



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

HB 19-1034

FISCAL NOTE

Drafting Number: LLS 19-0646
Prime Sponsors: Rep. Sullivan; Esgar

Date: January 15, 2019
Bill Status: House Trans. & Local Govt.
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Bill Topic: MINIMUM TWO-PERSON CREW ON FREIGHT TRAINS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>minimal</i>)	<input checked="" type="checkbox"/> TABOR Refund (<i>minimal</i>)
<input checked="" type="checkbox"/> State Expenditure (<i>minimal</i>)	<input checked="" type="checkbox"/> Local Government (<i>minimal</i>)
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill requires freight trains to have at least two crew members aboard trains when moving and creates an unclassified misdemeanor for violations. The bill will have a minimal impact on state and local revenue and expenditures.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

This bill requires that a common carrier engaged in the transportation of freight by railroad have at least two crew members aboard moving freight trains. A crew member is defined as an employee, and does not include a hostler service, utility employee, or a contractor. The requirement does not apply to:

- helper services;
- trains that are primarily used for tourism purposes;
- caboose-attached locomotives or locomotive groups moving at 30 miles per hour (mph) or less; and
- trains unloading or loading freight at a speed of 10 mph or less.

Violators are subject to an unclassified misdemeanor. If convicted, fines range from:

- \$250 to \$1,000 for the first offense;
- \$1,000 to \$5,000 for a second offense committed within 3 years; or
- \$5,000 to \$10,000 for a third or subsequent offense committed within 3 years.

Background

There are about fourteen privately owned freight railroads that operate in Colorado. These freight railroads collectively own more than 2,800 miles of track. The freight rail network currently serves 48 out of 64 Colorado counties.

Freight policy is regulated by the Federal Railroad Administration. However, a state can issue railroad safety laws where there is no federal law on the issue or where a more stringent state law is consistent with federal law. While the federal government has preempted most areas of railroad safety, the Public Utilities Commission currently has primary jurisdiction over all public highway-rail crossings.

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 offenses.

Prior conviction data and assumptions. This bill creates a new unclassified misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of common carrier code violations as a comparable crime. From 2016 to 2018, there were zero sentences for this existing offense. Therefore, the fiscal note assumes that there will be minimal or very limited case filings or convictions for the new offense under the bill.

State Revenue

Criminal fines and court fees. By creating a new misdemeanor offense, the bill may increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2019-20, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for this new misdemeanor ranges from \$250 to \$10,000. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as late fees. However, based on the low number of fines imposed in past years and the assumption that freight railroads will most likely comply with the bill, the fiscal note estimates that any revenue generated will be minimal. Criminal fine and court fee revenue is subject to TABOR.

State Expenditures

Judicial Department. This bill will increase costs and workload for the trial courts in the Judicial Department to process additional criminal case filings. Overall, it is assumed that this workload can be accomplished within existing appropriations. Should a change in funding be required for any agency or division with the Judicial Department, the fiscal note assumes it will be addressed through the annual budget process.

TABOR refunds. To the extent that the bill increases state cash fund revenue from fines, the bill will increase state General Fund obligations for TABOR refunds in FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Local Government Impact

Beginning in FY 2019-20, this bill is expected to increase local government revenue, costs, and workload as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

District attorneys. The bill increases workload and costs for district attorneys to prosecute the new misdemeanor offense. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

Denver County Court. The bill may increase revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver, to try misdemeanor cases under the bill.

Effective Date

The bill takes effect on July 1, 2019.

State and Local Government Contacts

Counties	District Attorneys	Information Technology
Judicial	Municipalities	Public Safety
Regulatory Agencies	Transportation	