

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

BILL C

LLS NO. 15-0125.01 Bob Lackner x4350

HOUSE BILL

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HOUSE SPONSORSHIP

Hamner,

SENATE SPONSORSHIP

Roberts,

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House Committees

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE STATUS UNDER THE "COLORADO GOVERNMENTAL  
102 IMMUNITY ACT" OF STATE EMPLOYEES CONDUCTING  
103 PRESCRIBED FIRE ACTIVITY.

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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://www.leg.state.co.us/billsummaries>.)*

**Wildfire Matters Review Committee.** The bill grants immunity from liability for tort claims to employee of the state conducting prescribed fire activity where the employee is officially certified or recognized by the state as being able to conduct such activity and is acting

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.*

within the course and scope of his or her employment except where otherwise provided by law or where the employee's act or failure to act giving rise to the claim of injury was willful or wanton.

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

2           **SECTION 1.** In Colorado Revised Statutes, 24-10-106.1, **amend**  
3 (1), (2), and (3) as follows:

4           **24-10-106.1. Immunity and partial waiver - claims against the**  
5 **state - state employees - injuries from prescribed fire - on or after**  
6 **January 1, 2012.** (1) (a) Notwithstanding any other provision of this  
7 article, the state ~~shall be~~ IS immune from liability in all claims for injury  
8 that lie in tort or could lie in tort regardless of whether that may be the  
9 type of action or the form of relief chosen by the claimant except as  
10 provided otherwise in this section or section 24-10-106. In addition to any  
11 other claims for which the state waives immunity under this article,  
12 ~~sovereign immunity is waived by the state~~ WAIVES SOVEREIGN IMMUNITY  
13 in an action for injuries resulting from a prescribed fire started or  
14 maintained by the state or any of its employees on or after January 1,  
15 2012.

16           (b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,  
17 AN EMPLOYEE OF THE STATE CONDUCTING PRESCRIBED FIRE ACTIVITY WHO  
18 HAS BEEN OFFICIALLY CERTIFIED OR RECOGNIZED BY THE STATE AS BEING  
19 ABLE TO CONDUCT SUCH ACTIVITY AND WHO IS ACTING WITHIN THE  
20 COURSE AND SCOPE OF HIS OR HER EMPLOYMENT IS COVERED BY SECTION  
21 24-10-106 EXCEPT WHERE THE EMPLOYEE'S ACT OR FAILURE TO ACT  
22 GIVING RISE TO THE CLAIM OF INJURY WAS WILLFUL OR WANTON.

23           (2) SUBJECT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS  
24 SECTION, nothing in this section ~~shall be construed to constitute~~

1       CONSTITUTES a waiver of sovereign immunity if the injury arises from any  
2       act, or failure to act, of a state employee if the act is the type of act for  
3       which the state employee would be or heretofore has been personally  
4       immune from liability.

5               (3) SUBJECT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS  
6       SECTION, in addition to the immunity provided under subsection (1) of  
7       this section, the state ~~shall also have~~ HAS the same immunity as a state  
8       employee for any act or failure to act for which a state employee would  
9       be or heretofore has been personally immune from liability.

10              **SECTION 2. Effective date - applicability.** This act takes effect  
11       July 1, 2015, and applies to claims asserted on or after said date.

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