



**Colorado
Legislative
Council
Staff**

HB16-1428

**FINAL
FISCAL NOTE**

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

Drafting Number: LLS 16-0727
Prime Sponsor(s): Rep. Moreno

Date: May 18, 2016
Bill Status: Postponed Indefinitely
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: DEPRESS STOCK VALUE DIRECT SELLING COMPANIES

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
Cash Funds		Potential increase.
State Expenditures		Workload increase.
TABOR Impact		Potential increase.
Appropriation Required: None.		
Future Year Impacts: Ongoing potential increase in state revenue and expenditures.		

Summary of Legislation

This bill creates a class 2 misdemeanor for the crime of making or conspiring to make materially false statements with the intent to injure a publically traded direct selling company. It clarifies that the authority of any state agency, including the Department of Law, or of any district attorney, to investigate or prosecute the violation of any other law that impacts a direct selling company.

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. This bill creates a new crime, for which there is not a direct comparison. Conviction data for similar crimes over the period of March 28, 2013, to March 28, 2016, include:

- defrauding a secured creditor or debtor: no convictions;
- issuing a false financial statement - obtaining a financial transaction device by false statements: two convictions; and
- fraud in effective sales: five convictions.

Based on data from these existing crimes, the fiscal notes assumes one case per year of the crime of making or conspiring to make materially false statements with the intent to injure a publically traded direct selling company.

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 fine penalty for a class 2 misdemeanor is \$250 to \$1,000. In addition, any offenders sentenced to probation pay a supervision fee of \$50 per month. 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 in 2015 and an assumed one case per year, the fiscal note assumes any potential increase in revenue is minimal.

State Expenditures

Beginning in FY 2016-17, this bill may increase workload for the trial courts, probation services, and agencies that provide representation to indigent defendants. The fiscal note assumes any such increases are minimal and will not require an increase in appropriations for any agency within the Judicial Department.

Judicial Department. To the extent that criminal prosecutions are filed, workload will increase for the trial courts. In addition, if any offenders are sentenced to probation, workload for the Probation Division will increase.

Office of the State Public Defender and Office of Alternate Defense Counsel. The bill may increase workload or costs for the Office of the State Public Defender and Office of Alternate Defense Counsel, to provide representation for any persons deemed to be indigent.

Local Government Impact

This bill will affect local governments in several ways, as discussed below.

Misdemeanor offenses in county courts. First, the bill may increase workload for district attorneys to prosecute any new offenses under the bill. Second, to the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Under current law, a court may sentence an offender to jail for a class 2 misdemeanor for a period of between 3 and 12 months. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. It is assumed that the impact of this bill will be minimal.

Denver County Court. The bill may result in an increase in workload for the Denver County Court, managed and funded by the City and County of Denver. The court will try misdemeanor cases within the City and County of Denver where a person is accused of the crime of making or conspiring to make materially false statements with the intent to injure a publically traded direct selling company. Probation services in the Denver County Courts may also experience a minimal increase in workload and revenue to supervise persons convicted under the bill.

Effective Date

The bill was postponed indefinitely by the House Business Affairs and Labor Committee on April 14, 2016, .

State and Local Government Contacts

Counties
Judicial
Sheriffs

District Attorneys
Law

Information Technology
Regulatory Agencies