



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

HB 18-1234

FINAL  
FISCAL NOTE

<b>Drafting Number:</b>	LLS 18-0866	<b>Date:</b>	August 24, 2018
<b>Prime Sponsors:</b>	Rep. Becker K.; Lundeen Sen. Gardner	<b>Bill Status:</b>	Signed into Law
		<b>Fiscal Analyst:</b>	Kerry White   303-866-3469 Kerry.White@state.co.us

**Bill Topic:** INTERNET SWEEPSTAKES CAFÉ REVISE LEGAL TERMS

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue ( <i>minimal</i> )	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure ( <i>minimal</i> )	<input checked="" type="checkbox"/> Local Government ( <i>minimal</i> )
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill revises key terms related to simulated gambling devices. To the extent that this bill makes it clearer when an offense of unlawful offering of a simulated gambling device occurs, state and local government revenue and workload will increase by a minimal amount. These impacts continue in future years.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** The fiscal note reflects the enacted bill.

**Table 1**  
**State Fiscal Impacts Under HB 18-1234**

		FY 2017-18 (current year)	FY 2018-19	FY 2019-20
<b>Revenue</b>	General Fund and Cash Funds	less than \$5,000	less than \$5,000	less than \$5,000
<b>Expenditures</b>			-	-
<b>Transfers</b>			-	-

## Summary of Legislation

This bill clarifies the definitions of key terms related to simulated gambling and simulated gambling devices, and specifies that unlawful offering of a simulated gambling device can be direct or indirect, regardless of whether consideration in connection with such use, admission, or purchase is monetary or nonmonetary and regardless of whether it is paid or transferred before the simulated gambling device is used. Exceptions are provided for an owner, operator, employee, or customer of a simulated gambling device, or of a business offering simulated gambling devices who ceased participating in such activity on or before July 1, 2018, and can provide documentation that certain conditions have been met.

## Background and Assumptions

In 2015, the General Assembly enacted House Bill 15-1047, which established criminal penalties for unlawful offering of a simulated gambling device, a class 3 misdemeanor. This offense occurs when a person offers, facilitates, contracts for, or otherwise makes available any simulated gambling device for money or other consideration, in which use of the device, admission to a café, or a related purchase creates the expectation of a prize. In the last three years, there have been eight cases with at least one charge of this offense. The Attorney General and each district attorney may apply to the district court of a district for additional relief, including injunctive relief (such as a temporary restraining order), damages payable to the local jurisdiction, and other relief that the court deems appropriate. It is not known how many operators of simulated gambling devices (operators) exist in Colorado.

## State Revenue

Beginning in the current FY 2017-18, this bill is anticipated to increase state revenue by less than \$5,000 per year as a result of any new class 3 misdemeanor convictions that occur under the bill.

**Criminal fines.** The 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 fine penalty for a class 3 misdemeanor offense is \$50 to \$750. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed by the courts, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

**Court and administrative fees.** The bill will also increase state fee revenue credited to the General Fund and various cash funds by a minimal amount. Fees are imposed for a variety of court-related costs, which vary based on the offense but may include probation supervision, drug or sex offender surcharges, victim compensation, and late fees, among others. Some fee revenue is shared with local governments; refer to the Local Government Impact section for additional information.

## TABOR Refund

This bill increases state revenue from court fees and fines, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. A TABOR refund obligation is not expected for the current FY 2017-18. 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 revenue subject to TABOR is not estimated for years beyond FY 2019-20.

## State Expenditures

Beginning in the current FY 2017-18, the bill increases state agency costs and workload as discussed below. These impacts are assumed to be minimal; any additional workload will be accomplished within existing appropriations.

**Judicial Department.** To the extent that changing definitions causes more operators to be prosecuted, workload will increase for state-operated county courts. Similarly, workload could increase for district courts if the Attorney General's office or a district attorney seeks civil relief as a result of the bill. If a person convicted of a class 3 misdemeanor is sentenced to probation, workload will also increase. No adjustments in appropriations are required.

**Agencies providing representation to indigent persons.** Costs and workload for the Office of the State Public Defender and the Office of the Alternate Defense Counsel will increase under the bill if additional criminal filings occur and offenders are deemed indigent.

**Department of Law.** Workload will be increased for the department if the Attorney General's office chooses to pursue any civil relief available against operators as a result of the change in definitions under the bill.

## Local Government

Overall, this bill is expected to increase local government revenue, costs, and workload as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

**District attorneys.** The bill increases workload and costs for district attorneys to prosecute any new criminal offenses under the bill. In addition, similar to the state, workload will be increased for district attorneys that choose to pursue any civil relief available against operators of simulated gambling devices as a result of the change in definitions under the bill. These impacts are assumed to be minimal.

**Denver County Court.** For class 3 misdemeanors committed in Denver County, criminal fine and court fee revenue is collected by Denver County Court and workload will increase for the court to hear these cases. Because the court has discretion to impose a term of incarceration, a fine, or both, the precise revenue impact to Denver County has not been estimated. Probation services in the Denver County Courts may also experience a minimal increase in revenue and workload to supervise persons convicted under the bill within Denver County.

**County jails.** Under current law, a court may sentence an offender to jail for a class 3 misdemeanor for a period of up to 6 months. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. Estimated costs to house an offender in a county jail vary from \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.39 to house state inmates.

**Local jurisdiction revenue.** To the extent that a district attorney or the state pursues civil relief in district court against operators of simulated gambling devices as a result of the changes in this bill, revenue for the local jurisdiction could increase. These amounts have not been estimated.

## Effective Date

The bill was signed into law by the Governor and took effect on June 6, 2018. It applies to conduct occurring on or after the effective date of the bill.

## State and Local Government Contacts

District Attorneys      Judicial      Revenue      Sheriffs