

First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0367.01 Kate Meyer

SENATE BILL 11-036

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SENATE SPONSORSHIP

Brophy,

HOUSE SPONSORSHIP

Kerr A.,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE LIMITATION OF CIVIL LIABILITY FOR INJURIES  
102 RESULTING FROM THE INHERENT RISKS OF MOUNTAIN  
103 BICYCLING.

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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>.)*

The bill limits the civil liability of mountain bicycling area operators, mountain bicycling instructors and providers, and mountain bicycling event organizers for injuries to mountain bicycle riders (riders) resulting from the inherent dangers and risks of mountain bicycling. The

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.*

bill states that civil liability is not limited when an area operator, instructor or provider, or event organizer:

- ! Rents, sells, or otherwise provides to a rider a bicycle that the person knows is faulty and the bicycle is faulty to the extent that it causes injury;
- ! Commits an act or omission that constitutes willful or wanton disregard for the safety of the rider, and the act or omission causes injury; or
- ! Intentionally injures the rider.

The bill specifies duties of riders, and does not affect the ability of a rider to recover from another rider for injuries caused by the other rider's act or omission. A rider must heed any posted information and other warnings and refrain from acting in a manner that may cause or contribute to the injury of the rider or others.

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

2 **SECTION 1.** Article 21 of title 13, Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **13-21-127. Mountain bicycling - limitation of civil liability -**  
5 **inherent risks - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE  
6 CONTEXT OTHERWISE REQUIRES:

7 (a) "INHERENT DANGERS AND RISKS OF MOUNTAIN BICYCLING"  
8 MEANS THOSE DANGERS OR RISKS THAT ARE PART OF THE ACTIVITY OF  
9 MOUNTAIN BICYCLING, REGARDLESS OF WHERE THE BICYCLING IS  
10 CONDUCTED, INCLUDING:

11 (I) MECHANICAL BREAKDOWN OR EQUIPMENT FAILURE;

12 (II) PHYSICAL OR MENTAL FATIGUE;

13 (III) EXPOSURE TO NATURAL CONDITIONS SUCH AS HIGH  
14 ELEVATION, SUNLIGHT, WIND, RAIN, SNOW, ICE, HAIL, LIGHTNING, AND  
15 ISOLATION THAT MAY RESULT IN A SUBSTANTIAL DELAY IN OBTAINING  
16 MEDICAL ASSISTANCE OR EMERGENCY MEDICAL TRANSPORTATION;

17 (IV) CHANGING CONDITIONS INCLUDING SNOW, ICE, MUD, WATER,

1 HAIL, LIGHTNING, RAIN, FOREST GROWTH, BUSHES, FALLING OR DOWNED  
2 TREES OR LIMBS, ROCKS, STUMPS, ROOTS, STREAMBEDS, CLIFFS, TREES,  
3 ELEVATED STUNTS, JUMPS, BRIDGES, FENCE POSTS, FENCES, AND OTHER  
4 NATURAL OR MAN-MADE OBJECTS AND FEATURES;

5 (V) SUDDEN VARIATIONS, BOTH NATURALLY OCCURRING AND  
6 MAN-MADE, IN TERRAIN, INCLUDING BERMS, ROLLERS, ELEVATED STUNTS,  
7 BRIDGES, JUMPS, ELEVATED TREAD, DROPS, ROCK GARDENS, WOODEN  
8 LADDER FEATURES, OTHER WOODEN FEATURES, RAMPS, PUMP TRACKS, OR  
9 ANY OTHER TERRAIN MODIFICATIONS, AND THE POTENTIAL FOR ANY SUCH  
10 TERRAIN FEATURES TO BE UNMARKED, ERODED, EXPOSED, BROKEN, OR  
11 DAMAGED BY NATURAL OR HUMAN CAUSES;

12 (VI) IMPACT WITH NATURAL OR MAN-MADE FEATURES OR AREA  
13 FIXTURES, INCLUDING TOWERS, SIGNS, POSTS, FENCES OR ENCLOSURES,  
14 BARRIERS, HYDRANTS, WATER PIPES AND HOSES, VEHICLES, TRAIL AND  
15 FEATURE MAINTENANCE EQUIPMENT AND PERSONNEL, OR OTHER  
16 EQUIPMENT, OBJECTS, AND STRUCTURES AND THEIR COMPONENTS;

17 (VII) THE PRESENCE OF TRAIL CREWS, AREA PERSONNEL, WILDLIFE  
18 OR DOMESTIC ANIMALS, OR OTHER RIDERS OR TRAIL USERS; AND

19 (VIII) THE FACT THAT MANY TRAILS AND FEATURES ARE DESIGNED  
20 TO CHALLENGE EXPERIENCED RIDERS AND THUS REQUIRE HIGH LEVELS OF  
21 EXPERIENCE TO NEGOTIATE SUCCESSFULLY AND SAFELY, AND THAT FALLS  
22 AND RESULTING INJURIES, INCLUDING SEVERE INJURY SUCH AS PARALYSIS  
23 OR DEATH, ARE COMMON EVEN AMONG EXPERIENCED RIDERS.

24 (b) "MOUNTAIN BICYCLING" MEANS USING A HUMAN-POWERED,  
25 WHEELED DEVICE, INCLUDING ALL TYPES OF MOUNTAIN BIKES AND  
26 SIMILAR TYPES OF WHEELED EQUIPMENT, WHETHER OR NOT INCLUDING  
27 PEDALS, TO TRAVEL PRIMARILY ON UNIMPROVED ROADS OR UNIMPROVED

1 OR IMPROVED TRAILS AND MAN-MADE FEATURE PARKS.

2 (c) "MOUNTAIN BICYCLING AREA" MEANS PROPERTY ON WHICH  
3 THE OPPORTUNITY TO ENGAGE IN MOUNTAIN BICYCLING IS OFFERED OR  
4 OPEN FOR ACCESS TO A RIDER, REGARDLESS OF WHETHER A FEE IS  
5 CHARGED TO ACCESS THE AREA OR RIDE A LIFT.

6 (d) "MOUNTAIN BICYCLING AREA OPERATOR" OR "AREA  
7 OPERATOR" MEANS A PERSON WHO OWNS, LEASES, HOLDS A SPECIAL USE  
8 PERMIT FOR, OPERATES, MANAGES, IS EMPLOYED OR CONTRACTUALLY  
9 ENGAGED BY, OR VOLUNTEERS AT A MOUNTAIN BICYCLING AREA,  
10 INCLUDING DESIGNERS AND BUILDERS OF TRAILS AND FEATURE PARKS,  
11 AND CONTRACTORS PROVIDING THOSE SERVICES.

12 (e) "MOUNTAIN BICYCLING EVENT" MEANS AN ORGANIZED  
13 GATHERING OF RIDERS ON A SPECIFIED DATE AT A SPECIFIED LOCATION FOR  
14 THE PURPOSE OF CONDUCTING A COMPETITION, RACE, DEMONSTRATION,  
15 GROUP RIDE, CHARITY RIDE, FUNDRAISER, INSTRUCTION, PHOTO SHOOT,  
16 TRAIL CONSTRUCTION, TRAIL MAINTENANCE, OR OTHER ORGANIZED  
17 MOUNTAIN BICYCLING ACTIVITY.

18 (f) "MOUNTAIN BICYCLING EVENT ORGANIZER" OR "EVENT  
19 ORGANIZER" MEANS A PERSON WHO ORGANIZES, FACILITATES, STAGES,  
20 PROMOTES, SPONSORS, OR OPERATES A MOUNTAIN BICYCLING EVENT.

21 (g) "MOUNTAIN BICYCLING INSTRUCTOR OR BICYCLE PROVIDER"  
22 OR "INSTRUCTOR OR PROVIDER" MEANS A PERSON, WHETHER OR NOT  
23 ENGAGED FOR COMPENSATION, THAT PROVIDES INSTRUCTION OR GUIDE  
24 SERVICES REGARDING MOUNTAIN BICYCLING OR THAT RENTS, SELLS,  
25 LOANS, OR OTHERWISE PROVIDES A BICYCLE TO A RIDER FOR THE PURPOSE  
26 OF MOUNTAIN BICYCLING.

27 (h) "RIDER" MEANS A PERSON ENGAGING IN MOUNTAIN BICYCLING,

1 INCLUDING PARTICIPATING IN A MOUNTAIN BICYCLING EVENT.

2 (2) A MOUNTAIN BICYCLING INSTRUCTOR OR BICYCLE PROVIDER,  
3 MOUNTAIN BICYCLING AREA OPERATOR, OR MOUNTAIN BICYCLING EVENT  
4 ORGANIZER IS NOT LIABLE FOR AN INJURY TO OR THE DEATH OF A RIDER  
5 RESULTING FROM THE INHERENT DANGERS AND RISKS OF MOUNTAIN  
6 BICYCLING.

7 (3) (a) NOTHING IN SUBSECTION (2) OF THIS SECTION PREVENTS OR  
8 LIMITS THE LIABILITY OF A MOUNTAIN BICYCLING INSTRUCTOR OR BICYCLE  
9 PROVIDER, MOUNTAIN BICYCLING AREA OPERATOR, OR MOUNTAIN  
10 BICYCLING EVENT ORGANIZER IF THE INSTRUCTOR OR PROVIDER, AREA  
11 OPERATOR, OR EVENT ORGANIZER:

12 (I) RENTED, SOLD, OR OTHERWISE PROVIDED TO A RIDER A BICYCLE  
13 THAT THE PERSON KNEW WAS FAULTY, AND THE BICYCLE WAS FAULTY TO  
14 THE EXTENT THAT IT CAUSED THE INJURY;

15 (II) COMMITTED AN ACT OR OMISSION THAT CONSTITUTED WILLFUL  
16 OR WANTON DISREGARD FOR THE SAFETY OF THE RIDER, AND THE ACT OR  
17 OMISSION WAS THE CAUSE OF THE INJURY; OR

18 (III) INTENTIONALLY INJURED THE RIDER.

19 (b) NOTHING IN SUBSECTION (2) OF THIS SECTION PREVENTS OR  
20 LIMITS THE LIABILITY OF ANY PERSON UNDER LIABILITY PROVISIONS SET  
21 FORTH IN THE PRODUCT LIABILITY LAWS.

22 (4) (a) EACH RIDER HAS THE RESPONSIBILITY FOR KNOWING THE  
23 RANGE OF HIS OR HER OWN ABILITY TO NEGOTIATE ANY TRAIL OR FEATURE  
24 AND TO RIDE WITHIN THE LIMITS OF THAT ABILITY. EACH RIDER  
25 EXPRESSLY ACCEPTS AND ASSUMES THE RISK OF, AND LEGAL  
26 RESPONSIBILITY FOR, ANY INJURY TO PERSON OR PROPERTY RESULTING  
27 FROM THE INHERENT DANGERS AND RISKS OF MOUNTAIN BICYCLING;

1 EXCEPT THAT A RIDER IS NOT PRECLUDED UNDER THIS SECTION FROM  
2 SUING AND RECOVERING FROM ANOTHER RIDER FOR INJURY TO PERSON OR  
3 PROPERTY RESULTING FROM THE OTHER RIDER'S ACT OR OMISSION.

4 (b) EACH RIDER HAS THE DUTY TO HEED ANY POSTED  
5 INFORMATION AND OTHER WARNINGS AND TO REFRAIN FROM ACTING IN A  
6 MANNER THAT MAY CAUSE OR CONTRIBUTE TO THE INJURY OF THE RIDER  
7 OR OTHERS.

8 **SECTION 2. Effective date - applicability.** This act shall take  
9 effect May 1, 2011, and shall apply to conduct occurring on or after said  
10 date.

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