



**Colorado
Legislative
Council
Staff**

SB17-240

**REVISED
FISCAL NOTE**

(replaces fiscal note dated March 30, 2017)

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

Drafting Number: LLS 17-0307
Prime Sponsor(s): Sen. Jahn; Tate
Rep. Winter

Date: May 5, 2017
Bill Status: House Finance
Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: SUNSET MOTOR VEHICLE DEALERS SALES

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	<u>\$261,961</u>	<u>\$3,633,108</u>
<i>Continuing revenue</i>		
Cash Funds		3.4 million
<i>New revenue</i>		
Cash Funds	261,961	233,108
State Expenditures	<u>\$266,875</u>	<u>\$3,411,369</u>
<i>Continuing expenditures</i>		
Cash Funds		3.2 million
<i>New expenditures</i>		
Cash Funds	232,994	177,488
Centrally Appropriated Costs	33,881	33,881
TABOR Impact	\$209,161	\$3,580,308
FTE	<u>1.9 FTE</u>	<u>30.1 FTE</u>
<i>Continuing FTE</i>		28.2 FTE
<i>New FTE</i>	1.9 FTE	1.9 FTE
Appropriation Required: \$232,994 – Departments of Revenue and Public Safety (FY 2017-18).		
Future Year Impacts: Continuation and increase in revenue and expenditures through FY 2027-28.		

Summary of Legislation

The *reengrossed bill, as amended by the House Business Affairs and Labor Committee*, continues the Motor Vehicle Dealer Board and the regulation of powersports vehicle sales through September 1, 2027, and implements some of the recommendations from the Department of Regulatory Agencies' (DORA) sunset report, including:

- requiring a fingerprint-based criminal history background check for all licensees;
- requiring an additional license for any new ownership interest in a licensed entity;
- subjecting a principle dealer license to discipline when he or she violates the laws governing salespeople by acting as a salesperson;

- requiring people who have had licenses revoked to wait one year before applying for a new license; and
- codifying the Auto Industry Division (AID) as a Type 2 transfer under the Department of Revenue (DOR) and making administrative updates.

The bill also clarifies certain statutory references to distinguish between the Executive Director of the Department of Revenue and the Director of the Auto Industry Division.

Background

Motor Vehicle Dealer Board. The Colorado Motor Vehicle Dealer Board in DOR processes and reviews license applications for entities and individuals selling motor vehicles and powersports vehicles. The board also generally enforces the laws regarding licensees, including holding hearings, ordering corrective actions, and resolving consumer complaints. The board participates in setting fees for the AID, which are set at a level sufficient to fund its direct and indirect program costs.

Automobile Industry Division. The AID in DOR employs criminal investigators to review and evaluate consumer complaints against licensees. Additionally, these criminal investigators have limited peace officer authority, enabling them to write criminal summonses (citing persons into county court) for unlicensed motor vehicle sales activities, which are then adjudicated in county court. The AID is funded by licensing fees set by the Motor Vehicle Dealer Board.

Fiscal Impact of Programs Set to Expire

This bill continues a program in DOR that is set to repeal effective July 1, 2017. In the current FY 2016-17, this program has projected revenue of \$3.4 million and expenditures of \$3.2 million and 28.2 FTE. Under current law, state agencies may be appropriated funds to wind up the affairs of an expiring program for 12 months following the repeal date. To account for the wind-up period, the impact of extending the program beyond the current repeal date is shown as beginning in FY 2018-19, one year after the repeal date. There is no need for an appropriation of the current base funding for the program in FY 2017-18 since its authorization has not yet expired and ongoing funding for the program has been included in the department's base budget request.

State Revenue

By continuing and modifying the regulatory program for motor vehicle and powersports vehicle dealers, **the bill increases overall cash fund revenue by \$261,961 in FY 2017-18 and by \$3,633,108 in FY 2018-19**, deposited into two funds — the Colorado Bureau of Investigation (CBI) Identification Unit Cash Fund in the Department of Safety (DPS), of which \$52,800 is passed through to the FBI each year; and the Auto Dealers Cash Fund in DOR. Of the FY 2018-19 amount, \$3.4 million represents the continuation of existing revenue to the program and \$233,108 is new revenue generated under the bill. These new revenue impacts are discussed further below.

Department of Revenue — Automobile Industry Division. Depending on the fund balance, the fiscal note assumes that the AID may be required to adjust fees to the Auto Dealers Cash Fund to finance the new DOR expenditures in the bill, which amount to \$88,161 in FY 2017-18 and \$59,308 in FY 2018-19, as shown in Tables 1 and 2.

Department of Public Safety — background check revenue. This bill will also increase state cash fund revenue by \$173,800 beginning in FY 2017-18 to DOR, which is reappropriated to the CBI in DPS and the Federal Bureau of Investigation (FBI) for fingerprint-based criminal background checks. The AID receives an average of 4,400 license applications per year and the fingerprint background check fee is \$39.50.

Fee impact on motor vehicle and powersports vehicle dealers. Colorado law requires legislative service agency review of measures which increase any fee collected by a state agency. Background check fees have been estimated for the fiscal note; however, AID fee adjustments have not been estimated. Actual fee calculations will be set administratively by the Motor Vehicle Dealer Board, which the fiscal note assumes will increase fees across all motor vehicle and powersports vehicle licensees based on cash fund balance, estimated program costs, and the number of licensees.

Table 1. Fee Impact on Motor Vehicle and Powersports Vehicle Dealers and Salespersons					
Type of Fee	Current Fee	Estimated Fee	Fee Change	Number Affected	Total Fee Impact
FY 2017-18					
Licensing and Renewal Fees*	\$96 to \$519	TBD	TBD	20,000	\$88,161
CBI/FBI Background Check Fee	N/A	39.50	39.50	4,400	173,800
FY 2017-18 Total					\$261,961
FY 2018-19					
Licensing and Renewal Fees*	\$96 to \$519	TBD	TBD	20,000	\$59,308
CBI/FBI Background Check Fee	N/A	39.50	39.50	4,400	173,800
FY 2018-19 Total					\$233,108

* The Motor Vehicle Dealer Board may raise fees across all motor vehicle and powersports vehicle licensees to finance the new expenditures generated by the bill for DOR each year.

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. The federal pass-through moneys, which total \$52,800 per year under the bill, are not subject to TABOR.

State Expenditures

By continuing and modifying the regulatory program for motor vehicle and powersports vehicle dealers, **the bill increases expenditures in DOR and DPS by \$266,875 and 1.9 FTE in FY 2017-18 and \$3,411,369 and 30.1 FTE in FY 2018-19**, paid from the CBI Identification Unit Cash Fund in DPS and the Auto Dealers Cash Fund in DOR. These costs are summarized in Table 2 and described below. Continuation costs are shown as base expenditures in FY 2018-19. New expenditures are generated by the bill's requirement that all applicants submit to a fingerprint background check, and the fiscal note's estimate that there will be 4,400 applications per year.

Table 2. Expenditures Under SB17-240		
Department of Revenue	FY 2017-18	FY 2018-19
Personal Services	\$40,113	\$40,113
FTE	1.1 FTE	1.1 FTE
Operating Expenses and Capital Outlay Costs	5,748	1,045
Fingerprint Equipment	14,150	
Computer Programming	10,000	
Base Expenditures		3,200,000
Base FTE		28.2 FTE
Centrally Appropriated Costs*	18,150	18,150
DOR Subtotal	\$88,161	\$3,259,308
Department of Public Safety	FY 2017-18	FY 2018-19
Personal Services	\$42,686	\$42,686
FTE	0.8 FTE	0.8 FTE
Operating Expenses and Capital Outlay Costs	5,463	760
Training	2,000	
FBI Pass-through Costs	52,800	52,800
AFIS-related Costs	46,790	26,840
Print Digitization	6,820	6,820
CCIC Access	3,872	3,872
Printing and Postage	2,552	2,552
Centrally Appropriated Costs*	15,731	15,731
DPS Subtotal	\$178,714	\$152,061
TOTAL EXPENDITURES	\$266,875	\$3,411,369
TOTAL FTE	1.9 FTE	30.1 FTE

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

Department of Revenue. As shown in Table 2, the bill increases overall expenditures from the Auto Dealers Cash Fund in the Department of Revenue by \$88,161 and 1.1 FTE in FY 2017-18 and \$3,259,308 and 29.3 FTE in FY 2018-19.

Personal services. AID requires 1.1 FTE Administrative Assistant to coordinate the fingerprint background check requirement for all licensees. The AID will spend approximately 30 minutes per new application to process the fingerprint-based background check, which will include scheduling, fingerprinting, and transmitting the prints to DPS. AID receives approximately 4,400 new applications per year.

Fingerprint equipment. In FY 2017-18, the DOR will make a one-time purchase of two digital fingerprinting systems at a cost of \$7,075 each.

Computer programming. This bill requires changes to DOR's GenTax software system. Changes are programmed by a contractor at a rate of \$250 per hour. The changes in this bill are expected to increase expenditures by \$10,000, representing 40 hours of programming. All GenTax programming changes are tested by department staff. The department can perform the testing required in this bill within existing appropriations. The bill will also require programming to the MyLO licensing software, which can be accomplished within existing appropriations.

Legal services. DOR will need to perform rulemaking related to the bill, but these costs are expected to be accomplished within the department's legal services budget. Should additional legal services be required, the DOR will utilize the annual budget process.

Base expenditures. The base expenditures represent the continuation costs for the licensing of motor vehicle and powersports vehicle dealers and salespersons. In the current FY 2016-17, this program has projected expenditures of \$3.2 million and an allocation of 28.2 FTE. See Fiscal Impact of Programs Set to Expire section above for more information about program sunsets.

Department of Public Safety. As shown in Table 2, the bill increases overall expenditures from the CBI Identification Unit Cash Fund in the Department of Public Safety by \$178,714 and 0.8 FTE in FY 2017-18 and \$152,061 and 0.8 FTE in FY 2018-19.

Personal services. Beginning in FY 2017-18, DPS will require 0.5 FTE Fingerprint Examiner and 0.3 FTE Data Specialist to process the 4,400 fingerprint background applications that the fiscal note assumes will be generated under the bill from motor vehicle and powersports vehicle dealers and salespersons. Due to recruitment difficulties, the salary levels are increased by approximately \$185 and \$127 per month respectively. A Fingerprint Examiner can process 8,250 requests per year, and a Data Specialist 16,500. These employees will undertake a one-time training session that costs \$1,000 per person.

Federal Bureau of Investigation Pass-through. The DPS passes \$12 of every application on to the federal government. With 4,400 applications, this equates to \$52,800 per year.

Automated Fingerprint Identification System (AFIS) costs. The FTE requires the purchase of an AFIS workstation (\$5,000) and software license (\$14,950) in FY 2017-18. In addition, for each fingerprint background application, \$6.10 is dedicated to AFIS equipment maintenance.

Other costs. In addition to the costs outlined above, there is a \$1.55 per-application print digitization cost; a \$0.88 per-application cost to access the Colorado Crime Information Center for information pertinent to the background check; and a \$0.58 per-application printing and postage costs.

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. Standard DPS indirect costs of 11.6% are included on the department's personal services costs. Leased space for DOR is included to show the incremental impact of the additional FTE, and calculated at DOR's rate of 200 square feet per FTE at a rate of \$27 per square foot. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

Table 3. Centrally Appropriated Costs Under SB17-240		
Cost Components	FY 2017-18	FY 2018-19
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$15,656	\$15,656
Supplemental Employee Retirement Payments	7,419	7,419
Indirect Costs (DPS)	4,866	4,866
Leased Space (DOR)	5,940	5,940
TOTAL	\$33,881	\$33,881

Effective Date

The bill takes effect July 1, 2017.

State Appropriations

In FY 2017-18, the bill includes a cash fund appropriation of \$162,983 and an allocation of 0.8 FTE from the Colorado Bureau of Investigation Identification Unit Cash Fund to the Department of Public Safety. Of the amount appropriated to the Department of Public Safety, \$52,800 will be passed to the Federal Bureau of Investigation.

The bill also requires a cash fund appropriation of \$70,011 and an allocation of 1.1 FTE from the Auto Dealers Cash Fund to the Department of Revenue in FY 2017-18.

State and Local Government Contacts

Law Public Safety Revenue