "Owner," the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.

- (h)

(i) History: Source: SL 1987, ch 158, § 1; [1990, ch 154](#).

(j) **S.D. Codified Laws § 20-9-13.**

Except as provided in [§ 20-9-16](#), an owner of land owes no duty of care to keep the land safe for entry or use by others for outdoor recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on his land to persons entering for outdoor recreational purposes.

History: Source: SL 1987, ch 158, § 2.

S.D. Codified Laws § 20-9-14.

Except as provided in [§ 20-9-16](#), an owner of land who either directly or indirectly invites or permits without charge any person to use his property for outdoor recreational purposes, including any person who is on the property pursuant to [§ 41-9-8](#), does not thereby:

(1) Extend any assurance that the land is safe for any purpose;

(2) Confer upon any person the legal status of an invitee or licensee to whom a duty of care is owed; or

(3) Assume responsibility for, or incur liability for, any injury to persons or property caused by an act of omission of the owner as to maintenance of the land.

History: Source: SL 1987, ch 158, § 3; 1990, ch 155; 1991, ch 24, § 6.

S.D. Codified Laws § 20-9-15.

Unless otherwise agreed in writing, the provisions of [§§ 20-9-13](#) and [20-9-14](#) apply to the duties and liability of an owner of land leased to the state or any political subdivision thereof for outdoor recreational purposes.

History: Source: SL 1987, ch 158, § 4.

S.D. Codified Laws § 20-9-16.

Nothing in [§§ 20-9-12](#) to [20-9-18](#), inclusive, limits in any way any liability which otherwise exists:

(1) For gross negligence or willful or wanton misconduct of the owner;

(2) For injury suffered in any case where the owner of land charges any person who enters or goes on the land for the outdoor recreational use thereof, except that in the case of land leased to the state or a political subdivision thereof, any consideration received by the owner for such lease may not be deemed a charge within the meaning of this section nor may any incentive payment paid to the owner by the state or federal government to promote public access for outdoor recreational purposes be considered a charge; or

(3) For injury suffered in any case where the owner has violated a county or municipal ordinance or state law which violation is a proximate cause of the injury.

History: Source: SL 1987, ch 158, § 5.

S.D. Codified Laws § 20-9-17.

[Sections 20-9-12](#) to [20-9-18](#), inclusive, may not be construed to create a duty of care or ground of liability for injury to persons or property, or relieve any person using the land of another for outdoor recreational purposes from any obligation which he may have

in the absence of [§§ 20-9-12](#) to [20-9-18](#), inclusive, to exercise care in his use of such land and in his activities thereon, or from the legal consequences of failure to employ such care.

History: Source: SL 1987, ch 158, § 6.

S.D. Codified Laws § 20-9-18.

[Sections 20-9-12](#) to [20-9-18](#), inclusive, does not affect the doctrine of attractive nuisance or other legal doctrines relating to liability arising from artificial conditions highly dangerous to children.

History: Source: SL 1987, ch 158, § 7.

COLORADO

Colo. Rev. Stat. § 33-41-101. Legislative declaration

The purpose of this article is to encourage owners of land to make land and water areas available for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

HISTORY: Source: L. 69: R&RE, p. 411, § 1. C.R.S. 1963: § 62-4-1. L. 97: Entire section amended, p. 53, § 1, effective March 21.

Colo. Rev. Stat. § 33-41-102. Definitions

As used in this article, unless the context otherwise requires:

(1) "Charge" means a consideration paid for entry upon or use of the land or any facilities thereon or adjacent thereto; except that, in a case of land leased to a public entity or in which a public entity has been granted an easement or other rights to use land for recreational purposes, any consideration received by the owner for such lease, easement, or other right shall not be deemed a charge within the meaning of this article nor shall any consideration received by an owner from any federal governmental agency for the purposes of admitting any person constitute such a charge.

(2) "Land" also means roads, water, watercourses, private ways, and buildings, structures, and machinery or equipment thereon, when attached to real property.

(3) "Owner" includes, but is not limited to, the possessor of a fee interest, a tenant, lessee, occupant, the possessor of any other interest in land, or any person having a right to grant permission to use the land, or any public entity as defined in the "Colorado

Governmental Immunity Act", article 10 of title 24, C.R.S., which has an interest in land.

(4) "Person" includes any individual, regardless of age, maturity, or experience, or any corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association, or any other legal entity.

(4.5) "Public entity" means the same as defined in [section 24-10-103 \(5\), C.R.S.](#)

(5) "Recreational purpose" includes, but is not limited to, any sports or other recreational activity of whatever nature undertaken by a person while using the land, including ponds, lakes, reservoirs, streams, paths, and trails appurtenant thereto, of another and includes, but is not limited to, any hobby, diversion, or other sports or other recreational activity such as: Hunting, fishing, camping, picnicking, hiking, horseback riding, snowshoeing, cross country skiing, bicycling, riding or driving motorized recreational vehicles, swimming, tubing, diving, spelunking, sight-seeing, exploring, hang gliding, rock climbing, kite flying, roller skating, bird watching, gold panning, target shooting, ice skating, ice fishing, photography, or engaging in any other form of sports or other recreational activity.

HISTORY: Source: L. 69: R&RE, p. 411, § 1. C.R.S. 1963: § 62-4-2 .L. 73: p. 661, § 1. L. 83: (3) and (4) amended and (5) R&RE, p. 1302, § § 1, 2, effective March 17 .L. 88: (4.5) added, p. 1181, § 1, effective May 29 .L. 97: (1) amended, p. 53, § 2, effective March 21.

Colo. Rev. Stat. § 33-41-10. Limitation on landowner's liability

(1) Subject to the provision of [section 33-41-105](#), an owner of land who either directly or indirectly invites or permits, without charge, any person to use such property for recreational purposes does not thereby:

(a) Extend any assurance that the premises are safe for any purpose;

(b) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed;

(c) Assume responsibility or incur liability for any injury to person or property or for the death of any person caused by an act or omission of such person.

(2) (a) To the extent liability is found, notwithstanding subsection (1) of this section, the total amount of damages that may be recovered from a private landowner who leases land or a portion thereof to a public entity for recreational purposes or who grants an easement or other rights to use land or a portion thereof to a public entity for recreational purposes for injuries resulting from the use of the land by invited guests for recreational purposes shall be:

(I) For any injury to one person in any single occurrence, the amount specified in [section 24-10-114 \(1\) \(a\), C.R.S.](#);

(II) For an injury to two or more persons in any single occurrence, the amount specified in [section 24-10-114 \(1\) \(b\), C.R.S.](#)

(b) The limitations in this subsection (2) shall apply only when access to the property is

limited, to the extent practicable, to invited guests, when the person injured is an invited guest of the public entity, when such use of the land by the injured person is for recreational purposes, and only during the term of such lease, easement, or other grant.

(c) Nothing in this subsection (2) shall limit, enlarge, or otherwise affect the liability of a public entity.

(d) In order to ensure the independence of public entities in the management of their recreational programs and to protect private landowners of land used for public recreational purposes from liability there for, except as otherwise agreed by the public

entity and a private landowner, a private landowner shall not be liable for a public entity's management of the land or portion thereof which is used for recreational purposes.

(e) For purposes of this subsection (2) only, unless the context otherwise requires:

(I) "Invited guests" means all persons or guests of persons present on the land for recreational purposes, at the invitation or consent of the public entity, and with or without permit or license to enter the land, and all persons present on the land at the invitation or consent of the public entity or the landowner for business or other purposes relating to or arising from the use of the land for recreational purposes if the public entity receives all of the revenues, if any, which are collected for entry onto the land. "Invited guests" does not include any such persons or guests of any person present on the land for recreational purposes at the invitation or consent of the public entity or the landowner if the land owner retains all or a portion of the revenue collected for entry onto the land or if the landowner shares the revenue collected for entry onto the land with the public entity. For the purposes of this subparagraph (I), "revenue collected for entry" does not include lease payments, lease-purchase payments, or rental payments.

(II) "Land" means real property, or a body of water and the real property appurtenant thereto, or real property that was subject to mining operations under state or federal law and that has been abandoned or left in an inadequate reclamation status prior to August 3, 1977, for coal mining operations, or July 1, 1976, for hard rock mining operations, which is leased to a public entity or for which an easement or other right is granted to a public entity for recreational purposes or for which the landowner has acquiesced to public use of existing trails that have historically been used by the public for recreational purposes. "Land", as used in this subsection (2), does not include real property, buildings, or portions thereof which are not the subject of a lease, easement, or other right of use granted to a public entity; except that land on which a landowner has acquiesced to public use of existing trails that have historically been used by the public for recreational purposes need not be subject to a lease, easement, or other right of use granted to a public entity. Nothing in this subparagraph (II) shall be construed to create a prescriptive easement on lands on which a landowner has acquiesced to public use of existing trails that have historically been used by the public for recreational purposes. The incidental use of such private property for recreational purposes shall not establish or presume facts to support land use classification or zoning.

(II.5) "Lease" or "leased" includes a lease-purchase agreement containing an option to purchase the property. Any lease in which a private landowner leases land or a portion thereof to a public entity for recreational purposes shall contain a disclosure advising the private landowner of the right to bargain for indemnification from liability for injury resulting from use of the land by invited guests for recreational purposes.

(II.7) "Management" means the entire range of activities, whether undertaken or not by the public entity, associated with controlling, directing, allowing, and administering the use, operation, protection, development, repair, and maintenance of private land for public recreational purposes.

(III) "Recreational purposes" includes, but is not limited to, any sports or other recreational activity of whatever nature undertaken by an invited guest while using the land, including ponds, lakes, reservoirs, streams, paths, and trails appurtenant to, of another and includes, but is not limited to, any hobby, diversion, or other sports or other recreational activity such as: Fishing, picnicking, hiking, horseback riding, snowshoeing,

cross country skiing, bicycling, swimming, tubing, diving, sight-seeing, exploring, kite flying, bird watching, gold panning, ice skating, ice fishing, photography, or engaging in any other form of sports or other recreational activity, as well as any activities related to such sports or recreational activities, and any activities directly or indirectly resulting from such sports or recreational activity.

(f) Nothing in this subsection (2) shall limit the protections provided, as applicable, to a landowner under [section 13-21-115, C.R.S.](#)

HISTORY: Source: L. 69: R&RE, p. 412, § 1. C.R.S. 1963: § 62-4-3 .L. 88: (2) added, p. 1181, § 2, effective May 29 .L. 89: (2)(e)(I) and (2)(e)(II) amended and (2)(e)(II.5) added, p. 1370, § 1, effective April 27 .L. 97: IP(2)(a) amended and (2)(e)(II.7) added, p. 54, § 3, 4, effective March 21. L. 2006: (2)(e)(II) amended, p. 20, § 1, effective March 8.

Colo. Rev. Stat. § 33-41-104. When liability is not limited

(1) Nothing in this article limits in any way any liability which would otherwise exist:

(a) For willful or malicious failure to guard or warn against a known dangerous condition, use, structure, or activity likely to cause harm;

(b) For injury suffered by any person in any case where the owner of land charges the person who enters or goes on the land for the recreational use thereof; except that, in case of land leased to a public entity or in which a public entity has been granted an easement or other rights to use land for recreational purposes any consideration received by the owner for such lease, easement, or other right shall not be deemed a charge within the meaning of this article nor shall any consideration received by an owner from any federal governmental agency for the purpose of admitting any person constitute such a charge;

(c) For maintaining an attractive nuisance; except that, if the property used for public recreational purposes contains mining operations that were abandoned or left in an inadequate reclamation status as provided in [section 33-41-103 \(2\) \(e\) \(II\)](#) or was constructed or is used for or in connection with the diversion, storage, conveyance, or use of water, the property and the water or abandoned mining operations within such property shall not constitute an attractive nuisance;

(d) For injury received on land incidental to the use of land on which a commercial or business enterprise of any description is being carried on; except that in the case of land leased to a public entity for recreational purposes or in which a public entity has been

granted an easement or other rights to use land for recreational purposes, such land shall not be considered to be land upon which a business or commercial enterprise is being carried on.

HISTORY: Source: L. 69: R&RE, p. 412, § 1. C.R.S. 1963: § 62-4-4 .L. 88: (1)(b) and (1)(d) amended, p. 1182, § 3, effective May 29 .L. 97: (1)(c) amended, p. 54, § 5, effective March 21. L. 2006: (1)(c) amended, p. 21, § 2, effective March 8.

Colo. Rev. Stat. § 33-41-105. Article not to create liability or relieve obligation

(1) Nothing in this article shall be construed to:

(a) Create, enlarge, or affect in any manner any liability for willful or malicious failure to guard or warn against a known dangerous condition, use, structure, or activity likely to cause harm, or for injury suffered by any person in any case where the owner of land charges for that person to enter or go on the land for the recreational use thereof;

(b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this article to exercise care in his use of such land and in his activities thereon or from the legal consequences of failure to employ such care;

(c) Limit any liability of any owner to any person for damages resulting from any occurrence which took place prior to January 1, 1970.

HISTORY: Source: L. 69: R&RE, p. 412, § 1. C.R.S. 1963: § 62-4-5.

Colo. Rev. Stat. § 33-41-105.5. Prevailing party – attorney fees and costs

The prevailing party in any civil action by a recreational user for damages against a landowner who allows the use of the landowner's property for public recreational purposes shall recover the costs of the action together with reasonable attorney fees as determined by the court.

HISTORY: Source: L. 97: Entire section added, p. 54, § 6, effective March 21.

Colo. Rev. Stat. § 33-41-106. Ownership of recreational area by another state

No other state of the United States, or agency or political subdivision thereof, shall acquire, own, or operate any land or interest therein in the state of Colorado for park or recreational purposes, except under the terms of an interstate compact.

HISTORY: Source: L. 75: Entire section added, p. 1335, § 1, effective May 22.

Colo. Rev. Stat. § 33-44-101. Short title

This article shall be known and may be cited as the "Ski Safety Act of 1979".

HISTORY: Source: L. 79: Entire article added, p. 1237, § 1, effective July 1.

Colo. Rev. Stat. § 33-44-102. Legislative declaration

The general assembly hereby finds and declares that it is in the interest of the state of Colorado to establish reasonable safety standards for the operation of ski areas and for the skiers using them. Realizing the dangers that inhere in the sport of skiing, regardless of any and all reasonable safety measures which can be employed, the purpose of this article is to supplement the passenger tramway safety provisions of part 7 of article 5 of title 25, C.R.S.; to further define the legal responsibilities of ski area operators and their agents and employees; to define the responsibilities of skiers using such ski areas; and to define the rights and liabilities existing between the skier and the ski area operator and between skiers.

HISTORY: Source: L. 79: Entire article added, p. 1237, § 1, effective July 1.

Colo. Rev. Stat. § 33-44-103. Definitions

As used in this article, unless the context otherwise requires:

- (1) "Base area lift" means any passenger tramway which skiers ordinarily use without first using some other passenger tramway.
- (2) "Competitor" means a skier actually engaged in competition, a special event, or training or practicing for competition or a special event on any portion of the area made available by the ski area operator.
- (3) "Conditions of ordinary visibility" means daylight and, where applicable, nighttime in nonprecipitating weather.
- (3.1) "Extreme terrain" means any place within the ski area boundary that contains cliffs with a minimum twenty-foot rise over a fifteen-foot run, and slopes with a minimum fifty-degree average pitch over a one-hundred-foot run.
- (3.3) "Freestyle terrain" includes, but is not limited to, terrain parks and terrain park features such as jumps, rails, fun boxes, and all other constructed and natural features, half-pipes, quarter-pipes, and freestyle-bump terrain.
- (3.5) "Inherent dangers and risks of skiing" means those dangers or conditions that are part of the sport of skiing, including changing weather conditions; snow conditions as they exist or may change, such as ice, hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; surface or subsurface conditions such as bare spots, forest growth, rocks, stumps, streambeds, cliffs, extreme terrain, and trees, or other natural objects, and collisions with such natural objects; impact with lift towers, signs, posts, fences or enclosures, hydrants, water pipes, or other man-made structures and their components; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including but not limited to roads, freestyle terrain, jumps, and catwalks or other terrain modifications; collisions with other skiers; and the failure of skiers to ski within their own abilities. The term "inherent dangers and risks of skiing" does not include the negligence of a ski area operator as set forth in [section 33-44-104 \(2\)](#). Nothing in this section shall be construed to limit the liability of the ski area operator for injury caused by the use or operation of ski lifts.
- (4) "Passenger" means any person who is lawfully using any passenger tramway.

(5) "Passenger tramway" means a device as defined in [section 25-5-702 \(4\), C.R.S.](#)

(6) "Ski area" means all ski slopes or trails and all other places within the ski area boundary, marked in accordance with [section 33-44-107 \(6\)](#), under the control of a ski area operator and administered as a single enterprise within this state.

(7) "Ski area operator" means an "area operator" as defined in [section 25-5-702 \(1\), C.R.S.](#), and any person, partnership, corporation, or other commercial entity having operational responsibility for any ski areas, including an agency of this state or a political subdivision thereof.

(8) "Skier" means any person using a ski area for the purpose of skiing, which includes, without limitation, sliding downhill or jumping on snow or ice on skis, a toboggan, a sled, a tube, a snowbike, a snowboard, or any other device; or for the purpose of using any of the facilities of the ski area, including but not limited to ski slopes and trails.

(9) "Ski slopes or trails" means all ski slopes or trails and adjoining skiable terrain, including all their edges and features, and those areas designated by the ski area operator to be used by skiers for any of the purposes enumerated in subsection (8) of this section. Such designation shall be set forth on trail maps, if provided, and designated by signs indicating to the skiing public the intent that such areas be used by skiers for the purpose of skiing. Nothing in this subsection (9) or in subsection (8) of this section, however, shall imply that ski slopes or trails may not be restricted for use by persons using skis only or for use by persons using any other device described in subsection (8) of this section.

HISTORY: Source: L. 79: Entire article added, p. 1238, § 1, effective July 1. L. 90: (3.5) added and (8) amended, p. 1540, § 2, effective July 1. L. 95: (7) amended, p. 1107, § 51, effective May 31. L. 2004: (2), (3.5), (6), (8), and (9) amended and (3.1) and (3.3) added, p. 1382, § 1, effective May 28.

Colo. Rev. Stat. § 33-44-104. Negligence – civil actions

(1) A violation of any requirement of this article shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of the person violating such requirement.

(2) A violation by a ski area operator of any requirement of this article or any rule or regulation promulgated by the passenger tramway safety board pursuant to [section 25-5-704 \(1\) \(a\), C.R.S.](#), shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of such operator.

(3) All rules adopted or amended by the passenger tramway safety board on or after July 1, 1979, shall be subject to [sections 24-4-103 \(8\) \(c\)](#) and (8) (d) and [24-34-104 \(9\) \(b\) \(II\), C.R.S.](#)

HISTORY: Source: L. 79: Entire article added, p. 1238, § 1, effective July 1. L. 80: (3) amended, p. 789, § 28, effective June 5. L. 81: (3) amended, p. 1179, § 10, effective July 1. L. 94: (2) amended, p. 1644, § 74, effective May 31.

Colo. Rev. Stat. § 33-44-105. Duties of passengers

(1) No passenger shall board a passenger tramway if he does not have sufficient physical dexterity, ability, and knowledge to negotiate or use such facility safely or until such

passenger has asked for and received information sufficient to enable him to use the equipment safely. A passenger is required to follow any written or verbal instructions that are given to him regarding the use of the passenger tramway.

(2) No passenger shall:

(a) Embark upon or disembark from a passenger tramway except at a designated area except in the event of a stoppage of the passenger tramway (and then only under the supervision of the operator) or unless reasonably necessary in the event of an emergency to prevent injury to the passenger or others;

(b) Throw or expel any object from any passenger tramway while riding on such device, except as permitted by the operator;

(c) Act, while riding on a passenger tramway, in any manner that may interfere with proper or safe operation of such passenger tramway;

(d) Engage in any type of conduct that may contribute to or cause injury to any person;

(e) Place in an uphill track of a J-bar, T-bar, platter pull, rope tow, or any other surface lift any object that could cause another skier to fall;

(f) Embark upon a passenger tramway marked as closed;

(g) Disobey any instructions posted in accordance with this article or any verbal instructions by the ski area operator regarding the proper or safe use of a passenger tramway unless such verbal instructions are contrary to this article or the rules promulgated under it, or contrary to posted instructions.

HISTORY: Source: L. 79: Entire article added, p. 1239, § 1, effective July 1.

Colo. Rev. Stat. § 33-44-106. Duties of operators - signs

(1) Each ski area operator shall maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers. Signs shall be prominently placed on each passenger tramway readable in conditions of ordinary visibility and, where applicable, adequately lighted for nighttime passengers. Signs shall be posted as follows:

(a) At or near the loading point of each passenger tramway, regardless of the type, advising that any person not familiar with the operation of the device shall ask the operator of the device for assistance and instruction;

(b) At the interior of each two-car and multicar passenger tramway, showing:

(I) The maximum capacity in pounds of the car and the maximum number of passengers allowed;

(II) Instructions for procedures in emergencies;

(c) In a conspicuous place at each loading area of two-car and multicar passenger tramways, stating the maximum capacity in pounds of the car and the maximum number of passengers allowed;

(d) At all chair lifts, stating the following:

(I) "Prepare to Unload", which shall be located not less than fifty feet ahead of the unloading area;

(II) "Keep Ski Tips Up", which shall be located ahead of any point where the skis may come in contact with a platform or the snow surface;

(III) "Unload Here", which shall be located at the point designated for unloading;

(IV) "Safety Gate", which shall be located where applicable;

(V) "Remove Pole Straps from Wrists", which shall be located prominently at each loading area;

(VI) "Check for Loose Clothing and Equipment", which shall be located before the "Prepare to Unload" sign;

(e) At all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, stating the following:

(I) "Remove Pole Straps from Wrists", which shall be placed at or near the loading area;

(II) "Stay in Tracks", "Unload Here", and "Safety Gate", which shall be located where applicable;

(III) "Prepare to Unload", which shall be located not less than fifty feet ahead of each unloading area;

(f) Near the boarding area of all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, advising passengers to check to be certain that clothing, scarves, and hair will not become entangled with the lift;

(g) At or near the boarding area of all lifts, regarding the requirements of [section 33-44-109 \(6\)](#).

(2) Other signs not specified by subsection (1) of this section may be posted at the discretion of the ski area operator.

(3) The ski area operator, before opening the passenger tramway to the public each day, shall inspect such passenger tramway for the presence and visibility of the signs required by subsection (1) of this section.

(4) The extent of the responsibility of the ski area operator under this section shall be to post and maintain such signs as are required by subsection (1) of this section in such condition that they may be viewed during conditions of ordinary visibility. Evidence that signs required by subsection (1) of this section were present, visible, and readable where required at the beginning of the passenger tramway operation on any given day raises a presumption that all passengers using said devices have seen and understood said signs.

HISTORY: Source: L. 79: Entire article added, p. 1240, § 1, effective July 1.

Colo. Rev. Stat. § 33-44-107. Duties of ski area operators – signs and notices required for skiers' information

(1) Each ski area operator shall maintain a sign and marking system as set forth in this section in addition to that required by [section 33-44-106](#). All signs required by this section shall be maintained so as to be readable and recognizable under conditions of ordinary visibility.

(2) A sign shall be placed in such a position as to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift depicting and explaining signs and symbols which the skier may encounter at the ski area as follows:

(a) The ski area's least difficult trails and slopes, designated by a green circle and the word "easiest";

(b) The ski area's most difficult trails and slopes, designated by a black diamond and the words "most difficult";

(c) The ski area's trails and slopes which have a degree of difficulty that falls between the green circle and the black diamond designation, designated by a blue square and the words "more difficult";

(d) The ski area's extreme terrain shall be signed at the commonly used access designated with two black diamonds containing the letters "E" in one and "X" in the other in white and the words "extreme terrain". The ski area's specified freestyle terrain areas shall be designated with an orange oval.

(e) Closed trails or slopes, designated by an octagonal-shaped sign with a red border around a white interior containing a black figure in the shape of a skier with a black band running diagonally across the sign from the upper right-hand side to the lower left-hand side and with the word "Closed" printed beneath the emblem.

(3) If applicable, a sign shall be placed at or near the loading point of each passenger tramway, as follows:

"WARNING: This lift services (most difficult) or (most difficult and more difficult) or (more difficult) slopes only."

(4) If a particular trail or slope or portion of a trail or slope is closed to the public by a ski area operator, such operator shall place a sign notifying the public of that fact at each identified entrance of each portion of the trail or slope involved. Alternatively, such a trail or slope or portion thereof may be closed with ropes or fences.

(5) The ski area operator shall place a sign at or near the beginning of each trail or slope, which sign shall contain the appropriate symbol of the relative degree of difficulty of that particular trail or slope as set forth by subsection (2) of this section. This requirement shall not apply to a slope or trail designated "easiest" which to a skier is substantially visible in its entirety under conditions of ordinary visibility prior to his beginning to ski the same.

(6) The ski area operator shall mark its ski area boundaries in a fashion readily

visible to skiers under conditions of ordinary visibility. Where the owner of land adjoining a ski area closes all or part of his land and so advises the ski area operator, such portions of the boundary shall be signed as required by paragraph (e) of subsection (2) of this section. This requirement shall not apply in heavily wooded areas or other non-skiable terrain.

(7) The ski area operator shall mark hydrants, water pipes, and all other man-made structures on slopes and trails which are not readily visible to skiers under conditions of ordinary visibility from a distance of at least one hundred feet and shall adequately and appropriately cover such obstructions with a shock-absorbent material that will lessen injuries. Any type of marker shall be sufficient, including but not limited to wooden poles, flags, or signs, if the marker is visible from a distance of one hundred feet and if the marker itself does not constitute a serious hazard to skiers. Variations in steepness or terrain, whether natural or as a result of slope design or snowmaking or grooming operations, including but not limited to roads and catwalks or other terrain modifications, are not man-made structures, as that term is used in this article.

(8) (a) Each ski area operator shall post and maintain signs which contain the warning notice specified in paragraph (c) of this subsection (8). Such signs shall be placed in a clearly visible location at the ski area where the lift tickets and ski school lessons are sold and in such a position to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift. Each sign shall be no smaller than three feet by three feet. Each sign shall be white with black and red letters as specified in this paragraph (a). The words "WARNING" shall appear on the sign in red letters. The warning notice specified in paragraph (c) of this subsection (8) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height.

(b) Every ski lift ticket sold or made available for sale to skiers by any ski area operator shall contain in clearly readable print the warning notice specified in paragraph (c) of this subsection (8).

(c) The signs described in paragraph (a) of this subsection (8) and the lift tickets described in paragraph (b) of this subsection (8) shall contain the following warning notice: WARNING Under Colorado law, a skier assumes the risk of any injury to person or property resulting from any of the inherent dangers and risks of skiing and may not recover from any ski area operator for any injury resulting from any of the inherent dangers and risks of skiing, including: Changing weather conditions; existing and changing snow conditions; bare spots; rocks; stumps; trees; collisions with natural objects, man-made objects, or other skiers; variations in terrain; and the failure of skiers to ski within their own abilities.

HISTORY: Source: L. 79: Entire article added, pp. 1242, 1245, § 1, 1, effective July 1. L. 90: (2)(d) and (7) amended and (8) added, p. 1541, § 3, effective July 1. L. 2004: (2)(d) amended, p. 1383, § 2, effective May 28.

Colo. Rev. Stat. § 33-44-108. Ski area operators – additional duties

(1) Any motorized snow-grooming vehicle shall be equipped with a light visible at any time the vehicle is moving on or in the vicinity of a ski slope or trail.

(2) Whenever maintenance equipment is being employed to maintain or groom any ski slope or trail while such ski slope or trail is open to the public, the ski area operator shall

place or cause to be placed a conspicuous notice to that effect at or near the top of that ski slope or trail. This requirement shall not apply to maintenance equipment transiting to or from a grooming project.

(3) All snowmobiles operated on the ski slopes or trails of a ski area shall be equipped with at least the following: One lighted headlamp, one lighted red tail lamp, a brake system maintained in operable condition, and a fluorescent flag at least forty square inches mounted at least six feet above the bottom of the tracks.

(4) The ski area operator shall have no duty arising out of its status as a ski area operator to any skier skiing beyond the area boundaries marked as required by [section 33-44-107 \(6\)](#).

(5) The ski area operator, upon finding a person skiing in a careless and reckless manner, may revoke that person's skiing privileges. This subsection (5) shall not be construed to create an affirmative duty on the part of the ski area operator to protect skiers from their own or from another skier's carelessness or recklessness.

HISTORY: Source: L. 79: Entire article added, p. 1242, § 1, effective July 1. L. 90: (5) amended, p. 1542, § 4, effective July 1. L. 2004: (2) amended, p. 1384, § 3, effective May 28.

Colo. Rev. Stat. § 33-44-109. Duties of skiers - penalties

(1) Each skier solely has the responsibility for knowing the range of his own ability to negotiate any ski slope or trail and to ski within the limits of such ability. Each skier expressly accepts and assumes the risk of and all legal responsibility for any injury to person or property resulting from any of the inherent dangers and risks of skiing; except that a skier is not precluded under this article from suing another skier for any injury to person or property resulting from such other skier's acts or omissions. Notwithstanding any provision of law or statute to the contrary, the risk of a skier/skier collision is neither an inherent risk nor a risk assumed by a skier in an action by one skier against another.

(2) Each skier has the duty to maintain control of his speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, the primary duty shall be on the person skiing downhill to avoid collision with any person or objects below him.

(3) No skier shall ski on a ski slope or trail that has been posted as "Closed" pursuant to [section 33-44-107 \(2\) \(e\)](#) and (4).

(4) Each skier shall stay clear of snow-grooming equipment, all vehicles, lift towers, signs, and any other equipment on the ski slopes and trails.

(5) Each skier has the duty to heed all posted information and other warnings and to refrain from acting in a manner which may cause or contribute to the injury of the skier or others. Each skier shall be presumed to have seen and understood all information posted in accordance with this article near base area lifts, on the passenger tramways, and on such ski slopes or trails as he is skiing. Under conditions of decreased visibility, the duty is on the skier to locate and ascertain the meaning of all signs posted in accordance with [sections 33-44-106](#) and [33-44-107](#).

(6) Each ski or snowboard used by a skier while skiing shall be equipped with a strap or

other device capable of stopping the ski or snowboard should the ski or snowboard become unattached from the skier. This requirement shall not apply to cross country skis.

(7) No skier shall cross the uphill track of a J-bar, T-bar, platter pull, or rope tow except at locations designated by the operator; nor shall a skier place any object in such an uphill track.

(8) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, the skier shall have the duty of avoiding moving skiers already on the ski slope or trail.

(9) No person shall move uphill on any passenger tramway or use any ski slope or trail while such person's ability to do so is impaired by the consumption of alcohol or by the use of any controlled substance, as defined in [section 12-22-303 \(7\), C.R.S.](#), or other drug or while such person is under the influence of alcohol or any controlled substance, as defined in [section 12-22-303 \(7\), C.R.S.](#), or other drug.

(10) No skier involved in a collision with another skier or person in which an injury results shall leave the vicinity of the collision before giving his or her name and current address to an employee of the ski area operator or a member of the ski patrol, except for the purpose of securing aid for a person injured in the collision; in which event the person so leaving the scene of the collision shall give his or her name and current address as required by this subsection (10) after securing such aid.

(11) No person shall knowingly enter upon public or private lands from an adjoining ski area when such land has been closed by its owner and so posted by the owner or by the ski area operator pursuant to [section 33-44-107 \(6\)](#).

(12) Any person who violates any of the provisions of subsection (3), (9), (10), or (11) of this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars.

HISTORY: Source: L. 79: Entire article added, p. 1243, § 1, effective July 1. L. 82: (9) amended, p. 255, § 17, effective May 3 .L. 90: (1) and (2) amended, p. 1542, § 5, effective July 1. L. 2004: (6) and (10) amended, p. 1384, § 4, effective May 28 .L. 2006: (12) amended, p. 130, § 1, effective July 1.

Colo. Rev. Stat. § 33-44-110. Competition and freestyle terrain

(1) The ski area operator shall, prior to use of any portion of the area made available by the ski area operator, allow each competitor an opportunity to reasonably visually inspect the course, venue, or area.

(2) The competitor shall be held to assume the risk of all course, venue, or area conditions, including, but not limited to, weather and snow conditions; obstacles; course or feature location, construction, or layout; freestyle terrain configuration and conditions; and other courses, layouts, or configurations of the area to be used. No liability shall attach to a ski area operator for injury or death to any competitor caused by course, venue, or area conditions that a visual inspection should have revealed or by collisions with other competitors.

HISTORY: Source: L. 79: Entire article added, p. 1243, § 1, effective July 1. L. 2004: Entire section amended, p. 1384, § 5, effective May 28.

Colo. Rev. Stat. § 33-44-111. Statute of limitation

All actions against any ski area operator or its employees brought to recover damages for injury to person or property caused by the maintenance, supervision, or operation of a passenger tramway or a ski area shall be brought within two years after the claim for relief arises and not thereafter.

HISTORY: Source: L. 79: Entire article added, p. 1243, § 1, effective July 1. L. 90: Entire section amended, p. 1543, § 6, effective July 1.

Colo. Rev. Stat. § 33-44-112. Limitation on actions for injury resulting from inherent dangers and risks of skiing

Notwithstanding any judicial decision or any other law or statute to the contrary, including but not limited to [sections 13-21-111](#) and [13-21-111.7, C.R.S.](#), no skier may make any claim against or recover from any ski area operator for injury resulting from any of the inherent dangers and risks of skiing.

HISTORY: Source: L. 90: Entire section added, p. 1543, § 7, effective July 1.

Colo. Rev. Stat. §§ 33-44-113. Limitation on liability

The total amount of damages which may be recovered from a ski area operator by a skier who uses a ski area for the purpose of skiing or for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, a snowboard, or any other device and who is injured, excluding those associated with an injury occurring to a passenger while riding on a passenger tramway, shall not exceed one million dollars, present value, including any derivative claim by any other claimant, which shall not exceed two hundred fifty thousand dollars, present value, and including any claim attributable to noneconomic loss or injury, as defined in [sections 13-21-102.5 \(2\), C.R.S.](#), whether past damages, future damages, or a combination of both, which shall not exceed two hundred fifty thousand dollars. If, upon good cause shown, the court determines that the present value of the amount of lost past earnings and the present value of lost future earnings, or the present value of past medical and other health care costs and the present value of the amount of future medical and other health care costs, or both, when added to the present value of other past damages and the present value of other future damages, would exceed such limitation and that the application of such limitation would be unfair, the court may award damages in excess of the limitation equal to the present value of additional future damages, but only for the loss of such excess future earnings, or such excess future medical and other health care costs, or both. For purposes of this section, "present value" has the same meaning as that set forth in [section 13-64-202 \(7\), C.R.S.](#), and "past damages" has the same meaning as that set forth in [section 13-64-202 \(6\), C.R.S.](#) The existence of the limitations and exceptions thereto provided in this section shall not be disclosed to a jury.

HISTORY: Source: L. 90: Entire section added, p. 1543, § 7, effective July 1.

Colo. Rev. Stat. §§ 33-44-114. Inconsistent law or statute

Insofar as any provision of law or statute is inconsistent with the provisions of this article, this article controls.

HISTORY: Source: L. 90: Entire section added, p. 1543, § 7, effective July 1.

North Carolina Statute

Chapter 99E.

Special Liability Provisions.

Article 1.

Equine Activity Liability.

§ 99E-1. Definitions.

As used in this Article, the term:

- (1) "Engage in an equine activity" means participate in an equine activity, assist a participant in an equine activity, or assist an equine activity sponsor or equine professional. The term "engage in an equine activity" does not include being a spectator at an equine activity, except in cases in which the spectator places himself in an unauthorized area and in immediate proximity to the equine activity.
- (2) "Equine" means a horse, pony, mule, donkey, or hinny.
- (3) "Equine activity" means any activity involving an equine.
- (4) "Equine activity sponsor" means an individual, group, club, partnership, or corporation, whether the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity. The term includes operators and promoters of equine facilities.
- (5) "Equine professional" means a person engaged for compensation in any one or more of the following:
 - a. Instructing a participant.
 - b. Renting an equine to a participant for the purpose of riding, driving, or being a passenger upon the equine.
 - c. Renting equipment or tack to a participant.
 - d. Examining or administering medical treatment to an equine.
 - e. Hooftrimming or placing or replacing horseshoes on an equine.
- (6) "Inherent risks of equine activities" means those dangers or conditions that are an integral part of engaging in an equine activity, including any of the following:
 - a. The possibility of an equine behaving in ways that may result in injury, harm, or death to persons on or around them.
 - b. The unpredictability of an equine's reaction to such things as sounds, sudden movement, unfamiliar objects, persons, or other animals.Inherent risks of equine activities does not include a collision or accident involving a motor vehicle.
- (7) "Participant" means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity. (1997-376, s. 1.)

§ 99E-2. Liability.

(a) Except as provided in subsection (b) of this section, an equine activity sponsor, an equine professional, or any other person engaged in an equine activity, including a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities and, except as provided in subsection (b) of this section, no participant or participant's representative shall maintain an action against or recover from an equine activity sponsor, an equine professional, or any other person engaged in an equine activity for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of equine activities.

(b) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person engaged in an equine activity if the equine activity sponsor, equine professional, or person engaged in an equine activity does any one or more of the following:

- (1) Provides the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such faulty equipment or tack proximately caused the injury, damage, or death.
- (2) Provides the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity or to safely manage the particular equine.
- (3) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission proximately caused the injury, damage, or death.
- (4) Commits any other act of negligence or omission that proximately caused the injury, damage, or death.

(c) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person engaged in an equine activity under liability provisions as set forth in the products liability laws. (1997-376, s. 1.)

§ 99E-3. Warning required.

(a) Every equine professional and every equine activity sponsor shall post and maintain signs which contain the warning notice specified in subsection (b) of this section. The signs required by this section shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional or the equine activity sponsor conducts equine activities. The warning notice specified in subsection (b) of this section shall be designed by the Department of Agriculture and Consumer Services and shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional or by an equine activity sponsor for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's or the equine activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (b) of this section.

(b) The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

"WARNING

Under North Carolina law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting exclusively from the inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes."

(c) Failure to comply with the requirements concerning warning signs and notices provided in this Article shall prevent an equine activity sponsor or equine professional from invoking the privileges of immunity provided by this Article. (1997-376, s. 1.)

§§ 99E-4 through 99E-9. Reserved for future codification purposes.

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Article 4.

Agritourism Activity Liability.

§ 99E-30. Definitions.

As used in this Article, the following terms mean:

- (1) Agritourism activity. – Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.
- (2) Agritourism professional. – Any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

- (3) Inherent risks of agritourism activity. – Those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions, natural conditions of land, vegetation, and waters, the behavior of wild or domestic animals, and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.
- (4) Participant. – Any person, other than the agritourism professional, who engages in an agritourism activity.
- (5) Person. – An individual, fiduciary, firm, association, partnership, limited liability company, corporation, unit of government, or any other group acting as a unit. (2005-236, s. 1.)

§ 99E-31. Liability.

(a) Except as provided in subsection (b) of this section, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in G.S. 99E-32 is posted as required and, except as provided in subsection (b) of this section, no participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities. In any action for damages against an agritourism professional for agritourism activity, the agritourism professional must plead the affirmative defense of assumption of the risk of agritourism activity by the participant.

(b) Nothing in subsection (a) of this section prevents or limits the liability of an agritourism professional if the agritourism professional does any one or more of the following:

- (1) Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant.
- (2) Has actual knowledge or reasonably should have known of a dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant.

(c) Nothing in subsection (a) of this section prevents or limits the liability of an agritourism professional under liability provisions as set forth in Chapter 99B of the General Statutes.

(d) Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law. (2005-236, s. 1.)

§ 99E-32. Warning required.

(a) Every agritourism professional must post and maintain signs that contain the warning notice specified in subsection (b) of this section. The sign must be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice must consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, must contain in clearly readable print the warning notice specified in subsection (b) of this section.

(b) The signs and contracts described in subsection (a) of this section must contain the following notice of warning:

"WARNING

Under North Carolina law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

(c) Failure to comply with the requirements concerning warning signs and notices provided in this subsection will prevent an agritourism professional from invoking the privileges of immunity provided by this Article. (2005-236, s. 1.)

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