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States' Recreational Use Statutes

State of Colorado

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States' Recreational Use Statutes

STATE OF COLORADO

§ 33-41-101 to § 33-41-106

Current through the First Regular Session of the Sixty-Sixth General Assembly (2007)

§ 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.

§ 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.

§ 33-41-103. 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.

(2)(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 therefor, 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 landowner 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.

§ 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.

§ 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.

§ 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.

§ 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.