



Legislative
Council Staff

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FISCAL NOTE

Drafting Number: LLS 20-0279
Prime Sponsors: Sen. Coram
Rep. Catlin

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Bill Status: Senate Transportation
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Bill Topic: **TRAFFIC OFFENSE CLASSIFICATION AND PENALTIES**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill increases traffic fines for certain traffic infractions and offenses. The bill impacts state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: The bill requires a net reduction in appropriations of \$68,719 to multiple state agencies. See State Appropriations section.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 20-070

		FY 2020-21	FY 2021-22
Revenue	State Highway Fund	\$1,011,250	\$1,218,374
	Cash Funds	\$804,268	\$1,479,206
	Total	\$1,815,518	\$2,697,580
Expenditures	General Fund	(\$235,547)	(\$281,136)
	Cash Funds	\$174,156	\$174,460
	Centrally Appropriated	(\$7,328)	(\$11,305)
	Total	(\$68,719)	(\$117,981)
	Total FTE	0.3 FTE	0.3 FTE
Transfers		-	-
TABOR Refund	General Fund	\$2,360,038	\$3,353,628

Summary of Legislation

The bill increases the ranges of fines for traffic infractions and offenses, as well as increasing fines and surcharges for specific traffic offenses. Under the bill, 25 percent of the fine collected for a traffic misdemeanor and 50 percent of the fine collected for a traffic infraction are transferred to the county in which the infraction was committed. The funding received by counties from traffic infractions and offenses must be used for traffic-related activities. Traffic penalties are increased:

- from \$15 to \$45 for class A and class B traffic infractions, with a maximum penalty of \$300;
- from \$150 to \$450 for class 2 traffic misdemeanors, with a maximum penalty of \$900; and
- from \$300 to \$900 for class 1 traffic misdemeanors, with a maximum penalty of \$3,000.

In addition, the bill reclassifies driving without a valid driver license from a class 2 misdemeanor to class A traffic infraction. Also, the bill reclassifies the first violation of driving without insurance from a class 1 traffic misdemeanor to a class A traffic infraction with a \$500 fine.

Background

In Colorado, traffic infraction penalties and surcharges are primarily credited to the Highway Users Tax Fund (HUTF) and the Judicial Department.

Penalty revenue. Traffic infraction penalties are primarily credited to the HUTF. The HUTF is the primary source of state highway system funding in Colorado. Preliminary, unaudited revenue to the fund totaled \$1.1 billion in FY 2018-19. Of the \$1.1 billion, \$44.4 million in court, DUI, and DWI fines were credited to the HUTF in FY 2018-19 from traffic fines. Of revenue transferred to the HUTF, 65 percent is transferred to the State Highway Fund (SHF), 26 percent to counties, and 9 percent to municipalities.

However, revenue from several specific penalties, including seat belt infractions and driving under the influence offenses, are distributed differently.

- *Seat belt infractions.* Penalties from seat belt infractions remain in the local jurisdiction if the violation occurred on a local road. If the infraction occurred on a state or federal highway, 50 percent is transmitted to the local jurisdiction, with the remaining 50 percent credited to the HUTF. In addition, if the citing officer is a Colorado State Patrol officer, the penalty revenue is credited to the HUTF.
- *Driving under the influence.* Fifty percent of penalties from driving under the influence offenses remain in the local jurisdiction if the violation occurred on a local road, with the remaining 50 percent credited to the HUTF. If the violation occurred on a state or federal highway, 25 percent remains in the local jurisdiction, and the remaining 75 percent is allocated to the HUTF.

Surcharge revenue. Traffic infraction surcharge revenue is transmitted to the judicial districts in the Judicial Department. Surcharge revenue remains in the judicial district where the offense or infraction occurred. Of the surcharge revenue, 50 percent is credited to the judicial district's Victim and Witness Assistance and Law Enforcement Fund and 50 percent to the judicial district's Crime Victim Compensation Fund.

Comparable Crime Analysis

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 an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions under the bill.

Prior conviction data for driving without a license. This bill reclassifies the existing offense of driving without a license from a class 2 traffic misdemeanor to a class A traffic infraction. For the last three years, 23,633 persons have been convicted and sentenced for this offense. Of the persons convicted, 17,014 were male, 6,522 were female, and 97 did not have a gender identified. Demographically, 18,144 were White, 1,995 were Black/African American, 2,718 were Hispanic, 124 were Asian, 86 were American Indian, 393 were classified as "Other," and 173 did not have a race identified.

Prior conviction data for driving without insurance. This bill reclassifies the first offense of the existing offense of driving without insurance from a class 1 traffic misdemeanor to a class A traffic infraction. For the last three years, 22,097 persons have been convicted and sentenced for this offense. Of the persons convicted, 14,613 were male, 7,422 were female, and 62 did not have a gender identified. Demographically, 18,490 were White, 1,736 were Black/African American, 1,253 were Hispanic, 167 were Asian, 72 were American Indian, 256 were classified as "Other," and 123 did not have a race identified.

Assumptions. This fiscal note assumes that an estimated 125,661 traffic cases will be subject to additional penalties and that approximately 25,000 traffic cases are now eligible to be filed as traffic infraction cases. The fiscal note also assumes an indigence rate of 19 percent, which increases the number of payment plans administered by the Judicial Department.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

The bill is estimated to increase state cash fund revenue from traffic penalties and surcharges by \$2.3 million in FY 2020-21 and \$3.4 million in FY 2021-22.

Fee impact. This fiscal note assumes that an estimated 125,661 traffic cases will be subject to additional penalties and that approximately 25,000 traffic cases are now eligible to be filed as traffic infraction cases. In FY 2020-21, it is assumed that 83 percent of case will be committed on or after the bill's effective date and reflect a 59 percent collection rate. Case numbers have been adjusted to represent a 19 percent indigence factor.

However, it should be noted that judges have discretion in sentencing, so actual fine and surcharge revenue collected may differ from this estimate. It also should be noted that some traffic infractions were not included in the revenue estimate due to low conviction rates or no convictions. Revenue from these infractions are expected to be minimal. Traffic penalties and surcharge revenue is subject to TABOR.

**Table 2
Revenue Under SB 20-070**

FY	Penalty Type	Fee Change	Estimated Cases*	Estimated Assessment	Estimated Collections**
FY21	Traffic infractions	\$15–\$150	78,130	\$3,157,011	\$1,789,887
	Misdemeanors	\$300–\$600	6,344	\$2,012,261	\$1,046,376
	Misdemeanor to Infraction	(\$25)	16,808	(\$420,188)	(\$247,911)
	Surcharges	\$14	84,482	\$1,182,746	\$804,268
	Total Collections				\$3,392,620
				<i>HUTF</i>	\$1,555,770
				<i>Counties</i>	\$1,032,582
				<i>Judicial districts</i>	\$804,268
FY22	Traffic infractions	\$15–\$150	94,143	\$3,803,618	\$2,156,492
	Misdemeanors	\$300–\$600	7,644	\$2,424,411	\$1,260,694
	Misdemeanor to Infraction	(\$25)	20,250	(\$506,250)	(\$298,688)
	Surcharges	\$14	101,785	\$1,424,996	\$968,997
	Additional FY 2020-21 Collections Total***				\$510,209
	Total Collections				\$4,597,704
				<i>HUTF</i>	\$1,874,422
				<i>Counties</i>	\$1,244,076
				<i>Judicial districts</i>	\$968,997
				<i>Additional revenue on FY 2020-21 penalties and surcharges</i>	\$510,209

* Case numbers represent a 19 percent indigence factor.

** Estimated collections assume 59 percent from infractions, 52 percent from misdemeanors, and 68 percent from surcharges will be paid by June 30 of the fiscal year.

*** Year 1 collections in FY 2021-22 assume 16 percent return on FY 2020-21 assessments.

HUTF revenue. The bill results in a revenue increase to the HUTF of \$1.6 million in FY 2020-21 and by \$1.9 million in FY 2021-22. Table 3 shows how HUTF revenue will be distributed to CDOT, counties, and municipalities. Revenue to the HUTF is subject to TABOR.

**Table 3
HUTF Distribution Under SB 20-070**

HUTF Distribution	FY 2020-21	FY 2021-22
State Highway Fund (65 percent)	\$1,011,250	\$1,218,374
Counties (26 percent)	\$404,500	\$487,350
Municipalities (9 percent)	\$140,019	\$168,698
Total	\$1,555,770	\$1,874,422

Surcharge revenue. The bill will increase surcharge revenue to the judicial districts by \$804,268 in FY 2020-21 and \$968,997 in FY 2021-22. Of the surcharge revenue, 50 percent is credited to the judicial district's Victim and Witness Assistance and Law Enforcement Fund and 50 percent to the judicial district's Crime Victim Compensation Fund.

State Expenditures

Overall, the bill will reduce state cash fund expenditures overall by \$37,894 in FY 2020-21 and \$117,981 in FY 2021-22. As shown in Table 2, Judicial Department impacts include savings for the trial courts and an increase in costs to the collections unit. These impacts are shown in Table 4 and discussed below.

**Table 4
Expenditures Under SB 20-070**

Cost Components	FY 2020-21	FY 2021-22
Judicial Department		
Personal Services – Trial Courts	(\$227,947)	(\$273,536)
Operating/Capital Expenses	(\$7,600)	(\$7,600)
Personal Services – Collections	\$144,668	\$170,972
Operating/Capital Expenses	\$29,488	\$3,488
Centrally Appropriated Costs*	(\$7,328)	(\$11,305)
FTE – Trial Courts	(2.4 FTE)	(3.0 FTE)
FTE – Collection	2.7 FTE	3.3 FTE
Judicial Department (Subtotal)	(\$68,719)	(\$117,981)
Department of Revenue		
Computer Programming	\$30,825	-
DOR (Subtotal)	\$30,825	-
Total	(\$37,894)	(\$117,981)
Total FTE	0.3 FTE	0.3 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Judicial Department. The bill decreases workload and costs for the trial courts and agencies providing representation to indigent persons and increases costs for the collections unit.

Trial courts. The bill decreases General Fund expenditures for the trial courts due to the approximately 25,000 traffic cases that will be filed as an infraction instead of a misdemeanor. This is estimated to result a reduction of 1.0 FTE for a magistrate and 2.0 FTE for support staff, which will reduce expenditures by \$235,547 and 2.4 FTE in FY 2020-21 and \$281,136 and 3.0 FTE in FY 2021-22 and future years. Cost reductions in FY 2020-21 are prorated for the General Fund paydate shift and a September 1 start date.

Collections unit. The bill increases cash fund expenditures for the collections unit in the Judicial Department due to the increased need for payment plans by defendants and the associated workload. This is expected increase workload by an average of 5 minutes for the approximately 81,535 cases subject to new penalties after indigence rate application. This is estimated to result in a need for an additional \$174,156 and 2.7 FTE collections investigators in FY 2020-21 and \$174,460 and 3.3 FTE in FY 2021-22 and future years. Costs in FY 2020-21 are prorated to reflect a September 1 start date.

Office of the Public Defender and Office of Alternative Defense Counsel. The bill will decrease expenditures for the Office of the Public Defender to represent defendants in certain traffic offense cases and for the Office of Alternative Defense Counsel if a conflict exists. For informational purposes, a reduction of 1.0 attorney FTE results in an annual savings of \$90,214. This fiscal note assumes that any decreases in expenditures will be based on any changes in future caseload and will be addressed through the annual budget process.

Department of Revenue. In FY 2020-21, one-time programming costs of \$30,825 are required to update the Driver License, Record, Identification and Vehicle Enterprise Solutions (DRIVES) system with the new penalty amounts for 204 different infractions. Programming costs are calculated at 137 hours at a rate of \$225 per hour and are paid from the DRIVES Vehicle Services Account.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be reduced by \$7,328 in FY 2020-21 and \$11,305 in FY 2021-22.

TABOR refunds. The bill is expected to increase state General Fund obligations for TABOR refunds by \$2.3 million in FY 2020-21 and \$3.4 million in FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

Local Government

The bill will increase revenues to counties by \$1.4 million in FY 2020-21 and \$1.7 million from traffic penalties for traffic safety improvement and law enforcement. In addition, municipal revenue will increase by \$140,019 in FY 2020-21 and \$168,700 in FY 2021-22. These revenue impacts will vary by jurisdiction.

Effective Date

The bill takes effect September 1, 2020, if no referendum petition is filed. The bill applies to offense committed on or after the bill's effective date.

State Appropriations

The bill requires a cash fund appropriation of \$174,156 to the Judicial Department from the Judicial Collection Enhancement Fund and 2.7 FTE. In addition, the bill also requires a cash fund appropriation of \$30,825 to the Department of Revenue from the DRIVES Maintenance and Support Cash Fund.

The bill also requires a reduction in General Fund appropriations to the Judicial Department of \$235,547 and 2.4 FTE.

State and Local Government Contacts

Judicial
Information Technology
Revenue

Counties
Public Defender
Sheriffs

District Attorneys
Public Safety
Transportation