

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0494.01 Michael Dohr x4347

HOUSE BILL 17-1141

HOUSE SPONSORSHIP

Lewis,

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE MALICIOUS DEPRIVATION OF CONSTITUTIONAL**
102 **RIGHTS BY A FEDERAL EMPLOYEE RELATED TO PUBLIC LANDS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

The bill makes it illegal for a person who is a federal employee acting under color of law to take any action:

- ! That deprives a range allotment owner of any property right appurtenant, inherent, or related to the range allotment, including the right to possess, use, dispose of, exclude other from, or defend the range allotment; and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

! For which the deprivation offends due process or is a physical or regulatory taking without the payment of just compensation.

A violation is an unclassified felony punishable by a fine of up to \$500,000 and imprisonment of up to 5 years, or both. An owner who suffers a loss as a result of the person's actions also has a civil right of action to recover damages.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) The livestock sector of the agriculture industry of the state is
5 a critical and significant portion of the agriculture industry of the state
6 and necessary for the continued health, prosperity, and well-being of the
7 people of the state; and

8 (b) A significant number of livestock within the state spend a
9 significant part of their lives on federal range lands.

10 (2) The general assembly further finds that:

11 (a) The United States supreme court has held that stockwater
12 rights, range rights, right-of-ways, and improvements appurtenant to or
13 associated with range allotments are property rights worthy of protection
14 under the fifth amendment of the United States constitution; and

15 (b) Federal employees are required by the fifth amendment and
16 executive order 12630 to consider the takings implications of their
17 decisions and actions on the property rights of ranch or range allotment
18 owners before taking those actions.

19 (3) The general assembly declares that this act is necessary to
20 preserve public safety and welfare.

21 **SECTION 2.** In Colorado Revised Statutes, **add** 18-8-410 as
22 follows:

1 **18-8-410. Malicious deprivation of constitutional rights.** (1) A

2 PERSON WHO IS A FEDERAL EMPLOYEE ACTING UNDER COLOR OF LAW
3 COMMITS DEPRIVATION OF A RANGE ALLOTMENT OWNER'S
4 CONSTITUTIONAL RIGHTS WHEN THE PERSON TAKES ANY ACTION:

5 (a) THAT DEPRIVES THAT RANGE ALLOTMENT OWNER OF ANY
6 PROPERTY RIGHT APPURTENANT, INHERENT, OR RELATED TO THE RANGE
7 ALLOTMENT, INCLUDING THE RIGHT TO POSSESS, USE, DISPOSE OF,
8 EXCLUDE OTHER FROM, OR DEFEND THE RANGE ALLOTMENT; AND

9 (b) FOR WHICH THE DEPRIVATION OFFENDS DUE PROCESS OR IS A
10 PHYSICAL OR REGULATORY TAKING WITHOUT THE PAYMENT OF JUST
11 COMPENSATION.

12 (2) A FEDERAL EMPLOYEE WHO COMMITS DEPRIVATION OF A
13 RANGE ALLOTMENT OWNER'S CONSTITUTIONAL RIGHTS IS DEEMED TO BE
14 ACTING OUTSIDE THE SCOPE OF ANY FEDERALLY DELEGATED AUTHORITY
15 AND, THEREFORE, OUTSIDE THE PROTECTION OF ANY FEDERAL IMMUNITY
16 FROM PROSECUTION, AND THE EMPLOYEE IS SUBJECT TO BOTH A CIVIL
17 ACTION AND CRIMINAL PUNISHMENT UNDER THE LAWS OF THIS STATE.

18 (3) A VIOLATION OF THIS SECTION IS PUNISHABLE AS AN
19 UNCLASSIFIED FELONY CARRYING A FINE OF UP TO FIVE HUNDRED
20 THOUSAND DOLLARS AND UP TO FIVE YEARS IMPRISONMENT, OR BOTH, FOR
21 EACH SEPARATE OFFENSE.

22 (4) A PERSON WHOSE RIGHTS ARE VIOLATED PURSUANT TO
23 SUBSECTION (1) OF THIS SECTION HAS A PRIVATE RIGHT OF ACTION
24 AGAINST THE FEDERAL EMPLOYEE WHO VIOLATED SUBSECTION (1) OF THIS
25 SECTION AND IS ENTITLED TO DAMAGES.

26 **SECTION 3. Potential appropriation.** Pursuant to section
27 2-2-703, C.R.S., any bill that results in a net increase in periods of

1 imprisonment in state correctional facilities must include an appropriation
2 of money that is sufficient to cover any increased capital construction, any
3 operational costs, and increased parole costs that are the result of the bill
4 for the department of corrections in each of the first five years following
5 the effective date of the bill. Because this act may increase periods of
6 imprisonment, this act may require a five-year appropriation.

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