



**Colorado
Legislative
Council
Staff**

SB17-027

FISCAL NOTE

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

Drafting Number: LLS 17-0441
Prime Sponsor(s): Sen. Court
Rep. Melton

Date: January 23, 2017
Bill Status: Senate SVMA
Fiscal Analyst: Ryan Long (303-866-2066)

BILL TOPIC: INCREASE PENALTY FOR TEXTING WHILE DRIVING

| Fiscal Impact Summary | FY 2016-2017 (Current year) | FY 2017-2018 | FY 2018-2019 |
|--|--|------------------------|------------------------|
| State Revenue | <u>\$7,088</u> | <u>\$44,280</u> | <u>\$50,923</u> |
| Cash Fund | 7,088 | 44,280 | 50,923 |
| State Expenditures | Minimal workload increase. | | |
| TABOR Impact | \$0 | \$44,280 | \$50,923 |
| Appropriation Required: None. | | | |
| Future Year Impacts: Ongoing state revenue and minimal workload increase. | | | |

Summary of Legislation

This bill increases the Class A traffic infraction penalty for texting while driving. The penalty for a first offense increases from a \$50 fine and 1 point assessed against a violator's driver license to a \$500 fine and 5 points assessed on the driver license. The fine for a second or subsequent offense increases from \$100 and 1 point assessed to \$750 and 6 points assessed.

Comparable Crime

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. It is currently a Class A traffic infraction to text while driving, punishable by a fine of \$50 and 1 point assessed against a violator's driver license for a first offense, and \$100 and 1 point assessed for a second or subsequent offense. Between January 2014 to January 2016, there were 934 drivers convicted for texting and driving (not including minors), or an average of 311 people per year; of those convicted, there were 645 Caucasians, 32 African Americans, 27 Hispanics, 7 Asians, and 223 for which race data is not available. Of these drivers, 390 were male, 323 were female, and 221 were drivers for which gender data is not available.

State Revenue

This bill increases cash fund revenue by \$7,088 in FY 2016-17, \$44,280 in FY 2017-18 and \$50,923 in FY 2018-19 in the Highway Users Tax Fund (HUTF). Table 1 shows the anticipated change in fine revenue.

| Table 1. Fine Impact under SB17-027 | | | | | | |
|-------------------------------------|---------------------------------|---------------|----------------|--------------------------|---------------------|----------------------------------|
| Fiscal Year | Texting and Driving Infractions | Fine Assessed | Change in Fine | Cases Subject to Penalty | Number Paying Fine* | Estimated Total Fine Collected** |
| FY 2016-17 | First Offense | \$500 | \$450 | 46 | 35 | \$7,088 |
| | Second Offense | 750 | 650 | 0 | 0 | 0 |
| | FY 2016-17 TOTAL | | | | | \$7,088 |
| FY 2017-18 | First Offense | \$500 | \$450 | 277 | 173 | \$42,120 |
| | Second Offense | 750 | 650 | 3 | 2 | \$585 |
| | FY 2016-17 Fine | | | | | 1,575*** |
| | FY 2017-18 TOTAL | | | | | \$44,280 |
| FY 2018-19 | Texting and Driving | \$500 | \$450 | 277 | 208 | \$42,120 |
| | Second Offense | 750 | 650 | 3 | 2 | 585 |
| | FY 2016-17 and | | | | | 8,218*** |
| | FY 2018-19 TOTAL | | | | | \$50,923 |

* All figures in this column are the number of violations less 25 percent to account for indigence.

** It is assumed that 45 percent of each year's fine revenue will be collected by June 30th of FY 2016-17, FY 2017-18, and FY 2019-19

*** It is assumed an additional 10 percent of FY 2016-17 fines will be collected in FY 2017-18, and an additional 10 percent of FY 2016-17 and FY 2017-18 fees will be collected in FY 2018-19 to account for fines from previous years being collected in future years.

Assumptions. The following assumptions apply to the revenue collection:

- the effective start date will be May 1, 2017;
- there will be approximately 277 cases a year where this offense will be the first offense; and
- there will be approximately 3 cases a year where this offense will be the second offense.

The information presented in this fiscal note does not account for citations of minors for texting and driving, as the existing statute prohibits all cell phone use by minors, including texting. Additionally, to the extent this bill causes individuals to lose their license, additional state cash fund revenue from fees and fines may be generated. These fees are not estimated in this fiscal note.

Penalties. Violation of this law is a Class A traffic infraction, and this bill increases the penalty to a \$500 fine and 5 points for a first offense, and a \$750 fine and 6 points for a second or subsequent offense. Penalty revenue from citations issued by both Colorado State Patrol officers and local law enforcement is credited to the HUTF, and distributed to the State Highway Fund in the Colorado Department of Transportation (CDOT) (65 percent), counties (26 percent), and municipalities (9 percent). Table 2 outlines how revenues may be split between CDOT, counties, and municipalities.

| Table 2. Estimated HUTF Distribution Under SB17-027 | | | |
|--|---|---|---|
| HUTF Distribution | Estimated FY 2016-17 Fine Impact | Estimated FY 2017-18 Fine Impact | Estimated FY 2018-19 Fine Impact |
| CDOT (65 percent) | \$4,607 | \$28,782 | \$33,100 |
| Counties (26 percent) | 1,843 | 11,513 | 13,240 |
| Municipalities (9 percent) | 638 | 3,985 | 4,583 |
| TOTAL | \$7,088 | \$44,280 | \$50,923 |

TABOR Impact

This bill increases state cash fund revenue from fines, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. TABOR refund obligations are not expected for FY 2016-17. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Expenditures

Beginning in the current fiscal year, FY 2016-17, this bill will increase workload in the Judicial Department. In addition, workload will minimally increase in the Departments of Public Safety and Revenue. These impacts are discussed below.

Judicial Department. The increase in fine amounts and point deductions creates the potential for greater litigation in the court process. While an increase in workload related to increased penalties for this infraction is anticipated, this fiscal note assumes that it can be accomplished within existing appropriations.

Department of Public Safety. The department will have the ability to enforce texting and driving violations on portions of state highways not under local government jurisdiction and will also be required to update its information materials to reflect the change in law. These impacts are expected to be minimal and accomplished within existing appropriations.

Department of Revenue. The department will be required to update its Penalty Assessment Express System and the Driver Control Unit will update driver records when an individual is assessed points. These impacts are expected to be minimal and accomplished within existing appropriations.

Local Government Impact

This bill will increase local government revenue from fines and county court workload, as discussed below.

Enforcement. The bill is not expected to create a significant workload increase for local law enforcement agencies. Local law enforcement will have the explicit ability to issue penalties directly to texting and driving violators, but this is not expected to increase workload, only penalty options available to local law enforcement officers.

Fine revenue. The bill will minimally increase local government HUTF revenue. HUTF revenue generated by court fines is distributed to counties (26 percent) and municipalities (9 percent) for transportation needs. Table 2 outlines the estimated three-year distribution to counties and municipalities.

Denver County Court. This bill will result in a minimal workload increase for Denver County Court, which is managed and funded by the City and County of Denver, to hear traffic cases under this bill.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Information Technology
Public Safety
Transportation

Judicial
Revenue

Municipalities
Sheriffs