



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 21-0569
Prime Sponsors: Rep. Soper

Date: February 23, 2021
Bill Status: House Judiciary
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Bill Topic: **ASSUMPTION OF RISK LIABILITY AT WAKEBOARD PARKS**

Summary of Fiscal Impact:

- | | |
|---|--|
| <input checked="" 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 establishes legal responsibilities for wakeboard park operators and users. It minimally increases state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

The bill defines a wakeboard park and establishes legal responsibilities for wakeboard park operators and users. These include the following:

- an operator's responsibility to maintain safe conditions, mark boundaries, post warning signs, and include warning language on tickets;
- a wakeboarder's assumption of risk and legal responsibility for injury, and responsibility to remain under control and avoid injuring others;
- the establishment of a class 2 petty offense for leaving the scene following a collision, with a fine of up to \$1,000;
- the establishment of a 2-year statute of limitations for actions against a park operator; and
- a limitation of liability for park operators, including protection against claims for injury resulting from an inherent risk of wakeboarding.

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 changes an element of an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

Prior conviction data and assumptions. This bill creates the new offense of leaving the scene of a wakeboard collision without reporting the incident, a class 2 petty offense. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing comparable offense of leaving the scene of a boating accident without reporting the incident. From FY 2017-18 to FY 2019-20, a single offender has been convicted and sentenced for this existing offense. For demographic purposes, this individual was a white female. As such, the fiscal note assumes that there will be minimal or no additional case filings or convictions for the new offense under the bill.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

Background and Assumptions

Legislative Council Staff is unaware of any state or local government entities operating wakeboard parks. It is assumed that state park and recreation areas allowing water sports, including potentially wakeboarding, do not meet this definition.

State Revenue and Expenditures

Based on the assumptions above, this bill is expected to have a minimal impact on state revenue and expenditures. Under the bill, criminal fines and court fees, which are subject to TABOR, may increase by a minimal amount. Similarly, any increase in workload and costs for the Judicial Department, including the trial courts and agencies that provide representation to indigent persons are assumed to be minimal and no change in appropriations is required.

TABOR refunds. Under the December 2020 Legislative Council Staff Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2021-22 or FY 2022-23, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

Local Government

Similar to the state, it is expected that any workload or cost increase for district attorneys or the Denver County Court to prosecute or hear cases pertaining to individuals leaving the scene of a wakeboard collision will be minimal. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population, and the Denver County Court is managed and funded by the City and County of Denver.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed. It applies to conduct occurring on or after its effective date.

State and Local Government Contacts

Counties	Judicial	Law
Municipalities	Natural Resources	