



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Final Fiscal Note

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<b>Drafting Number:</b>	LLS 21-0519	<b>Date:</b>	June 16, 2021
<b>Prime Sponsors:</b>	Sen. Woodward Rep. Larson	<b>Bill Status:</b>	Postponed Indefinitely
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**Bill Topic:** **BUSINESS EXEMPT FROM PUBLIC HEALTH ORDER TO CLOSE**

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**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

This bill would have allowed certain businesses to stay open during an emergency declaration or epidemic by creating an exemption to a misdemeanor offense for failure to comply with a public health order. The bill may have both increased and decreased state revenue and state and local workload beginning in FY 2021-22.

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**Appropriation Summary:** No appropriation is required.

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**Fiscal Note Status:** The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

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## Summary of Legislation

By creating an exemption to a misdemeanor offense for failure to comply with a public health order, this bill allows a business that has been ordered to cease or limit its operations as a result of a declared emergency or public health emergency to continue or resume operations if certain criteria are met. The criteria include that the affected business' products or services are also available at another business operating in the area that has not been ordered to cease or limit its operations; and that the affected business complies with the safety precautions outlined in the public health order.

## 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. The following section outlines data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions under the bill.

**Prior conviction data.** Under current law, a business owner may face criminal misdemeanor charges for failure to comply or obey a public health order. Under the bill, a person operating a business that meets specific criteria (selling products or services that other businesses in the area not subject to closure also sell and adhering to safety precautions outlined in emergency orders) could not be charged under these statutes. Between January 1, 2017, and December 31, 2020, there were 50 cases filed with at least one charge for failure to comply with a public health order and 61 cases filed with at least one charge for failure to obey a public health order; however, it is unknown how many of these cases would meet the specific exemption criteria under the bill. None of these cases resulted in a sentence to probation. No gender or demographic data is available as of writing.

**Assumptions.** This analysis assumes that there will be a minimal reduction in case filings or convictions for the exemption to violating a public health order created by the bill.

Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## **State Revenue**

Based on the assumptions above, this bill may minimally decrease state revenue resulting from the misdemeanor exemption beginning in the current FY 2020-21. Criminal fines and court fees, which are subject to TABOR, may decrease by a minimal amount.

## **State Expenditures**

Beginning in the current FY 2020-21, the bill may increase workload in the Department of Public Health and Environment and decrease workload in the Judicial Department.

**Department of Public Health and Environment (CDPHE).** Because public health agencies are in the position of determining compliance with public health orders, the bill increases workload in the CDPHE whenever public health orders are in place to cease or limit business operations. When this occurs, the CDPHE and local public health agencies will be required to verify whether products and services are otherwise available in the same jurisdiction before taking any action to enforce a public health order.

**Judicial Department.** Based on the assumptions outlined in the Comparable Crime Analysis section, potential workload decreases for the Judicial Department, the Division of Probation, and agencies that provide representation to indigent persons are assumed to be minimal and require no change in appropriations.

**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 the current forecast period, 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 workload will increase for local public health agencies to verify public health order compliance as modified by the bill; and that workload may minimally decrease for district attorneys, county jails, and the Denver County Court related to the bill's misdemeanor exemption.

## **Effective Date**

The bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on March 16, 2021.

## **State and Local Government Contacts**

Counties	District Attorneys	Economic Development
Information Technology	Judicial	Law
Municipalities	Personnel	Public Health and Environment
Sheriffs		