

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

DRAFT
9.11.08

BILL 2

LLS NO. 09-0122.01 Duane Gall

INTERIM COMMITTEE BILL

**Interim Committee on Wildfire Issues
in Wild Land-Urban Interface Areas**

SHORT TITLE: "Good Samaritan Law Voluntr Firefighters"

A BILL FOR AN ACT

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

Bill Summary

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

Interim Committee on Wildfire Issues in Wild Land-Urban Interface Areas. Enacts "good samaritan" civil immunity provisions for the benefit of:

- Fire departments and other entities that donate surplus firefighting equipment for later use; and
- Volunteer firefighters, their commanders, and the organizations that employ them in connection with fires

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

and other emergencies.

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 THE FOLLOWING NEW
4 SECTIONS to read:

5 **13-21-113.3. Donation of firefighting equipment - exemption**
6 **from civil and criminal liability - definition.** (1) A FIRE DEPARTMENT
7 OR OTHER PERSON OR ENTITY THAT DONATES SURPLUS FIREFIGHTING
8 EQUIPMENT TO A FIRE DEPARTMENT SHALL NOT BE LIABLE FOR DAMAGES
9 IN ANY CIVIL ACTION OR SUBJECT TO PROSECUTION IN ANY CRIMINAL
10 PROCEEDING RESULTING FROM THE NATURE, AGE, CONDITION, OR
11 PACKAGING OF SUCH EQUIPMENT; EXCEPT THAT THIS EXEMPTION SHALL
12 NOT APPLY TO THE WILLFUL, WANTON, OR RECKLESS ACTS OF DONORS
13 THAT RESULT IN INJURY TO RECIPIENTS OF SUCH EQUIPMENT.

14 (2) AS USED IN THIS SECTION:

15 (a) "FIRE DEPARTMENT" HAS THE MEANING SET FORTH IN SECTION
16 24-33.5-1202, C.R.S., AND INCLUDES A FIRE DEPARTMENT THAT USES PAID
17 FIREFIGHTERS, VOLUNTEER FIREFIGHTERS, OR BOTH.

18 (b) "FIREFIGHTING EQUIPMENT" MEANS ANY AND ALL EQUIPMENT
19 DESIGNED FOR OR TYPICALLY USED IN THE PREVENTION AND SUPPRESSION
20 OF FIRE, THE PROTECTION OF FIREFIGHTERS, OR THE RESCUE AND
21 EXTRICATION OF VICTIMS OF FIRE OR OTHER EMERGENCIES, INCLUDING
22 WITHOUT LIMITATION HOSES, FIRE TRUCKS, RESCUE VEHICLES,
23 EXTRICATION EQUIPMENT, PROTECTIVE CLOTHING, AND BREATHING
24 APPARATUS.

25 (3) A FIRE DEPARTMENT THAT RECEIVES DONATED FIREFIGHTING

1 EQUIPMENT PURSUANT TO THIS SECTION SHALL NOT SELL OR OFFER TO
2 SELL ANY SUCH DONATED EQUIPMENT. THIS PROHIBITION SHALL NOT
3 AFFECT THE TRANSFER OF SUCH DONATED EQUIPMENT, WITHOUT
4 CONTEMPLATION OF REMUNERATION, BETWEEN FIRE DEPARTMENTS FOR
5 FUTURE USE.

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

9 **13-21-113.7. Immunity of volunteer firefighters and their**
10 **employers or organizations - definition.** (1) A VOLUNTEER
11 FIREFIGHTER, AS DEFINED IN SECTION 31-30-1102, C.R.S., WHO, IN GOOD
12 FAITH, TAKES PART IN FIREFIGHTING EFFORTS OR PROVIDES EMERGENCY
13 CARE, RESCUE, ASSISTANCE, OR RECOVERY SERVICES AT THE SCENE OF AN
14 EMERGENCY AND ANY PERSON WHO, IN GOOD FAITH, COMMANDS, DIRECTS,
15 EMPLOYS, SPONSORS, OR REPRESENTS ANY SUCH VOLUNTEER FIREFIGHTER
16 SHALL NOT BE LIABLE FOR CIVIL DAMAGES AS A RESULT OF AN ACT OR
17 OMISSION BY SUCH VOLUNTEER FIREFIGHTER OR OTHER PERSON IN
18 CONNECTION WITH THE EMERGENCY.

19 (2) AS USED IN THIS SECTION, "EMERGENCY" MEANS A FIRE, FIRE
20 ALARM RESPONSE, MOTOR VEHICLE ACCIDENT, RESCUE CALL, HAZARDOUS
21 MATERIALS INCIDENT, EARTHQUAKE, FLOOD, SEVERE WEATHER EVENT,
22 TERRORIST ATTACK, OUTBREAK OF A HARMFUL BIOLOGICAL AGENT OR
23 INFECTIOUS DISEASE, OR ANY OTHER INCIDENT TO WHICH A RESPONSE BY
24 A FIRE DEPARTMENT IS APPROPRIATE OR REQUESTED.

25 **SECTION 2.** 24-32-2605, Colorado Revised Statutes, is amended
26 BY THE ADDITION OF A NEW SUBSECTION to read:

27 **24-32-2605. Immunity.** (1.7) NO STATE COMMISSION OR AGENCY

1 OR COUNTY OR MUNICIPAL AGENCY, INCLUDING LOCAL EMERGENCY
2 PLANNING COMMITTEES, INCIDENT MANAGEMENT TEAMS, CITIZEN CORPS
3 COUNCILS, CITIZEN EMERGENCY RESPONSE TEAM, MEDICAL RESERVE
4 CORPS, FIRE PROTECTION DISTRICTS, AND VOLUNTEER FIRE, AMBULANCE,
5 OR EMERGENCY SERVICE AND RESCUE GROUPS, NOR THEIR OFFICERS,
6 OFFICIALS, DIRECTORS, EMPLOYEES, TRAINEES, OR VOLUNTEERS, WHEN
7 ENGAGED IN PLANNING, TRAINING, OR RESPONSE ACTIVITIES REGARDING
8 A NATURAL DISASTER, HAZARDOUS MATERIAL RELEASE, PUBLIC HEALTH
9 EMERGENCY, OR ACT OF TERRORISM OR THE THREAT OF ANY SUCH
10 DISASTER, RELEASE, EMERGENCY, OR ACT, SHALL BE LIABLE FOR THE
11 DEATH OF OR INJURY TO ANY PERSON OR FOR THE LOSS OF OR DAMAGE TO
12 PROPERTY OR THE ENVIRONMENT EXCEPT FOR WILLFUL AND WANTON ACTS
13 OR OMISSIONS.

14 **SECTION 3. Effective date.** This act shall take effect at 12:01
15 a.m. on the day following the expiration of the ninety-day period after
16 final adjournment of the general assembly that is allowed for submitting
17 a referendum petition pursuant to article V, section 1 (3) of the state
18 constitution, (August 4, 2009, if adjournment sine die is on May 6, 2009);
19 except that, if a referendum petition is filed against this act or an item,
20 section, or part of this act within such period, then the act, item, section,
21 or part, if approved by the people, shall take effect on the date of the
22 official declaration of the vote thereon by proclamation of the governor.
23 <{*Would the committee prefer a more immediate effective date and a*
24 *safety clause? -- DHG*}>