



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 22-0124	Date:	January 31, 2022
Prime Sponsors:	Sen. Ginal; Hisey Rep. Bird; Benavidez	Bill Status:	Senate Trans. & Energy
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Bill Topic: **RECERTIFICATION & THEFT OF CATALYTIC CONVERTERS**

Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input 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 creates a program to regulate the sale of aftermarket catalytic converters and creates new bases for crimes related to uncertified catalytic converters. It increases state expenditures, and may increase state revenue, local revenue, and local expenditures on an ongoing basis beginning in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$19.4 million to the Department of Public Health and Environment.

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

Table 1
State Fiscal Impacts Under SB 22-009

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	\$19,429,706	\$1,636,005
	Centrally Appropriated	\$74,887	\$108,001
	Total Expenditures	\$19,504,593	\$1,744,006
	Total FTE	5.1 FTE	7.5 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$2,914,456	\$245,401

Summary of Legislation

The bill makes changes to various regulations related to catalytic converters, which are elements of a car's exhaust system that makes exhaust gas less polluting, and creates a certification process in the Department of Public Health and Environment (CDPHE).

Equipment violations. The bill makes it illegal to install, sell, offer for sale, or advertise any used, recycled, or salvaged catalytic converter, unless it is an aftermarket catalytic converter that has been certified by the Division of Administration in CDPHE. The Air Quality Control Commission must promulgate rules by October 1, 2022, that evaluate if a catalytic converter qualifies for certification. Although the bill does not specify a penalty, similar violations of the traffic code are civil offenses typically punishable by fines under \$100.

Salvaging metals. Current law requires the owner of a salvage yard, junk collector, or other business that purchases commodity metals to keep a record of all transactions involving commodity metals. The bill adds the component metals found in catalytic converters to the definition of commodity metals. The penalty for violating these provisions depends on the value of the metals. For a single catalytic converter, the offense will range from a petty offense to a class 1 misdemeanor.

Operating a chop shop. The bill clarifies that a catalytic converter is major component motor vehicle part for the purposes of establishing the crime of operating a chop shop. The penalty for selling, transferring, or transporting an illicit part under this provision is a class 5 felony.

Auto parts recyclers. When an auto parts recycler acquires a catalytic converter, that person must consult the National Motor Vehicle Title Information System to determine whether the catalytic converter is stolen. Failure to report a stolen catalytic converter is a class 2 misdemeanor.

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 creates a new factual basis for 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 resulting from the bill.

Salvaging metals. This bill creates a new factual basis for the existing offense of failing to keep a book or register by expanding the definition of commodity metals. From FY 2018-19 to FY 2020-21, zero offenders have been sentenced and convicted for this offense; therefore, the fiscal note assumes that there will continue to be minimal or no additional criminal case filings or convictions for this offense under the bill.

Operating a chop shop. This bill clarifies the existing offense of transporting, sells, transfers, or purchases an unlawfully obtained major component motor vehicle part from a chop shop by specifying that a catalytic converter is such a part. From FY 2018-19 to FY 2020-21, 5 individuals have been convicted and sentenced for this offense. Of the persons convicted, all were male. Demographically, 4 were White and 1 was Hispanic. However, it is likely that offenses concerning catalytic converters were already convicted under these provisions; therefore, the fiscal note assumes

that there will be minimal or no additional criminal case filings or convictions for this offense under the bill.

Auto parts recycling. This bill creates a new factual basis for the existing offense of failure to report a theft discovered by requiring auto recyclers to verify that a catalytic converter is not stolen. From FY 2018-19 to FY 2020-21, zero offenders have been sentenced and convicted for this offense; therefore, the fiscal note assumes that there will continue to be minimal or no additional criminal case filings or convictions for this offense under the bill.

Criminal justice impacts. Because the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Expenditures

The bill increases state expenditures in CDPHE by \$19.5 million in FY 2022-23 and \$1.7 million in FY 2023-24 from the General Fund. Expenditures are shown in Table 2 and detailed below. Expenditures may also increase in the other state agencies to the extent that convictions increase.

**Table 2
Expenditures Under SB 22-009**

	FY 2022-23	FY 2023-24
Department of Public Health and Environment		
Personal Services	\$332,251	\$478,047
Operating Expenses	\$6,885	\$8,775
Capital Outlay Costs	\$49,600	-
Legal Services	\$98,570	\$177,426
Capital Equipment	\$18,000,000	-
Capital Operating Expenses	\$166,000	\$332,000
Vehicle Loan Program	\$562,500	\$562,500
Technology Costs	\$193,900	\$57,257
Communications Materials	\$20,000	\$20,000
Centrally Appropriated Costs ¹	\$74,887	\$108,001
FTE – Personal Services	4.5 FTE	6.5 FTE
FTE – Legal Services	0.6 FTE	1.0 FTE
Total Cost	\$19,504,593	\$1,744,006
Total FTE	5.1 FTE	7.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Public Health and Environment. Capital equipment is the largest expense for CDPHE, as discussed below.

- **Personal services.** The bill increases CDPHE's staffing requirements by 7.5 FTE in FY 2022-23, which is prorated down to 5.1 FTE accounting for varied start dates and the General Fund pay date shift. These staff will facilitate rulemaking, perform tests on catalytic converters, administer the certification program, and promote the program. Standard operating and capital outlay costs are included. In FY 2024-25 and ongoing, the staffing rate falls to 6.5 FTE to operate the testing and certification program.
- **Legal services.** CDPHE will require 1,000 hours of legal services in FY 2022-23, and 1,800 hours in future years to support rulemaking and to provide general counsel regarding the certification program. Legal services are provided by the Department of Law at a rate of \$98.57 per hour.
- **Capital expenses.** In order to operate the certification program, CDPHE will lease a new facility and acquire four new, laboratory-quality dynamometers. Based on industry quotes, each piece of equipment is expected to cost between \$3.0 million and \$5.0 million. Capital operating costs are prorated based on a lease beginning January 1, 2023.
- **Vehicle loan program.** The bill requires CDPHE to test catalytic converters on vehicles, and many devices are only applicable to certain makes and models of automobile. The department will promote a voluntary loan program in which member of the public may rent their vehicles to CDPHE for testing purposes in exchange for \$225 per day. This includes an incentive fee and funds to cover a replacement vehicle. It is expected that CDPHE will rent vehicles in this way for five days at a time, and to test 500 catalytic converters each year.
- **Technology costs.** The department requires 1,415 hours of database and development services in FY 2022-23 and 283 hours of ongoing support in future years. Additional technology costs include cloud storage.
- **Communications materials.** CDPHE requires additional operating support for communicating rulemaking and promoting the vehicle loan program.

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 shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by \$2,914,456 in FY 2022-23 and \$245,401 in FY 2023-24, which will decrease the amount of General Fund available for other purposes.

Technical Note

CDPHE may not be able to complete rulemaking, including the necessary research, analysis, and public meetings, by the October 1, 2022, deadline required by the bill. If the implementation of the rules is delayed, some of the bill's expenditures will be delayed correspondingly.

Effective Date

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

State Appropriations

For FY 2022-23, the bill requires an appropriation of \$19,429,706 to the Department of Public Health and Environment, and 5.1 FTE. Of this amount, \$98,570 is reappropriated to the Department of Law, and 0.6 FTE, and \$171,900 is reappropriated to the Office of Information Technology.

State and Local Government Contacts

Information Technology

Judicial

Public Health and Environment