



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 22-0969
Prime Sponsors: Sen. Hansen; Fields

Date: April 1, 2022
Bill Status: Senate Trans & Energy
Fiscal Analyst: Aaron Carpenter | 303-866-4918
Aaron.Carpenter@state.co.us

Bill Topic: **MOBILE ELECTRONIC DEVICES & MOTOR VEHICLE DRIVING**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" 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

The bill creates a traffic misdemeanor for using an electronic device while driving. The bill will impact state and local revenue and will increase state expenditures starting in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$40,000 to the Department of Revenue.

Fiscal Note Status: This fiscal note is preliminary and reflects the introduced bill. The fiscal note will be updated when more information becomes available on computer programming costs.

Table 1
State Fiscal Impacts Under SB 22-175

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	Cash Funds	up to \$40,000	-
Transfers		-	-
Other Budget Impacts		-	-

Summary of Legislation

Under current law, a person under the age of 18 is prohibited from using a mobile electronic device while driving (a class A traffic infraction, with a fine of \$50 for a first offense and \$100 for a second) and persons over the age of 18 cannot text and drive while operating a motor vehicle (which ranges from a class 2 misdemeanor to a class 1 misdemeanor traffic offense), unless the person is using the phone to contact a public safety entity or during an emergency.

The bill prohibits the use of a mobile electronic device for persons over the age of 18 unless the individual is using a hands-free accessory or:

- is using the device to report an emergency;
- is an employee or contractor of a utility service provider and is acting within the scope of their duties when responding to a utility emergency;
- is operating a commercial truck and using a mobile data terminal;
- is performing the duties of a first responder; or
- is lawfully parked.

Penalties. Violations of using a mobile electronic device are misdemeanor traffic offenses with fines from \$150 to \$300 and driver license points from 2 to 4 depending on if multiple offenses occur within 24 months. These penalty ranges apply to all violations, including those committed by persons under the age of 18.

Public awareness campaign. The bill requires the Colorado Department of Transportation (CDOT), in consultation with Colorado State Patrol (CSP), to create a public awareness campaign on the requirements of using a mobile electronic device when driving.

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 creates a new factual basis for an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions resulting from the bill.

Minor use of mobile electronic devices. This bill reclassifies the existing offense of a minor using an mobile electronic device while driving from a class A traffic infraction to a misdemeanor traffic offense. From FY 2018-19 to FY 2020-21, 46 minors have been sentenced for this offense by the state courts. Of the persons convicted, 29 were male and 17 were female. Demographically, 37 were White, 3 were Black/African American, 4 were Hispanic, 1 was Asian, and 1 was classified as "Other."

Adult use of mobile electronic devices. This bill reclassifies the existing offense of adult texting and driving from a class 2 misdemeanor to misdemeanor traffic offense and creates a new offense of using a mobile electronic device while driving, also a misdemeanor traffic offense. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of adult texting and driving as a comparable crime. From FY 2018-19 to FY 2020-21, 74 adults have been convicted and sentenced for this offense by the state courts. Of the persons convicted, 42 were male and 32 were female. Demographically, 68 were White, 3 were Hispanic, and 3 were classified as "Other."

Background

According to a recent [CDOT Driving Behavior Survey](#), selecting entertainment on a device (22 percent) and talking on a hands-free cellphone (16 percent) were the second and third most common driving distractions after eating and drinking (33 percent).

State Revenue

Starting in FY 2022-23, the bill will minimally impact state revenue in the Highway Users Tax Fund (HUTF) and cash funds in the Judicial Department, as described below.

Highway Users Tax Fund. The bill impacts revenue to the HUTF in two ways. First, the bill changes traffic fines by raising the fine for a minor who uses an electronic device and lowering the fine amount for adults who text and drive. Overall, based on Comparable Crime data, the fiscal note estimates that the changes to fines will result in a neutral revenue impact.

Second, revenue will increase from additional traffic misdemeanors from adults using an electronic device that does not include texting and driving. As discussed in the Background section, the majority of drivers claim to comply with this law; therefore, it is assumed that any revenue from traffic fines related to this offense will be minimal. Revenue to the HUTF is distributed to CDOT (65 percent), counties (26 percent), and municipalities (9 percent). Revenue to the HUTF is subject to the state's TABOR limit.

Judicial surcharges and cash funds. The bill will minimally increase state revenue to various judicial cash funds from court fines and fees for the additional traffic offenses of adults using an electronic device that does not include texting and driving. Similar to the HUTF revenue, the fiscal note assumes that this increase will be minimal. Court fines and fees are subject to the state's TABOR limit.

State Expenditures

The bill will increase state cash fund expenditures by up to \$40,000 in FY 2022-23 only in the Department of Revenue (DOR), and will increase state workload in various departments, as described below.

Department of Revenue. In FY 2022-23 only, the bill will increase state expenditures by up to \$40,000 from the DRIVES Cash Fund to update the department's DRIVES system to reflect the changes to traffic offenses outlined in the bill. In addition, workload in the DOR will increase to update policies and manuals, and websites, which can be accomplished within existing appropriations.

Judicial Department. This bill will increase workload and costs for the trial courts in the Judicial Department to process additional criminal case filings. Overall, it is assumed these impacts 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.

Department of Transportation and Colorado State Patrol. Starting in FY 2022-23, workload in CDOT and the CSP will increase to conduct a public awareness campaign on changes to permissible mobile device use under the bill. CDOT already conducts a public awareness campaign on distracted driving and the fiscal note assumes that the new requirement can be incorporated into the current public awareness campaign. No change in appropriation is required.

Local Government

Beginning in FY 2022-23, this bill will increase local government revenues and expenditures, as discussed below.

HUTF fine revenue. Similar to the state, the bill will minimally decrease local government HUTF revenue generated by traffic fines for transportation needs. Under current law, 26 percent of HUTF revenue goes to counties and 9 percent goes to municipalities.

District and city attorneys. District attorneys will see an increase in workloads to prosecute traffic misdemeanors. It is assumed that these violations will be in conjunction with other traffic offenses, therefore, the expected increase in workload is assumed to be minimal. Traffic offenses prosecuted in a municipal court will increase revenue and workload to that municipality.

Denver County Court. Similar to state-funded courts, the bill will increase revenue, expenditures and workload for the Denver County Court, which is managed and funded by the City and County of Denver.

Technical Note

The bill requires CDOT to create a campaign raising public awareness by July 1, 2022. However, the bill will take effect August 9, 2022, assuming the General Assembly adjourns sine die on May 11, 2022, and no referendum petition is filed, making this deadline requirement unworkable.

The bill changes the fines issued under Section 42-4-239 C.R.S., but does not update the fines and surcharges in Section 42-4-1701 (4) C.R.S., to allow a peace officer to give a penalty assessment notice to a defendant. The fiscal note assumes that the bill intends to include the new fines in Section 42-4-1701 (4) C.R.S.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed. The bill applies to offenses committed on or after January 1, 2023.

State Appropriations

For FY 2022-23, the bill requires a \$40,000 appropriation from the DRIVES Cash Fund to the Department of Revenue. Of that amount, \$1,386 is reappropriated to the Office of Information Technology.

State and Local Government Contacts

District Attorneys
Public Safety

Information Technology
Revenue

Judicial
Transportation