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Fiscal Note

Drafting Number: LLS 23-0914
Prime Sponsors: Sen. Cutter
Rep. Froelich

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Bill Status: Senate Business
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Bill Topic: **STANDARDS FOR PRODUCTS REPRESENTED AS COMPOSTABLE**

- Summary of Fiscal Impact:**
- State Revenue
 - State Expenditure
 - State Transfer
 - TABOR Refund
 - Local Government
 - Statutory Public Entity

The bill establishes standards for selling compostable products. It increases state expenditures, and may increase state revenue, beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$26,250 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 23-253

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	General Fund	\$26,250	\$22,214
	Centrally Appropriated	\$6,771	\$5,291
	Total Expenditures	\$33,021	\$27,505
	Total FTE	0.4 FTE	0.3 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$3,938	\$3,332

Summary of Legislation

The bill establishes standards for compostable products sold in the state. To be sold, offered for sale, or distributed, a product may only be represented as compostable if it is certified pursuant to certain international standards. The bill specifies labelling requirements, exceptions, and prohibitions. Beginning January 1, 2024, producers must be able to verify compliance with the labelling requirements upon request.

The Department of Public Health and Environment (CDPHE), in collaboration with local governments, must conduct education and outreach with businesses, consumers, and producers. CDPHE must also develop a forum for receiving complaints against producers for violations of the bill's requirements. It may forward credible complaints to the Office of the Attorney General. Violations constitute an unfair or deceptive trade practice as of January 1, 2024.

State Revenue

Civil penalties. Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

Filing fees. The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

State Expenditures

The bill increases state expenditures in CDPHE by about \$33,000 in FY 2023-24 and about \$28,000 in FY 2024-25, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 23-250

	FY 2023-24	FY 2024-25
Department of Public Health and Environment		
Personal Services	\$25,250	\$21,214
Outreach Materials	\$1,000	\$1,000
Centrally Appropriated Costs ¹	\$6,771	\$5,291
Total Cost	\$33,021	\$27,505
Total FTE	0.4 FTE	0.3 FTE

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

Department of Public Health and Environment. The department requires 0.4 FTE in FY 2023-24 to develop outreach materials, collaborate with local governments, conduct education activities, and evaluate complaints. Staff costs account for the General Fund pay date shift in FY 2023-24, and decrease to 0.3 FTE in FY 2024-25. Additional expenditures reflect the cost of printing and distributing outreach materials.

Department of Law. Workload will minimally increase to the extent that deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources.

Judicial Department. The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that producers will abide by the law and that any violation of the legislation will result in minimal number of new cases. The fiscal note assumes that this can be accomplished within existing resources and that no change in appropriations is required.

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. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Local Government

The bill increases workload in any local government that collaborates on the education campaign.

Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires a General Fund appropriation of \$26,250 to the Department of Public Health and Environment, and 0.4 FTE.

State and Local Government Contacts

Counties

Municipalities

Information Technology

Public Health and Environment

Law