



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

# FINAL FISCAL NOTE

**Drafting Number:** LLS 18-0887  
**Prime Sponsors:** Sen. Merrifield

**Date:** July 19, 2018  
**Bill Status:** Postponed Indefinitely  
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**Bill Topic:** MOTOR VEHICLE & VULNERABLE ROAD USER 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

This bill would have increased the penalties for careless driving resulting in the injury or death of a vulnerable road user. It would have increased state and local revenue and state cash fund expenditures in FY 2018-19 only. State General Fund expenditures and workload would have also increased on an ongoing basis.

**Appropriation Summary:** This bill requires an appropriation of \$28,800 to the Department of Revenue.

**Fiscal Note Status:** The fiscal note reflects the introduced bill. The bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1  
State Fiscal Impacts Under SB 18-140**

		FY 2018-19	FY 2019-20
<b>Revenue</b>	State Highway Fund*	-	-
	Cash Funds	less than \$5,000	less than \$5,000
<b>Expenditures</b>	State Highway Fund*	-	-
	Cash Funds	\$28,800	-
<b>Transfers</b>		-	-

\*These impacts have not been estimated.

## **Summary of Legislation**

Under current law, it is a class 1 misdemeanor traffic offense to drive a motor vehicle, electric bicycle, or low-power motor scooter in a way that is careless and results in the injury or death of someone. This bill increases the penalty for injuring or killing a vulnerable road user as a result of careless driving to a class 1 misdemeanor. Vulnerable road users are defined in the bill.

Individuals convicted of injuring or killing a vulnerable road user as a result of careless driving must also attend a driver improvement school and perform up to 200 hours of community service. These individuals are also subject to a six-month driver license suspension and payment of restitution.

## **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. It is currently a class 1 misdemeanor traffic offense to drive carelessly and in a way the results in bodily harm or death. This offense is punishable by a fine ranging from \$300 to \$1,000, a term of imprisonment between 10 days and one year, or both. Between January 2015 and December 2017, there were 5,397 people convicted of careless driving resulting in bodily harm or death, which represents an average of 1,799 people per year. Of those convicted, 4,706 were Caucasian, 251 were Hispanic, 235 were African-American, 105 were Asian, 18 were American Indian, 60 were other, and 22 for which no data were available. Of these, 3,395 were male, 1,989 were female, and 13 for which no data were available. As careless driving is already convicted under current law, this bill is not expected to generate additional filings.

## **State Revenue**

Beginning in FY 2018-19, this bill impacts state fine and fee revenue, as described below.

**Criminal fines.** Beginning in FY 2018-19, this bill increases the penalty for careless driving resulting in the bodily injury or death for a vulnerable road user to a class 1 misdemeanor, with a fine range of \$500 to \$5,000. The existing fine penalty of \$300 to \$1,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue has not been determined. The fiscal note assumes that any revenue generated from increasing the fine penalty is likely to be less than \$5,000 per year.

**Highway Users Tax Fund.** State traffic fine revenue goes to the Highway Users Tax Fund (HUTF), of which 65 percent is distributed to the State Highway Fund in the Colorado Department of Transportation. By changing the classification of this offense, fine revenue will be retained by the Judicial Department and not distributed according to the HUTF formula. This impacts has not been estimated.

**TABOR Refund.** This bill increases state revenue from fines, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. 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**

This bill will increase cash fund expenditures from the Licensing Services Cash Fund to the Department of Revenue by \$28,800 in FY 2018-19 only. Beginning in FY 2018-19, it will also increase General Fund costs and workload in the Judicial Department on an ongoing basis. These impacts are described below.

**Department of Revenue.** In FY 2018-19 only, cash fund expenditures will increase by \$28,800 to modify DRIVES to account for the new penalties. Computer programming will be performed in the DRIVES system by the system vendor at a rate of \$225 per hour for an estimated 128 hours.

**Judicial Department.** Beginning in FY 2018-19, this bill will increase workload in state-operated county courts to the extent that individuals contest higher penalties. As driving a motor vehicle in a way that is careless and results in the injury or death of someone is already prosecuted under current law, it is not expected that there will be any additional filings.

**Agencies providing representation to indigent persons.** General Fund costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel will increase under the bill. For example, the difference in costs for the Office of the Alternate Defense Counsel to represent a misdemeanor case rather than a traffic case is \$223 per case. The exact estimated increase in costs is not available and this analysis assumes the affected offices will request an increase in appropriations through the annual budget process.

## **Local Government**

Overall, this bill is expected to increase local government revenue, workload, and costs 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.** To the extent that more individuals choose to go to court rather than accept plea deals based on the prospect of more significant penalties, the bill will increase workload and costs for district attorneys.

**County jails.** Under current law, a court may sentence an offender to jail for a class 1 misdemeanor for a period of between 6 and 18 months. The existing sentence range for careless driving resulting in the injury or death of a vulnerable road user is between 10 days and 1 year. To the extent that this bill increases terms of incarceration for these offenses, costs will increase. 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.

**Denver County Court.** Similar to the state, if more offenders choose to go to court rather than to accept a plea deal due to the enhanced penalties in this bill, workload for the Denver County Court, managed by the City and County of Denver, will increase. In addition, if offenders in Denver County are levied higher criminal fines, revenue will increase. These impacts have not been estimated.

**Highway Users Tax Fund.** By reclassifying the offense of careless driving resulting in the injury or death of a vulnerable road user to a criminal offense rather than a traffic offense, the bill will decrease local government HUTF revenue. HUTF revenue generated by traffic fines is distributed to counties (26 percent) and municipalities (9 percent) for transportation needs.

**Effective Date**

The bill was postponed indefinitely by the Senate Judiciary Committee on February 14, 2018.

**State Appropriations**

In FY 2018-19, this bill requires an appropriation of \$28,800 from the Licensing Services Cash Fund to the Department of Revenue.

**State and Local Government Contacts**

Alternate Defense Counsel  
Judicial  
Public Defender  
Sheriffs

County Clerks  
Law  
Public Safety

Information Technology  
Municipalities  
Revenue