



**Colorado  
Legislative  
Council  
Staff**

**SB17-015**

**FISCAL NOTE**

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

**Drafting Number:** LLS 17-0137  
**Prime Sponsor(s):** Sen. Aguilar  
Rep. Pabon

**Date:** January 11, 2017  
**Bill Status:** Senate Judiciary  
**Fiscal Analyst:** Amanda Hayden (303-866-4918)

**BILL TOPIC:** UNLAWFUL MARIJUANA ADVERTISING

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b>	Potential minimal increase.	
<b>State Expenditures</b>	Minimal workload increase.	
<b>TABOR Impact</b>	Potential minimal increase.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing minimal increase in state revenue and workload.		

**Summary of Legislation**

This bill, *recommended by the Cost-Benefit Analysis of Legalized Marijuana in Colorado Interim Committee*, creates a level 2 drug misdemeanor for attempting to sell marijuana or marijuana concentrate by placing an advertisement in print or online. The offense does not apply to a primary caregiver, as defined in the state constitution, who advertises his or her services to prospective patients.

**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. No current crimes directly compare to the offense considered by this bill. The following two crimes are presented for illustrative purposes. First, under current law it is a level 1 drug misdemeanor to dispense, sell, distribute or possess less than four ounces of marijuana or less than two ounces of marijuana concentrate. The penalty for a level 1 drug misdemeanor is 6 to 18 months in jail, a \$500 to \$5,000 fine, or both. Second, any person who places an advertisement in any publication with the intent to promote the sale of drug paraphernalia commits a level 2 drug misdemeanor. The penalty for a level 2 drug misdemeanor is up to 12 months in jail, a \$50 to \$750 fine, or both. In the last three fiscal years, there have been no convictions for either of these two crimes.

## **State Revenue**

Beginning in FY 2017-18, the bill may increase state cash fund revenue by a minimal amount, credited to the Fines Collection Cash Fund in the Judicial Department. The fiscal note assumes that the majority of cases involving the conduct contemplated by this bill are being charged under current law, likely as more serious offenses related to the unlawful possession or sale of marijuana. Should any offenders be sentenced to probation, revenue will increase. The fee for probation is currently \$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.

## **TABOR Impact**

This bill may increase state revenue from fees and fines, which may increase the amount of money required to be refunded under TABOR in FY 2017-18. TABOR refunds are paid out of the General Fund.

## **State Expenditures**

Beginning in FY 2017-18, this bill may increase workload in the Department of Public Safety, the Department of Revenue, and in the Judicial Department. These impacts are discussed below.

***Department of Public Safety (DPS).*** Workload in DPS will increase for staff to coordinate with counterparts in the Marijuana Enforcement Division (MED) to define rules and policies for enforcing this bill and to incorporate changes into training materials. This increase in workload does not require any change in appropriations.

***Department of Revenue (DOR).*** The bill increases workload in the MED of DOR by a minimal amount to clarify procedures and coordinate with state and local law enforcement agencies on enforcement of this bill. No change in appropriations is required.

***Judicial Department.*** Workload will increase for the trial courts to process any new misdemeanors. If defendants are represented by the Office of the State Public Defender or Alternate Defense Counsel, costs will increase for these agencies, as well. The fiscal note assumes few, if any, new cases under the bill, and these impacts are anticipated to be minimal. If costs require an increase in appropriations in the future, the fiscal note assumes that any affected agencies within the Judicial Department will request them through the annual budget process.

## **Local Government Impact**

This bill may increase revenue and costs to local governments, as described below.

***County court revenue and expenditures.*** First, court and administrative fine and fee revenue may increase by a minimal amount. Second, the bill increases workload for district attorneys to prosecute any new misdemeanors under the bill. Third, 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 level 2 drug misdemeanor for a period of up to 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. It is assumed that the impact of this bill will be minimal.

**Denver County revenue and expenditures.** The bill may result in a minimal increase in revenue from fines and probation fees, which are \$50 per month, per offender for the Denver County Court, managed and funded by the City and County of Denver. Also, the bill may result in an increase in workload to hear new misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience a minimal increase in workload to supervise persons convicted under the bill. It is assumed that any increases will be minimal.

**Law enforcement.** Costs to local law enforcement agencies may increase as these agencies attempt to investigate and build cases against persons engaged in the activity prohibited by the bill.

**Effective Date**

The bill takes effect September 1, 2017, assuming no referendum petition is filed. It applies to offenses committed on or after this date.

**State and Local Government Contacts**

Counties  
Municipalities  
Sheriffs

District Attorneys  
Public Safety

Judicial  
Revenue