



**Colorado  
Legislative  
Council  
Staff**

**HB17-1315**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated April 24, 2017)

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

**Drafting Number:** LLS 17-1090

**Date:** April 28, 2017

**Prime Sponsor(s):** Rep. Singer; Lawrence

**Bill Status:** House Finance

**Fiscal Analyst:** Amanda Hayden (303-866-4918)

**BILL TOPIC:** REQUIRE DIVISION OF CRIMINAL JUSTICE TO REPORT DUI DATA

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b>	<b>at least \$18,413</b>	<b>at least \$23,229</b>
Cash Funds	at least 18,413	at least 23,229
	Potential gifts, grants, or donations.	
<b>State Expenditures</b>	<b>\$23,003</b>	<b>\$19,443</b>
Cash Funds	20,352	16,421
Centrally Appropriated Costs	2,651	3,022
<b>TABOR Impact</b>	\$18,413	\$23,229
<b>FTE Position Change</b>	0.1 FTE	0.1 FTE
<b>Appropriation Required:</b> \$20,352 - Multiple agencies (FY 2017-18).		
<b>Future Year Impacts:</b> Ongoing state revenue and expenditure increases.		

**Summary of Legislation**

This bill, *as amended by the House Judiciary Committee*, requires the Division of Criminal Justice (DCJ) within the Department of Public Safety (DPS) to submit an annual report to the General Assembly containing information about substance-affected driving violations, including:

- the total number of citations made;
- the number of citations that resulted in a charge against the driver, including how many cases involved alcohol, one or more drugs, or a combination of alcohol and one or more drugs;
- how many of these resulted in at least one conviction;
- for convictions where evidentiary test results are available, which drugs or combination of drugs and alcohol were present in defendants' bodies, and for alcohol and marijuana, the laboratory values;
- the total number of DUI and DWAI cases that involved alcohol, marijuana, Schedule I drugs other than marijuana, or other drugs; and
- for those cases with evidentiary test results, the time that elapsed between the traffic stop or incident and the time at which the biological sample was taken.

The bill lists the specific types of information that DCJ must collect from the Judicial Branch, forensic toxicology labs, the Colorado Department of Public Health and Environment (CDPHE), and the Division of Probation Services. The bill prohibits DCJ from disclosing any personal identifying information, and no information collected for this reporting requirement is an open record. The bill specifies that the first report is due March 1, 2018, on data from calendar year 2016. Subsequent reports are due annually on March 1.

The bill requires anyone convicted of DUI, DUI per se, DWAI, vehicular assault, or vehicular homicide to pay a \$2 data-analysis surcharge. It creates a Substance-Affected Driving Data-Analysis Cash Fund in DPS, subject to annual appropriation by the General Assembly and authorized to accept gifts, grants, and donations. The money in the fund must be used to reimburse and provide advance payments to state, municipal, and private agencies and labs that apply to DCJ for payment of costs they incur in complying with the law.

## Background

Blood and breath alcohol tests used in DUI proceedings are processed by several entities. Chematox Laboratory, a private forensic toxicology laboratory, processes approximately 10,000 blood tests per year. The Colorado Bureau of Investigation and the Denver Police Department also process blood tests in house, approximately 4,000 and 2,000 per year, respectively. The Evidential Breath Alcohol Testing program within CDPHE processes approximately 12,000 breath alcohol tests yearly. There are eight private forensic toxicology laboratories certified by CDPHE that process blood and breath alcohol tests. CDPHE estimates that there are approximately 25,000 DUI blood or breath tests performed annually. Over the last three years, there have been, on average, 23,780 convictions for substance-affected driving violations per year.

## State Revenue

**This bill increases state cash fund revenue by at least \$18,413 in FY 2017-18 and at least \$23,229 in FY 2018-19** from surcharges to the newly created Substance-Affected Driving Data-Analysis Cash Fund in DPS. It may also increase revenue from gifts, grants, or donations. As of this writing, no source of gifts, grants, or donations has been identified.

***Fee impact on individuals.*** This bill increases state cash fund revenue to DCJ as a result of the \$2 data-analysis surcharge that all individuals convicted of DUI, DUI per se, DWAI, vehicular assault, and vehicular homicide will be ordered to pay by the Judicial Department. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The revenue amounts are estimates only, actual revenue collected will depend on the estimated number of offenders subject to the fee. Table 1 identifies the fee impact of this bill. The 58 percent collection rate and 8 percent collection on the previous year's assessments reflect the Judicial Department's current practices, as few defendants pay their balances in full on the day of sentencing. These projections are based on current collections for a similar penalty.

<b>Table 1. Revenue Under HB17-1315</b>					
<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Less Indigence (25%)</b>	<b>Percent Collected</b>	<b>Total Fee Impact</b>
Data-analysis surcharge	\$2	21,164*	15,873	58%	\$18,413
<b>FY 2017-18 TOTAL</b>					<b>\$18,413</b>
Data-analysis surcharge	\$2	23,780	17,835	58%	\$20,689
Additional collections on previous year's assessments				8%	2,540
<b>FY 2018-19 and future years TOTAL</b>					<b>\$23,229</b>

\* The number of cases subject to the surcharge in FY 2017-18 has been prorated by 89 percent to account for the bill's August 9th, 2017, effective date.

**TABOR Impact**

This bill increases state cash fund revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. 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. Revenue from gifts, grants, and donations is TABOR-exempt.

**State Expenditures**

**The bill increases state cash fund expenditures by \$23,003 in FY 2017-18 and \$19,443 in FY 2018-19.** This includes an increase in DPS of \$15,000 in FY 2017-18 and \$10,000 in FY 2018-19 and future years and an increase in CDPHE of \$8,003 and 0.1 FTE in FY 2017-18 and \$9,443 and 0.1 FTE in FY 2018-19 and future years. These impacts are shown in Table 2 and discussed below.

<b>Table 2. Expenditures Under HB17-1315</b>		
<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
<b>Department of Public Safety</b>	<b>\$15,000</b>	<b>\$10,000</b>
Lab Reimbursements	15,000	10,000
<b>Department of Public Health and Environment</b>	<b>8,003</b>	<b>9,443</b>
Personal Services	5,352	6,421
FTE	0.1 FTE	0.1 FTE
Centrally Appropriated Costs*	2,651	3,022
<b>TOTAL</b>	<b>\$23,003</b>	<b>\$19,443</b>

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

**Department of Public Safety.** In FY 2017-18, DPS requires \$15,000 from the Substance-Affected Driving Data-Analysis Cash Fund to reimburse Chematox for toxicology reports, of which \$5,000 is to modify a database to allow for queries of this kind and \$10,000 is to conduct manual data validation. This \$10,000 expense will be incurred every year DPS requires data from Chematox. If DPS requires additional spending authority to reimburse other private labs, the fiscal note assumes this will be addressed through the annual budget process.

Workload also increases for Colorado State Patrol (CSP) and DCJ. CSP will be required to supply DCJ with DUI data; this workload increase can be accomplished within existing appropriations. For DCJ, the workload associated with requesting data from other agencies and private labs, building a database to store this data, and compiling the report can be completed by a position funded in FY 2017-18 through the Marijuana Tax Cash Fund for another study. If funding for this position is eliminated in FY 2018-19, DPS may need to request additional appropriations through the annual budget process.

**Colorado Department of Public Health and Environment.** CDPHE requires \$8,122 and 0.1 FTE in FY 2017-18 and \$9,562 and 0.1 FTE in FY 2018-19 and future years in order to assist DPS with the reporting requirements under the bill. The Intoxilyzer breath testing instruments managed by CDPHE's Evidential Breath Alcohol Testing Program are used to perform approximately 12,000 alcohol breath tests per year. The fiscal note assumes that CDPHE requires reappropriated funds from the Substance-Affected Driving Data-Analysis Cash Fund to cover these costs.

**Other agencies.** The bill increases workload minimally in the Judicial Department and the Department of Human Services. The Information Technology Services division of the Judicial Department will need to add coding to the case management system to accommodate the new surcharge. The Office of Behavioral Health within the Department of Human Services will be required to query its database for information about the substances for which offenders were sentenced to probation for impaired driving. Neither of these workload increases require any change in appropriations for either agency.

**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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3. Standard indirect costs are included for CDPHE.

<b>Table 3. Centrally Appropriated Costs Under HB17-1315</b>		
<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$807	\$809
Supplemental Employee Retirement Payments	480	575
Indirect Costs	1,364	1,638
<b>TOTAL</b>	<b>\$2,651</b>	<b>\$3,022</b>

**Effective Date**

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

## State Appropriations

In FY 2017-18, the bill requires a \$20,352 appropriation to DPS from the Substance-Affected Driving Data-Analysis Cash Fund, of which \$5,352 and an allocation of 0.1 FTE should be reappropriated to CDPHE.

## State and Local Government Contacts

Information Technology  
Public Safety

Judicial  
Sheriffs

Public Health and Environment  
Treasury