



**Colorado  
Legislative  
Council  
Staff**

**HB16-1136**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0711  
**Prime Sponsor(s):** Rep. Esgar  
Sen. Garcia

**Date:** February 8, 2016  
**Bill Status:** House Transportation and Energy  
**Fiscal Analyst:** Erin Reynolds (303-866-4146)

**BILL TOPIC:** MULTIPLE CREW MEMBERS REQUIRED FOR FREIGHT TRAINS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
<b>State Revenue</b>	<b>&lt;\$5,000</b>	<b>&lt;\$5,000</b>
Cash Funds	<5,000	<5,000
<b>State Expenditures</b>	Minimal workload increase. See State Expenditures section.	
<b>TABOR Impact</b>	<\$5,000	<\$5,000
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing minimal revenue and workload increases.		

**Summary of Legislation**

The bill requires a common carrier engaged in the transportation of freight by railroad (i.e. the freight rail industry) to have at least two crew members aboard freight trains when in motion. A crew member is defined as an employee, and does not include a hostler service, utility employee, or contractor.

Violators are subject to an unclassified misdemeanor. If convicted, fines range from:

- \$250 to \$1000 for a first offense;
- \$1,000 to \$5,000 for a second offense committed within three years; or
- \$5,000 to \$10,000 for a third or subsequent offense committed within three years.

**Background**

There are about 15 freight railroads operating in the state currently.

**State Revenue**

Beginning in FY 2016-17, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The

penalties for the unclassified misdemeanor in the bill range between \$250 and \$10,000. Because the courts have the discretion of imposing the amount of the fine and because the fine ranges are based on the number of prior offenses, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed in 2015, the assumption that freight railroads will comply with the bill, and that there have been no cases in the past three years related to utilities violations, the fiscal note estimates that any revenue generated is likely to be less than \$5,000 per year.

### **TABOR Impact**

This bill may increase state cash fund revenue from fines, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

### **State Expenditures**

Overall, this bill is expected to minimally increase workload in the Judicial Department and the Public Utilities Commission (PUC) within the Department of Regulatory Agencies (DORA) beginning in FY 2016-17.

**Judicial Department.** Workload will increase in the Judicial Department to hear any new cases under the bill. The court's ICON/Eclipse information technology system will also need to be updated to include the new unclassified misdemeanor under the bill. The fiscal note assumes these workload impacts are minimal and will not require an increase in Judicial Department appropriations.

**Public Utilities Commission.** PUC workload will increase to respond to any formal complaints filed under the bill, however the fiscal note assumes full compliance so this workload is expected to be minimal. The PUC will also be required to update its rules to reflect the minimum crew requirement under the bill. This is expected to take place during regular rulemaking and will not require a change in appropriations.

### **Local Government Impact**

The bill may increase workload for district attorneys to prosecute any new offenses under the bill. To the extent that this bill increases misdemeanor convictions, costs will increase. The bill may also result in an increase in revenue and workload for the Denver County Court, managed and funded by the City and County of Denver, for those misdemeanor cases under the bill within its jurisdiction.

### **Comparable Crime**

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. Under current law, it is a class 2 misdemeanor for an officer, agent, or employee of a public utility to violate an order or a requirement of the PUC. In the past three years, there have been no cases filed under this offense. As such, this analysis assumes few, if any,

convictions will occur under HB16-1136.

**Technical Note**

Freight policy is regulated by the Federal Railroad Administration (FRA), however a state can issue railroad safety laws where there is no federal law on the issue or where a more stringent state law is not inconsistent with federal law. If the FRA was to adopt a law or rule related to the number or type of crew required to be onboard a moving freight train, a state law could be preempted.

**Effective Date**

The bill takes effect July 1, 2016.

**State and Local Government Contacts**

Counties  
Municipalities  
Revenue

Corrections  
Public Safety  
Sheriffs

Judicial  
Regulatory Agencies  
Transportation