

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

INTRODUCED

LLS NO. 23-0747.02 Christopher McMichael x4775

HOUSE BILL 23-1238

HOUSE SPONSORSHIP

Taggart and Lukens,

SENATE SPONSORSHIP

(None),

House Committees

State, Civic, Military, & Veterans Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTION FOR PERSONS ASSISTING IN VOLUNTEER**
102 **HELICOPTER SEARCH AND RESCUE OPERATIONS.**

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 extends immunity from civil liability for damage or injury, other than that which arises from gross negligence or willful misconduct, to an individual, nonprofit organization, for-profit corporation, private organization, or other person (person), acting as a volunteer, that assists a governmental entity through the use of a helicopter as part of a rescue unit or backcountry search and rescue operations (search and rescue

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

operations) if the person:

- Arranges or operates the helicopter on behalf of the governmental entity that is leading a search and rescue operation;
- Has an agreement with the governmental entity;
- Is, employs, or otherwise contracts with a pilot that is properly licensed to operate the helicopter;
- Meets certain safety and training certifications and requirements; and
- Is in compliance with all requirements of the federal aviation administration.

The bill also establishes criteria that volunteer helicopter pilots and the helicopters used in search and rescue operations must satisfy in order for the volunteer helicopter owner or operator to qualify for immunity under the bill.

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) Colorado residents and visitors enjoy outdoor recreation, and
5 the number of people participating in outdoor and backcountry recreation
6 activities has increased significantly in recent years;

7 (b) Search and rescue calls are at an all-time high as outdoor
8 recreation continues to gain popularity, particularly in Colorado's
9 backcountry areas;

10 (c) Helicopters are an invaluable asset to rescue units and
11 backcountry search and rescue teams that are searching for lost or injured
12 individuals in Colorado's backcountry and rugged outdoor terrain;

13 (d) Helicopters allow rescue units and search and rescue teams to
14 access inaccessible areas and search large areas quickly, thereby
15 increasing the likelihood of a successful search and rescue operation and
16 decreasing the number of volunteers needed;

17 (e) Unlike other states in the Mountain West, Colorado has no

1 dedicated helicopter resources for backcountry search and rescue
2 missions;

3 (f) As such, Colorado has had to rely on privately owned
4 helicopters to conduct many rescue unit or search and rescue missions in
5 the state; however, there have been major market disruptions to helicopter
6 insurance policies in recent years, which has decreased the willingness of
7 private entities to volunteer use of their helicopters for such missions; and

8 (g) Without use of privately owned helicopters in rescue or
9 backcountry search and rescue operations, many Coloradans and visitors
10 will be at risk in the event that they are lost or injured in Colorado's
11 backcountry and outdoor recreation areas.

12 (2) Therefore, the general assembly declares that it is in the best
13 interest of Colorado residents and visitors to the state to provide
14 protection to private individuals and entities that volunteer the use of their
15 helicopters during search and rescue operations by giving them immunity
16 from civil liability while they are assisting and participating in rescue or
17 backcountry search and rescue operations.

18 **SECTION 2.** In Colorado Revised Statutes, 13-21-115.5, **add**
19 (4.5) as follows:

20 **13-21-115.5. Volunteer service act - immunity - exception for**
21 **operation of motor vehicles - exception for helicopter search and**
22 **rescue - short title - legislative declaration - definitions.** (4.5) (a) AS
23 USED IN THIS SUBSECTION (4.5), UNLESS THE CONTEXT OTHERWISE
24 REQUIRES:

25 (I) "BACKCOUNTRY SEARCH AND RESCUE" HAS THE MEANING SET
26 FORTH IN SECTION 33-1-102 (1.3).

27 (II) (A) "GOVERNMENTAL ENTITY" MEANS ANY AUTHORITY,

1 COUNTY, CITY, CITY AND COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL
2 SUBDIVISION OF THE STATE OR ANY TRIBAL GOVERNMENT WITH
3 JURISDICTION IN COLORADO.

4 (B) "GOVERNMENTAL ENTITY" INCLUDES ANY INSTITUTION,
5 DEPARTMENT, AGENCY, OR AUTHORITY OF ANY ENTITY LISTED IN
6 SUBSECTION (4.5)(a)(II)(A) OF THIS SECTION.

7 (III) "RESCUE UNIT" HAS THE MEANING SET FORTH IN SECTION
8 25-3.5-103 (11).

9 (IV) "SEARCH AND RESCUE OPERATION" MEANS THE OPERATION
10 OF A RESCUE UNIT OR BACKCOUNTRY SEARCH AND RESCUE.

11 (V) "VOLUNTEER" MEANS AN INDIVIDUAL, NONPROFIT
12 ORGANIZATION, FOR-PROFIT CORPORATION, PRIVATE ORGANIZATION, OR
13 OTHER PERSON THAT PARTICIPATES AS A VOLUNTEER IN A SEARCH AND
14 RESCUE OPERATION BY ARRANGING OR OPERATING A HELICOPTER FOR USE
15 IN THE SEARCH AND RESCUE OPERATION.

16 (b) A VOLUNTEER IS IMMUNE FROM CIVIL LIABILITY IN ANY ACTION
17 ON THE BASIS OF ANY ACT OR OMISSION OF THE VOLUNTEER RESULTING IN
18 DAMAGE OR INJURY IF:

19 (I) THE VOLUNTEER ARRANGES OR OPERATES A HELICOPTER:

20 (A) FOR THE BENEFIT OF A RESCUE UNIT OR BACKCOUNTRY
21 SEARCH AND RESCUE;

22 (B) ON BEHALF OF A GOVERNMENTAL ENTITY THAT IS LEADING
23 THE RESCUE UNIT OR CONDUCTING THE BACKCOUNTRY SEARCH AND
24 RESCUE;

25 (C) THAT MEETS THE SAFETY AND TRAINING REQUIREMENTS
26 DESCRIBED IN SUBSECTION (4.5)(c)(II) OF THIS SECTION; AND

27 (D) UNDER A MEMORANDUM OF UNDERSTANDING OR OTHER

1 AGREEMENT WITH THE GOVERNMENTAL ENTITY;

2 (II) THE VOLUNTEER IS:

3 (A) A PILOT WHO SATISFIES, OR EMPLOYS OR CONTRACTS WITH

4 ONE OR MORE PILOTS WHO SATISFY, THE REQUIREMENTS SPECIFIED IN

5 SUBSECTION (4.5)(c)(I) OF THIS SECTION; AND

6 (B) IN COMPLIANCE WITH ALL REQUIREMENTS OF THE FEDERAL

7 AVIATION ADMINISTRATION FOR RECENT FLIGHT EXPERIENCE; AND

8 (III) THE DAMAGE OR INJURY WAS NOT CAUSED BY WILLFUL OR

9 CRIMINAL MISCONDUCT, GROSS NEGLIGENCE, OR A CONSCIOUS, FLAGRANT

10 INDIFFERENCE TO THE RIGHTS OR SAFETY OF THE INDIVIDUALS HARMED BY

11 THE VOLUNTEER.

12 (c) (I) A VOLUNTEER THAT OPERATES A HELICOPTER AS PART OF

13 SEARCH AND RESCUE OPERATIONS IN ACCORDANCE WITH THIS SUBSECTION

14 (4.5) MUST:

15 (A) HAVE EXPERIENCE IN MOUNTAINOUS LANDINGS, HIGH

16 ALTITUDE OPERATIONS, CONFINED AREA LANDINGS, AND SNOW

17 OPERATIONS;

18 (B) POSSESS A COMMERCIAL PILOT LICENSE AND INSTRUMENT

19 RATING;

20 (C) HAVE A MINIMUM OF ONE THOUSAND FIVE HUNDRED HOURS OF

21 TOTAL FLIGHT TIME, INCLUDING AT LEAST FIVE HUNDRED HOURS OF

22 MOUNTAINOUS HELICOPTER TIME AND AT LEAST ONE HUNDRED HOURS OF

23 FLIGHT TIME IN THE TYPE OF HELICOPTER USED IN THE SEARCH AND

24 RESCUE OPERATIONS; AND

25 (D) BE CERTIFIED, WITHIN THE LAST TWELVE MONTHS, BY THE

26 HELICOPTER MANUFACTURER'S INSTRUCTOR, A COMPANY CHECK PILOT, OR

27 A FEDERAL AVIATION ASSOCIATION-CERTIFIED AND -RATED FLIGHT

1 INSTRUCTOR TO OPERATE THE HELICOPTER USED IN SEARCH AND RESCUE
2 OPERATIONS.

3 (II) THE OWNER OR OPERATOR OF A HELICOPTER USED IN SEARCH
4 AND RESCUE OPERATIONS MUST ENSURE THAT THE HELICOPTER MEETS THE
5 FOLLOWING SAFETY AND TRAINING REQUIREMENTS:

6 (A) THE HELICOPTER IS CAPABLE OF OPERATION AT THE ALTITUDE,
7 IN THE TERRAIN, AND IN THE WEATHER CONDITIONS NECESSARY FOR THE
8 RESCUE OR SEARCH AND RESCUE OPERATIONS;

9 (B) THE HELICOPTER HAS BEEN USED AS PART OF A TRAINING
10 PROGRAM WITH THE RESCUE UNIT OR BACKCOUNTRY SEARCH AND RESCUE
11 TEAM WITHIN THE TWELVE MONTHS IMMEDIATELY PRECEDING USE OF THE
12 HELICOPTER IN A SEARCH AND RESCUE OPERATION; AND

13 (C) THE HELICOPTER IS OPERATED UNDER A SAFETY MANAGEMENT
14 SYSTEM THAT HAS BEEN APPROVED BY AN INDEPENDENT THIRD PARTY.

15 **SECTION 3. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety.