



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Revised Fiscal Note

(replaces fiscal note dated February 9, 2023)

<b>Drafting Number:</b>	LLS 23-0557	<b>Date:</b>	April 21, 2023
<b>Prime Sponsors:</b>	Rep. Evans; Bird Sen. Roberts; Hansen	<b>Bill Status:</b>	Senate Trans. & Energy
		<b>Fiscal Analyst:</b>	Colin Gaiser   303-866-2677 colin.gaiser@coleg.gov

**Bill Topic:** ALCOHOL & DRUG IMPAIRED DRIVING ENFORCEMENT

**Summary of Fiscal Impact:**

<input 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

The bill expands high-visibility drunk driving enforcement programs to include both alcohol and drug-impaired driving, and requires an annual appropriation of \$1.5 million from the State Highway Fund for allocation to local governments. It increases state expenditures on an ongoing basis.

**Appropriation Summary:** No appropriation is required. The State Highway Fund is continuously appropriated to the Department of Transportation.

**Fiscal Note Status:** The revised fiscal note reflects the reengrossed bill.

**Table 1  
State Fiscal Impacts Under HB 23-1102**

		Budget Year FY 2023-24	Out Year FY 2024-25
<b>Revenue</b>		-	-
<b>Expenditures<sup>1</sup></b>	State Highway Fund	\$1.5 million	\$1.5 million
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>		-	-

<sup>1</sup> The required appropriation from the State Highway Fund for the high-visibility drunk driving enforcement programs replaces the current funding mechanism that transfers money to the First Time Drunk Driver Account. See the Background and State Expenditures sections for more detail.

## Summary of Legislation

The bill expands high-visibility drunk driving enforcement programs to include both alcohol and drug-impaired driving. It requires the Transportation Commission to annually allocate \$1.5 million from the State Highway Fund to the Office of Transportation Safety in the Department of Transportation (CDOT) for distribution to local governments that implement high-visibility alcohol and drug-impaired driving enforcement.

The bill requires CDOT to:

- promulgate rules that establish the minimum requirements for a qualified enforcement program;
- promulgate rules for law enforcement agencies and peace officers conducting high-visibility impaired driving enforcement—rules must include requiring law enforcement agencies to submit policies and procedures to address profiling and prohibiting requirements for a specified number of citations during a high-visibility impaired driving enforcement period; and,
- publish an annual report on high visibility alcohol and drug impaired driving enforcement episodes and any subsequent investigations of individuals involved, in coordination with the Department of Public Safety.

In addition, funding for high-visibility enforcement cannot be awarded to law enforcement agencies operating under a judicially order consent decree. Law enforcement agencies and peace officers must complete in-service training requirements before conducting high-visibility impaired driving enforcement. Law enforcement agencies or peace officers that do not comply with the bill's requirements are subject to suspension of funding under the program. If a law enforcement agency or peace officer does not comply with the bill's provisions, the Attorney General may bring a civil action.

Lastly, the bill eliminates the current funding stream to CDOT for these programs, which allocates up to \$2 million from the First Time Drunk Driver (FTDD) Account of the Highway Users Tax Fund, subject to annual appropriation.

## Background

**First Time Drunk Driver Fund.** Funding from the FTDD Account comes from \$22 of every \$95 driver license reinstatement fee. After appropriations to the Colorado Department of Revenue (DOR) for costs related to ignition interlock devices, the remainder of this funding may be appropriated to CDOT and provided to local law enforcement in Colorado for impaired driving enforcement campaigns. State law requires that the Highway Safety Office run twelve high visibility enforcement campaigns each fiscal year, with specific high visibility impaired driving enforcement periods centered on national holidays and large public events.

In recent years, funds in the FTDD Account have not been available to CDOT from the current funding mechanism, as available funding has gone entirely to the other prioritized uses in statute. CDOT has received one-time supplemental appropriations and transfers to the account to maintain high visibility enforcement efforts. It is estimated that a remaining fund balance of \$1.5 million will be available in the FTDD account at the start of FY 2023-24 after accounting for these one-time budget actions.

## State Expenditures

**Department of Transportation.** Beginning in FY 2023-24, the bill increases expenditures in CDOT by \$1.5 million per year from the State Highway Fund. CDOT will disburse this funding to local governments for high-visibility impaired driving enforcement. CDOT will also have a minimal increase in workload to conduct rulemaking and produce the report required by the bill.

- **First Time Drunk Driver Fund.** While the bill repeals the allocation of money in the FTDD Account money to CDOT, based on recent trends, it is assumed that repealing this provision will not result in a corresponding reduction in actual expenditures. While the General Assembly has taken actions in recent years to maintain funding for high-visibility impaired driving enforcement in the FTDD Account, the fiscal note cannot estimate what future actions or allocations of funding the General Assembly may have taken in the future that will be avoided by passage of this bill. Also, the fiscal note does not account for how the General Assembly may choose to appropriate any remaining fund balance in the FTDD Account.

**Department of Public Safety.** Department of Public Safety workload will increase to collaborate on the annual report with CDOT; no change in appropriations is required.

**Department of Law.** The bill provides authority to the Attorney General to initiate civil actions if a local law enforcement agency is out of compliance with various requirements of this bill. The DOL will assess all complaints and can address them within existing resources.

The bill also requires agencies receiving grant dollars to demonstrate compliance with POST Annual In-Service Training Requirements, which will not increase the number of annual trainings provided by the POST Board but may increase the requests for information to demonstrate compliance. No change in appropriations is required.

**Judicial Department.** By allowing the Attorney General to bring a civil action to enforce the provisions in the bill, the bill could generate additional civil cases. Case numbers are expected to be low and absorbable within existing resources for the trial courts in the Judicial Department.

## Local Government

The bill increases disbursements to local law enforcement by \$1.5 million per year starting in FY 2023-24. Counties with high-visibility enforcement programs that receive funding will correspondingly have an increase in expenditures and workload to use these funds for their intended purpose. Based on the allocation formula in the bill, counties will receive between \$450,000 and \$750,000, and cities will receive between \$750,000 and \$1,050,000.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

**State and Local Government Contacts**

Counties  
Municipalities  
District Attorneys

Public Safety  
Human Services  
Revenue

Judicial  
Law  
Transportation