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Final Fiscal Note

Drafting Number: LLS 22-0125
Prime Sponsors: Sen. Ginal; Liston
Rep. Lontine

Date: July 28, 2022
Bill Status: Signed into Law
Fiscal Analyst: Aaron Carpenter | 303-866-4918
Aaron.Carpenter@state.co.us

Bill Topic: **DETER TAMPERING MOTOR VEHICLE EMISSION CONTROL SYSTEM**

Summary of Fiscal Impact:

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

The bill allows the Department of Public Health and Environment to seek civil penalties for tampering with a motor vehicle's emission control system. The bill will increase state revenue and expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 22-179

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	-	\$208,100
	Centrally Appropriated	-	\$21,236
	Total Expenditures	-	\$229,336
	Total FTE	-	0.9 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	-	\$31,215

Summary of Legislation

Starting on January 1, 2024, the bill prohibits a person from:

- tampering with an emission control system;
- selling, advertising, manufacturing, installing, or using a motor vehicle part that bypasses the emission control system;
- selling, leasing, or renting a motor vehicle with an emission control system that has been tampered with, unless the vehicle is sold wholesale and the owner has the applicable ownership document; and
- operating a motor vehicle with an emission control system that has been tampered with and the vehicle has been granted a certificate of conformity under federal law and the person knew the system was tampered with.

The bill establishes civil penalties—fines ranging from \$200 to \$15,000 depending on the number of vehicles a person owns or operates and the number of violations—for persons who violate the bill and allows the Attorney General to bring civil action against individuals. Beginning July 1, 2025, a person is not subject to a penalty if the person self-reports to the Colorado Department of Public Health and Environment (CDPHE) that they are not in compliance.

This bill creates the Catalytic Converter Identification and Theft Prevention Grant Program Cash Fund and credits civil penalties to this fund through July 1, 2025. The new fund is continuously appropriated to the Department of Public Safety. After this date, civil penalties are transmitted to the AIR Account in the Highway Users Tax Fund (HUTF).

Purchased vehicles. The bill extends the amount of time to return a vehicle to a dealer if a vehicle fails a test at an enhanced inspection center from three to five days.

Motor vehicle dealer licenses. The bill allows licenses for motor vehicle dealers, wholesale motor vehicle auction dealers, wholesalers, buyers agency, or used motor vehicle dealers to be denied suspended, or revoked for selling a motor vehicle that is not equipped with a properly functioning emission control system.

State Revenue

Starting in FY 2023-24, the bill will increase cash fund expenditures in the Catalytic Converter Identification and Theft Prevention Grant Program Cash Fund, and later the HUTF, from civil penalties under the bill. Because it is unknown how many violations there will be, an exact revenue estimate cannot be determined at this time.

State Expenditures

The bill increases state expenditures in the CDPHE by \$229,336 in FY 2023-24 and \$299,732 in FY 2024-25 from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 22-179**

	FY 2022-23	FY 2023-24	FY 2024-25
Department of Public Health and Environment			
Personal Services	-	\$102,677	\$199,021
Operating Expenses	-	\$2,025	\$3,375
Capital Outlay Costs	-	\$18,600	-
Legal Services	-	\$19,714	\$39,428
IT Modifications	-	\$38,433	\$15,006
Other Rulemaking Costs	-	\$26,651	-
Centrally Appropriated Costs ¹	-	\$21,236	\$42,902
FTE – Personal Services	-	1.2 FTE	2.5 FTE
FTE – Legal Services	-	0.1 FTE	0.2 FTE
Total Cost	-	\$229,336	\$299,732
Total FTE	-	1.3 FTE	2.7 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Public Health and Environment. Starting in FY 2023-24, expenditures in the CDPHE will increase to hire additional staff, make modifications to computer systems, and for legal services.

- **Staffing costs.** Starting in FY 2023-24, the CDPHE will require 2.5 FTE to assist in rulemaking, assist in enforcement, track data, develop an annual report, and present results of the report to the General Assembly. Staffing costs include standard operating and capital outlay costs. Costs in FY 2023-24 are prorated for an August 1 start date for 0.5 FTE and January 1 for the other 2.0 FTE. Starting in FY 2024-25, staffing costs may be reduced if CDPHE does not accomplish the required report.
- **IT modifications.** Starting in FY 2023-24, the bill requires up to 389 hours of IT modifications to update CDPHE's computer system to track data required by the bill, to develop a website and database so the public can submit complaints, and to track enforcement and complaints. This amount includes hours to develop tracking that allows CDPHE to accomplish an annual report outlined in the bill. Starting in FY 2024-25, 98 hours is required annually for ongoing system maintenance.
- **Legal services.** The CDPHE will require 200 legal hours in FY 2022-23 to assist with rulemaking and 400 hours of legal services in future years to bring civil action against individuals under the bill. Legal services are provided by the Department of Law at a rate of \$98 per hour.
- **Other rulemaking costs.** In FY 2022-23 only, expenditures in the CDPHE will increase to purchase translation and interpretation services, to print fliers, and to send mailers. The CDPHE will also require time-limited marketing and communications staff support, which the fiscal note assumes can be accomplished with existing resources.

Department of Revenue. Starting in FY 2022-23, workload in the Department of Revenue will increase to update rules for motor vehicle seller licenses. The fiscal note assumes this workload can be accomplished within existing appropriations. In addition, the department will require legal services from the Department of Law, which are expected to fall within the range of the department's existing legal services appropriations.

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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by an indeterminate amount, as discussed in the State Revenue section above. This estimate assumes the March 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve as shown in Table 1, which will decrease the amount of General Fund available for other purposes.

Effective Date

The bill was signed into law by the Governor on June 8, 2022, and takes effect on August 9, 2022, assuming no referendum petition is filed. Section 4 of the bill does not take effect due to the passage of House Bill 22-1217. The bill applies to conduct occurring on or after the effective date of the bill.

Departmental Difference

The CDPHE estimates that the bill will require an additional 0.5 FTE to assist in rulemaking, providing outreach, and developing regulations. This includes 0.4 FTE in FY 2022-23 to help develop and standup program rules based on the assumption that it takes 12 months of research, drafting, stakeholder engagement, and rulemaking to create any rule. The fiscal note estimates that 2.5 FTE is sufficient staff to accomplish the requirements of the bill, and that 5 months in FY 2023-24 is sufficient time to develop the rules required by the bill.

State and Local Government Contacts

Information Technology
Law
Public Safety

Judicial
Public Health and Environment
Revenue