

## CHAPTER 233

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**GOVERNMENT - STATE**


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**HOUSE BILL 16-1040**

BY REPRESENTATIVE(S) Singer, Becker K., Hamner, Duran, Fields, Ginal, Kagan, Klingenschmitt, Lebsock, Lee, Mitsch Bush, Pettersen, Van Winkle, Vigil, Winter, Young, Hullinghorst;  
 also SENATOR(S) Holbert, Carroll, Crowder, Grantham, Heath, Jones, Lambert, Martinez Humenik, Merrifield, Neville T., Newell, Roberts, Todd, Woods, Cadman.

**AN ACT**

**CONCERNING AUXILIARY EMERGENCY COMMUNICATIONS IN THE STATE, AND, IN CONNECTION THEREWITH, ESTABLISHING THE AUXILIARY EMERGENCY COMMUNICATIONS UNIT IN THE OFFICE OF EMERGENCY MANAGEMENT IN THE DEPARTMENT OF PUBLIC SAFETY, AND MAKING AN APPROPRIATION.**

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

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) Amateur radio operators have served their communities, the state, and the nation for over seventy-five years providing emergency and disaster communications;

(b) Following World War II, the federal government recognized the need for trained radio operators to assist with civil defense in the event of war and created a branch within the amateur radio service, the Radio Amateur Civil Emergency Service (RACES);

(c) The American Radio Relay League, the national association for radio amateurs, created the Amateur Radio Emergency Service (ARES) in 1935 and, since that time, ARES has been the only national organization recruiting and training amateur radio operators to serve in times of emergency;

(d) ARES is well established and well organized within Colorado;

(e) In many communities ARES and RACES units were combined with ARES

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

members assuming the role of RACES operators when local emergencies were declared. In other communities, separate ARES and RACES organizations were established, thereby diluting the available resources and creating confusion or conflict as to roles and responsibilities.

(f) Communication failures have been a defining element of recent disasters, both natural and manmade;

(g) The September 11, 2001, attacks on the World Trade Center in New York City, Hurricane Katrina, the 2003 North American blackout, and Hurricane Sandy in 2012 were all disasters where amateur radio provided key communication links when other communication facilities failed;

(h) The United States congress recognized the importance of amateur radio communications as a part of the national disaster response framework in 2012 when it directed the Federal Communications Commission (FCC) to conduct a study on the uses and capabilities of amateur radio service communications in emergencies and disaster relief;

(i) The FCC report, GN docket no. 12-91 dated August 16, 2012, concluded that "amateur radio can be of great value in emergency response situations. Amateur radio carries with it a wide range of advantages that allow it to supplement other emergency communications activities during disasters. This has been demonstrated time and again in a wide variety of emergency and disaster situations."

(j) The FCC report acknowledged that the "value [of amateur radio] could potentially be increased, however, through cooperation among DHS [the United States department of homeland security], public safety, emergency management, and amateur radio communications associations and groups to develop future training protocols." The FCC recommended to congress that DHS work with state, local, and tribal authorities to develop disaster area access policies and qualifications for trained amateur radio operators who provide emergency communications support.

(k) In Colorado, amateur radio operators and, in particular, ARES members have a rich history of providing communication expertise during natural or man-made disasters such as the blizzards of December 2006; the Hayman, North Fork, Four Mile Canyon, High Park, Waldo Canyon, and Black Forest wildfires; and the September 2013 floods;

(l) Today, amateur radio operators assist the division of homeland security and emergency management of the department of public safety; train side-by-side with their professional counterparts in federal, state, and local government entities; and serve as members of local and regional incident management teams;

(m) In recent years amateur radio operators have been called upon by state and local governments to act as communication experts across a broader range of duties and responsibilities that extend beyond traditional amateur radio communication;

(n) While maintaining their traditional roles as amateur radio operators, many of these volunteers assist with the establishment and maintenance of communication

facilities, assist with programming public safety radios during emergencies, and act as radio operators on public safety channels;

(o) During the past year, amateur radio operators have performed tens of thousands of hours of devoted service to the people of Colorado;

(p) While ARES has worked closely and cooperatively with the office of emergency management in the division of homeland security and emergency management, it has done so in a largely informal manner, lacking a formal memorandum of understanding between it and the office;

(q) Emergency preparedness and disaster response across the state would be improved by a comprehensive integrated and unified communications response framework;

(r) The office of emergency communications of the United States department of homeland security (OEC) has provided direct technical assistance to state and local emergency responders and government officials through the development and delivery of training, tools, and onsite assistance to advance public safety interoperable communications capabilities; and

(s) The concept of auxiliary emergency communications (auxcomm) is being deployed nationally under the sponsorship of the OEC, and the framework has been embraced by the office of emergency management.

(2) Having a uniformly trained and credentialed unit of communication volunteers available for disaster response will materially assist emergency preparedness and disaster response efforts across the state. Accordingly, the general assembly hereby finds, declares, and determines that the matters addressed in this act are a matter of statewide concern.

(3) By enacting House Bill 16-1040, the general assembly intends to establish the auxiliary emergency communications unit within the office of emergency management in the division of homeland security and emergency management of the department of public safety as an all-volunteer, unpaid auxiliary unit for the purpose of lending technical and communication assistance to emergency management, firefighting, emergency medical service, search-and-rescue, and law enforcement agencies across the state. The general assembly further intends that the act be liberally construed to promote these objectives.

**SECTION 2.** In Colorado Revised Statutes, **add** 24-33.5-705.5 as follows:

**24-33.5-705.5. Auxiliary emergency communications unit - powers and duties of unit and office of emergency management regarding auxiliary communications - definitions.** (1) AS USED IN THIS SECTION:

(a) "AUXILIARY EMERGENCY COMMUNICATOR" MEANS AN AMATEUR RADIO OPERATOR LICENSED BY THE UNITED STATES FEDERAL COMMUNICATIONS COMMISSION PURSUANT TO 47 CFR 97 WHO MEETS THE TRAINING REQUIREMENTS AND IS CREDENTIALLED BY THE OFFICE. AN AUXILIARY EMERGENCY COMMUNICATOR MEETING THE REQUIREMENTS OF THIS PARAGRAPH (a) SERVES AS AN AUTHORIZED

VOLUNTEER OF THE OFFICE FOR PURPOSES OF ARTICLE 10 OF THIS TITLE.

(b) "DIVISION" MEANS THE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT CREATED IN SECTION 24-33.5-1603.

(c) "OFFICE" MEANS THE OFFICE OF EMERGENCY MANAGEMENT CREATED IN SECTION 24-33.5-705 (1) (a).

(d) "UNIT" MEANS THE AUXILIARY EMERGENCY COMMUNICATIONS UNIT OF THE OFFICE.

(2) THE AUXILIARY EMERGENCY COMMUNICATIONS UNIT IS HEREBY ESTABLISHED WITHIN THE OFFICE. THE UNIT IS IN THE CHARGE OF THE DIRECTOR OF THE OFFICE.

(3) THE UNIT HAS THE FOLLOWING POWERS AND DUTIES:

(a) ESTABLISH PROGRAMS FOR THE TRAINING AND CREDENTIALING OF AUXILIARY EMERGENCY COMMUNICATORS ACROSS THE STATE, WHICH TRAINING AND CREDENTIALING IS DECLARED TO BE A MATTER OF STATEWIDE CONCERN. IN CONNECTION WITH SUCH TRAINING AND CREDENTIALING, THE USE OF THE TERM "AUXILIARY EMERGENCY COMMUNICATIONS" WITHIN THE STATE IS LIMITED TO INDIVIDUALS, ENTITIES, ASSOCIATIONS, AND UNITS OF LOCAL GOVERNMENT THAT HAVE BEEN CERTIFIED BY THE DIRECTOR OF THE OFFICE AS MEETING THE TRAINING AND CREDENTIALING REQUIREMENTS ESTABLISHED BY THE DEPARTMENT FOR AUXILIARY EMERGENCY COMMUNICATORS.

(b) ASSUME ALL OF THE DUTIES AND POSSESS ALL OF THE AUTHORITY AND RESPONSIBILITIES OF THE RADIO AMATEUR CIVIL EMERGENCY SERVICE, REFERRED TO IN THIS SECTION AS "RACES", 47 CFR 97.407, WITHIN THE STATE. ANY REFERENCE TO RACES IN ANY FEDERAL LAW OR REGULATION, AND ANY FEDERAL, STATE, OR LOCAL GOVERNMENT EMERGENCY OR DISASTER PLANS IS TO BE INTERPRETED AS REFERRING TO THE UNIT, AND THE UNIT IS THE SUCCESSOR ENTITY TO ANY STATE RACES ORGANIZATION REFERENCED IN ANY SUCH LAW, REGULATION, OR PLAN. NO OTHER INDIVIDUAL, ENTITY, ASSOCIATION, OR GOVERNMENT AGENCY MAY REPRESENT THAT IT IS A STATE RACES ORGANIZATION.

(c) ENSURE THAT AUXILIARY EMERGENCY COMMUNICATORS ARE AUTHORIZED VOLUNTEERS ENTITLED TO THE PROTECTIONS AND BENEFITS OF PART 8 OF THIS ARTICLE WHEN ASSISTING WITH THE INSTALLATION, MAINTENANCE, OR DEMOLITION OF COMMUNICATION FACILITIES OF ANY COUNTY SHERIFF, LOCAL GOVERNMENT, LOCAL EMERGENCY PLANNING COMMITTEE, OR STATE AGENCY, WHETHER OR NOT SUCH ACTIVITIES OCCUR DURING A DISASTER; EXCEPT THAT THE PROVISIONS OF SECTIONS 24-33.5-825 AND 24-33.5-826 DO NOT APPLY TO A TRAINING EXERCISE, DRILL, OR CLASS WITHOUT THE EXPRESS PRIOR CONSENT AND APPROVAL OF THE VOLUNTEER'S EMPLOYER.

(4) IN CONNECTION WITH THE POWERS AND DUTIES OF THE UNIT AS SPECIFIED IN THIS SECTION, THE DIRECTOR OF THE OFFICE MAY:

(a) DEVELOP AND ISSUE A CREDENTIAL THAT IS RECOGNIZED THROUGHOUT THE STATE FOR THE PURPOSE OF GRANTING ACCESS TO GOVERNMENT FACILITIES,

INCIDENT COMMAND POSTS, AND DISASTER SCENES;

(b) CONDUCT CRIMINAL BACKGROUND INVESTIGATIONS ON CANDIDATES FOR CREDENTIALING AS AUXILIARY EMERGENCY COMMUNICATORS IN ACCORDANCE WITH THE SECURITY NEEDS OF THE DEPARTMENT. THE UNIT MAY DENY CREDENTIALING TO ANY CANDIDATE BASED UPON THE RESULTS OF THAT BACKGROUND CHECK.

(c) REIMBURSE AUXILIARY EMERGENCY COMMUNICATORS FOR NECESSARY TRAVEL AND OTHER REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES, INCLUDING PROJECTS, TRAINING, DRILLS, EXERCISES, AND DISASTER RESPONSE ACTIVITIES;

(d) EXPEND STATE MONEYS, INCLUDING BUT NOT LIMITED TO GRANT MONEYS OR MONEYS OTHERWISE BUDGETED TO THE OFFICE, TO ENHANCE THE COMMUNICATION INFRASTRUCTURE AS NECESSARY TO SUPPLEMENT OR REINFORCE THE EXISTING AMATEUR RADIO SYSTEMS AND NETWORKS WITHIN THE STATE FOR THE PURPOSES OF MAXIMIZING DISASTER PREPAREDNESS AND RESPONSE.

**SECTION 3.** In Colorado Revised Statutes, 24-33.5-802, **amend** (5) as follows:

**24-33.5-802. Definitions.** As used in this part 8, unless the context otherwise requires:

(5) "Emergency volunteer service" means all activities authorized and carried out by a volunteer who is a member of a qualified volunteer organization as directed by a county sheriff, local government, local emergency planning committee, or state agency in the event of disaster OR DURING A TRAINING EXERCISE, DRILL, OR CLASS CONDUCTED IN PREPARATION FOR A DISASTER, WHICH EXERCISE, DRILL, OR CLASS IS ORGANIZED OR UNDER THE DIRECTION OF SUCH COUNTY SHERIFF, LOCAL GOVERNMENT, LOCAL EMERGENCY PLANNING COMMITTEE, OR STATE AGENCY.

**SECTION 4.** In Colorado Revised Statutes, **add** 24-33.5-806.5 as follows:

**24-33.5-806.5. Auxiliary emergency communications unit of the office of emergency management - qualified volunteers - protections and benefits.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 8, ANY CREDENTIALLED MEMBER OF THE AUXILIARY EMERGENCY COMMUNICATIONS UNIT OF THE OFFICE OF EMERGENCY MANAGEMENT CREATED BY SECTION 24-33.5-705 (1) IS A QUALIFIED VOLUNTEER FOR PURPOSES OF THIS PART 8 AND ARTICLE 10 OF THIS TITLE AND IS ELIGIBLE TO RECEIVE THE PROTECTIONS AND BENEFITS SPECIFIED IN THIS PART 8 AND IN ARTICLE 10 OF THIS TITLE.

**SECTION 5.** In Colorado Revised Statutes, 24-33.5-824, **amend** (1) (c) and (2) (a) as follows:

**24-33.5-824. Volunteers - provision of emergency services - protections - benefits.** (1) A volunteer shall be allowed to receive the benefits and protections specified in this part 8 and pursuant to article 10 of this title if the volunteer is determined to be a qualified volunteer pursuant to this section. A volunteer shall be deemed a qualified volunteer if:

(c) The volunteer is called to service through the volunteer organization under the authority of the county sheriff, local government, local emergency planning committee, or state agency to volunteer in a disaster OR DURING A TRAINING EXERCISE, DRILL, OR CLASS CONDUCTED IN PREPARATION FOR A DISASTER, WHICH EXERCISE, DRILL, OR CLASS IS ORGANIZED OR UNDER THE DIRECTION OF SUCH COUNTY SHERIFF, LOCAL GOVERNMENT, LOCAL EMERGENCY PLANNING COMMITTEE, OR STATE AGENCY; EXCEPT THAT THE PROVISIONS OF SECTIONS 24-33.5-825 AND 24-33.5-826 DO NOT APPLY TO A TRAINING EXERCISE, DRILL, OR CLASS WITHOUT THE EXPRESS PRIOR CONSENT AND APPROVAL OF THE VOLUNTEER'S EMPLOYER; and

(2) The executive director of the department or the executive director's designee shall create a system whereby a volunteer may obtain proof to provide to his or her employer that specifies:

(a) The volunteer was called to service by a volunteer organization for the purpose of assisting in a disaster OR DURING A TRAINING EXERCISE, DRILL, OR CLASS CONDUCTED IN PREPARATION FOR A DISASTER, WHICH EXERCISE, DRILL, OR CLASS IS ORGANIZED OR UNDER THE DIRECTION OF SUCH COUNTY SHERIFF, LOCAL GOVERNMENT, LOCAL EMERGENCY PLANNING COMMITTEE, OR STATE AGENCY; EXCEPT THAT THE PROVISIONS OF SECTIONS 24-33.5-825 AND 24-33.5-826 DO NOT APPLY TO A TRAINING EXERCISE, DRILL, OR CLASS WITHOUT THE EXPRESS PRIOR CONSENT AND APPROVAL OF THE VOLUNTEER'S EMPLOYER;

**SECTION 6.** In Colorado Revised Statutes, 24-33.5-827, **amend** (1) (b) as follows:

**24-33.5-827. Procedures.** (1) The office of emergency management shall create procedures for the administration of this part 8. The procedures shall include:

(b) A process to verify that a qualified volunteer provided volunteer services during a disaster OR AN ORGANIZED TRAINING EXERCISE, DRILL, OR CLASS, and a method to allow the volunteer to provide proof of such service to his or her employer pursuant to section 24-33.5-824 (2).

**SECTION 7. Appropriation.** For the 2016-17 state fiscal year, \$60,238 is appropriated to the department of public safety for use by the office of emergency management. This appropriation is from the general fund. To implement this act, the office may use this appropriation for program administration.

**SECTION 8. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 6, 2016