

Summary of Legislation

Under current law, the penalty for leaving a campfire unattended or failing to extinguish a campfire is a class 2 petty offense punishable by a fine of \$50. The bill specifies that anyone who knowingly or recklessly fails to attend to a campfire or fails to thoroughly extinguish a campfire before leaving the site commits the offense of leaving a campfire unattended. For a person who leaves a campfire unattended in a forested or grassland area, or on Colorado Parks and Wildlife land (CPW), the bill changes the penalty to a class 3 misdemeanor, punishable by a minimum \$50 fine and a maximum of six months in jail, or a \$750 fine, or both. In addition, the bill removes the requirement that counties post certain notices related to unattended campfires. The bill applies to offenses committed on or after July 1, 2018.

Background

Under current law, for unattended campfire violations that occur on CPW land, CPW collects fine revenue, with half of the fine revenue deposited in the General Fund, and half deposited in one of the CPW cash funds, or distributed to a local agency, based on the violation and whether the citation was issued by CPW staff or local law enforcement. Over the last three years, CPW has issued 24 citations for failing to extinguish a campfire, resulting \$1,200 in revenue, \$600 of which has been deposited in various cash funds and \$600 of which has been deposited in the General Fund. On non-CPW land, fine revenue for the class 2 petty offense is collected by the local entity. CPW is within the Department of Natural Resources.

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. The bill changes leaving a campfire unattended from a class 2 petty offense to a class 3 misdemeanor in certain cases, and adds additional detail to the offense. Data are not available on the total number of convictions under the current class 2 petty offense; however, over the last three years, CPW has issued 24 citations. As a result, the fiscal note assumes that the number of class 3 misdemeanor cases as a result of the bill will be minimal. Demographic data are not available for these offenders.

State Revenue

The bill results in a minimal net increase in state cash fund and General Fund revenue beginning in FY 2018-19, as discussed below.

Fine revenue — CPW. The bill decreases CPW cash fund and General Fund revenue by a minimal amount beginning in FY 2018-19. Currently, approximately eight citations are issued per year by CPW, totaling \$400 in revenue, equally distributed between the General Fund and CPW cash funds. By changing the class 2 petty offense to a class 3 misdemeanor in certain cases, CPW will instead issue court summons and any fine revenue will be collected by the Judicial Department, rather than by CPW.

Criminal fines — Judicial Department. This bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for the class 3 misdemeanor is between \$50 and \$750. Because

the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of citations issued by CPW in the past three years, the fiscal note assumes that any fine revenue generated will be less than \$5,000.

Court and administrative fees. This bill may also increase state cash fund and General Fund fee revenue by a minimal amount. Fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court. Typical fees may include such items as probation supervision, drug or sex offender surcharges, genetic testing, victim compensation, late fees, and other administrative fees. Offenders sentenced to probation pay a supervision of fee of \$50 per month. Some fee revenue is shared with local governments; please refer to the Local Government Impact section for additional information. Any increase in fee revenue is expected to be minimal.

TABOR Impact

The bill decreases state cash and General Fund revenue collected by CPW by a minimal amount beginning in FY 2018-19, which will reduce the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

Beginning in FY 2018-19, the bill increases the workload for the Judicial Department and Department of Natural Resources by a minimal amount. Specific workload impacts are discussed below.

Judicial Department. Reclassifying a petty offense to a misdemeanor in certain cases moves the case from municipal court to county court. County courts, with the exception of the City and County of Denver, are managed by the Judicial Department. The workload increase from these additional cases can be accomplished within existing appropriations. In addition, the bill may increase the number of cases sentenced to probation, as well as the workload for the Office of the Alternate Defense Council, Office of the State Public Defender, which provide representation to indigent offenders. These workload increases are expected to be minimal.

Department of Natural Resources. To the extent that more violators are tried in court, workload may increase for CPW to support court proceedings. Any increase is expected to be minimal.

Local Government Impact

Revenue. This bill impacts local government revenue in several ways, as discussed below.

Criminal fine revenue - all jurisdictions. Currently, a local jurisdiction receives fine revenue for citations that it issues, plus half of the fine collected for a citation issued by a local law enforcement officer on CPW land. Under the bill, fine revenue will be collected by the state for any offenses that occur in a forested or grassland area; as a result, the bill decreases fine revenue for local governments whose officers currently issue citations for not extinguishing a campfire in a forested or grassland area.

Criminal fine revenue - City and County of Denver. This bill is anticipated to increase revenue by less than \$5,000 per year for the City and County of Denver. The fine penalty for a class 3 misdemeanor is \$50 to \$750, and offenders sentenced to probation pay a supervision fee of \$50 per month.

Court and administrative fees. Similar to the state, court and administrative fee revenue will increase as a result of any court and administrative fees shared with the state.

Expenditures. This bill impacts expenditures and workload for local governments in several ways, as discussed below.

Misdemeanor offenses. First, the bill increases workload for district attorneys to prosecute any new class 3 misdemeanors. Second, to the extent that offenders are sentenced to jail, costs will increase. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. It is assumed that the impact of this bill will be minimal.

City and County of Denver expenditures. The bill results in a minimal increase in workload for the Denver County Court, managed and funded by the City and County of Denver, to try misdemeanor cases. Probation services in the Denver County Courts may also experience a minimal increase in workload to supervise persons convicted.

County workload. The bill decreases workload and costs for counties, as they are no longer required to post specific signage related to extinguishing campfires.

Effective Date

The bill was signed into law by the Governor on March 22, 2018, takes effect July 1, 2018, and applies to offenses committed on or after that date.

State and Local Government Contacts

Counties
Information Technology
Municipalities
Sheriffs

District Attorneys
Judicial
Natural Resources
Special Districts

Fire Chiefs
Local Affairs
Public Safety