



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

<b>Drafting Number:</b>	LLS 24-0743	<b>Date:</b>	February 23, 2024
<b>Prime Sponsors:</b>	Rep. Soper; Snyder Sen. Roberts; Will	<b>Bill Status:</b>	House Judiciary
		<b>Fiscal Analyst:</b>	Colin Gaiser   303-866-2677 Aaron Carpenter   303-866-4918

**Bill Topic: OFFENSES RELATED TO OPERATING A VEHICLE**

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill creates or modifies a number of offenses related to commercial driver licenses and driving while impaired. It increases state and local revenue and expenditures on an ongoing basis.

**Appropriation Summary:** For FY 2024-25, the bill requires an appropriation of \$1.2 million to multiple state agencies.

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

**Table 1  
State Fiscal Impacts Under HB 24-1135**

		<b>Budget Year FY 2024-25</b>	<b>Out Year FY 2025-26</b>
<b>Revenue</b>	General and Cash Funds	\$207,499	\$333,817
	<b>Total Revenue</b>	<b>\$207,499</b>	<b>\$333,817</b>
<b>Expenditures</b>	General Fund	\$1,109,083	\$1,167,022
	Cash Funds	\$86,965	\$88,813
	Centrally Appropriated	\$259,063	\$259,063
	<b>Total Expenditures</b>	<b>\$1,455,111</b>	<b>\$1,514,898</b>
	<b>Total FTE</b>	<b>13.6 FTE</b>	<b>13.6 FTE</b>
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>	TABOR Refund	\$211,923	\$335,475
	General Fund Reserve	\$166,362	\$175,053

## **Summary of Legislation**

The bill creates or modifies a number of offenses related to commercial vehicles and impaired driving, as described below.

**Commercial vehicles.** The bill makes it a class 1 misdemeanor to operate a commercial motor vehicle without a commercial driver license; to operate a commercial motor vehicle while under 21 years of age; or to drive a commercial vehicle with more than one license. The offense becomes a class A traffic infraction if an offender presents a valid commercial driver license to the court within 30 days.

**Blood draws.** The bill establishes that a driver must comply with a judicially authorized search warrant to conduct a blood draw if a law enforcement officer has probable cause to believe the driver was under the influence. Failure to comply is an unclassified misdemeanor, except it is a class 4 felony if the driver has three or more prior offenses for driving under the influence (DUI), driving under the influence per se (DUI per se), failure to comply with a warrant for a blood draw, or driving while ability impaired (DWAI). The bill adds the consideration of failure to comply with a warrant to conduct a blood draw as an admissible prior offense related to DUI, DUI per se, or DWAI offenses.

**Interlock-restricted license.** The bill increases the minimum time frame that one must hold an interlock-restricted license in certain situations. Under current law, a driver with multiple convictions of a DUI, DUI per se, or DWAI must hold an interlock-restricted license for at least two years. Under the bill, a driver must hold the license for at least three years if they are convicted for a third conviction of any of the above offenses and four years for a fourth conviction. For a person deemed a persistent drunk driver because of a refusal to take or complete a blood or breath sample, upon a second violation for refusal to submit a sample the driver is required to hold the interlock-restricted license for at least three years.

## **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 section outlines crimes that are comparable to the offenses in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

- **Unlawful commercial vehicle operation.** This bill creates the offense of unlawful direction to operate a commercial motor vehicle. Commercial motor vehicle offenses are currently charged as class A traffic infractions. The new offense is a class 1 misdemeanor; however, it becomes a class A traffic infraction if the driver presents their commercial driver license within 30 days of the offense. From FY 2020-21 to FY 2022-23, 245 have been convicted and sentenced for this offense, or about 82 per year. Of the persons convicted, 240 were male, 4 were female, and 1 did not have a gender identified. Demographically, 153 were White, 23 were Black/African American, 14 were Hispanic, 2 were Asian, 45 were classified as "Other," and 8 did not have a race identified.

- **Warrant to conduct a blood draw.** This bill creates the new offense of failing to comply with a warrant to conduct a blood draw of a driver. The offense is an unclassified misdemeanor for an offender who has had three or less convictions for a DUI, DUI per se, refusal to conduct a blood draw, or DWAI; and a class 4 felony for an offender with four or more of these convictions. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of DUI. From FY 2020-21 to FY 2022-23, 28,858 have been convicted and sentenced for this existing offense, or about 9,600 per year. Of the persons convicted, 21,292 were male, 7,529 were female, and 37 did not have a gender identified. Demographically, 22,606 were White, 2,131 were Black/African American, 2,926 were Hispanic, 217 were Asian, 525 were American Indian, 383 were classified as "Other," and 70 did not have a race identified.

**Assumptions.** This analysis makes the following assumptions about the impact of the bill on the criminal justice system.

- **Unlawful commercial vehicle operation.** Based on the comparable crime data above, the fiscal note assumes there will be about 82 cases per year for the violation of unlawful commercial vehicle operation. Assuming 25 percent of offenders present a commercial driver license within the required timeframe, the fiscal note assumes 62 offenders will receive a sentence for the new class 1 misdemeanor offense per year.
- **Refusal to comply with a warrant to conduct a blood draw.** According to Judicial Department data, on average there are 16,108 filings per year for impaired driving offenses, with a conviction rate of 81 percent; these cases do not impact this analysis. Of the remaining 3,060 cases, it is estimated 50 percent of cases, or 1,530 cases per year, currently refuse to take a blood draw based on a report from the Colorado Task Force on Drunk and Impaired Driving. The fiscal note assumes that half of these 1,530 cases, or 765 cases per year, will continue to refuse a blood draw. Based on the department's 81 percent conviction rate, the fiscal note assumes 620 offenders will receive a sentence for the new unclassified misdemeanor/class 4 felony under the bill. The majority of offenders are assumed to be sentenced to probation, and 5 offenders per year are assumed to be sentenced to the Department of Corrections, as outlined below:
  - **Probation sentences.** The fiscal note assumes that 92 percent of the unclassified misdemeanors, or 570 cases, will be sentenced to probation each year. This generates a need for additional probation staff in the Judicial Department.
  - **DOC sentences.** To make an assumption about offenders that will be sentenced to the DOC, the fiscal note analyzed the overall number of class 4 felony DUIs sentenced to the DOC currently. There have been an average of 943 cases and 817 felony convictions per year, according to Judicial Department data, for a total of 123 cases without convictions. According to the DOC, an average of 140 offenders per year are committed to the DOC, representing a 17 percent sentencing rate for felony DUI cases. Using the same methodology outlined in the blood draw case assessment for the 123 cases, the fiscal note estimates that an additional 5 individuals will be sentenced to the DOC under the bill for felony DUIs.

In addition, the fiscal note assumes there will be additional DOC sentences for DUI per se and DWAI cases. Because felony DUI per se and DWAI sentences are a fraction of overall DUI cases, the fiscal note assume 1 additional individual will be sentenced to the DOC.

For the estimated 6 new felony offenders, the average Department of Corrections (DOC) length of stay for a class 4 felony is 30 months with an average parole length of stay of 25 months once the offender is released from prison.

- **Remaining sentences.** For the remaining sentences, the fiscal note assume individuals are sentenced to either alternative sentence programs, jail, community corrections programs, or other sentences that do not impact state expenditures.

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

## State Revenue

The bill will increase state revenue by about \$212,000 in FY 2023-24 and \$335,000 in FY 2025-26 and ongoing, as shown in Table 2. This revenue is subject to TABOR.

**Table 2**  
**Revenue Under HB 24-1135**

	<b>FY 2024-25</b>	<b>FY 2025-26</b>
Commercial Driver License (HUTF)	\$12,400	\$12,400
Refusal of Blood Draw (HUTF, GF, and various Judicial CF)	\$199,523	\$323,075
<b>Total</b>	<b>\$211,923</b>	<b>\$335,475</b>

**Commercial driver license offenses.** The bill increases state revenue from increasing the fine for driving without a commercial license from \$100 to at least \$300. Using the assumptions outlined in the Comparable Crime Section, it is estimated that increase in fine will increase revenue by at least \$12,400 per year. Traffic fine revenue is deposited into the Highway Users Tax Fund (HUTF), with 65 percent going to the State Highway Fund, 26 percent going to counties, and 9 percent going to municipalities.

**Blood draw warrant offenses.** The bill will also increase revenue to the HUTF, General Fund, and various cash funds within the Judicial Department from more criminal fines and fees of additional persons sentenced for refusing to take a blood draw. Based on average assessment rates, indigence rates, and current collection rate for the various fines and fees, it is estimated that revenue will increase by about \$200,000 per year. In FY 2025-26, it is estimated that an additional \$124,000 will be collected from fines and fees assessed in the previous year.

**State Expenditures**

Starting in FY 2024-25, the bill increases state expenditures by \$1.5 million per year in the Judicial Department, the Department of Revenue (DOR), and the DOC. The Judicial Department and DOC expenditures are paid from the General Fund and the DOR expenditures are paid from the DRIVES Cash Fund. Expenditures are shown in Table 3 and detailed below.

**Table 3  
Expenditures Under HB 24-1135**

	<b>FY 2024-25</b>	<b>FY 2025-26</b>
<b>Judicial Department</b>		
Personal Services	\$989,552	\$989,552
Operating Expenses	\$31,791	\$31,719
Capital Outlay Costs	\$87,740	-
Centrally Appropriated Costs <sup>1</sup>	\$259,063	\$259,063
FTE – Personal Services	13.6 FTE	13.6 FTE
<b>Judicial Subtotal</b>	<b>\$1,368,146</b>	<b>\$1,280,406</b>
<b>Department of Revenue</b>		
Programming Costs (CF)	\$86,965	\$88,813
<b>DOR Subtotal</b>	<b>\$86,965</b>	<b>\$88,813</b>
<b>Department of Corrections</b>		
Bed Impact (see Table 4)	-	\$145,679
<b>DOC Subtotal</b>	<b>-</b>	<b>\$145,679</b>
<b>Total</b>	<b>\$1,455,111</b>	<b>\$1,514,898</b>
<b>Total FTE</b>	<b>13.6 FTE</b>	<b>13.6 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Judicial Department.** The bill increases costs in the Judicial Department to supervise more individuals on probation and file new cases.

- **Probation.** Based on the assumptions outlined above, the Probation Division 13.6 FTE to supervise the assumed number of cases sentenced to probation. This includes probation officers, probation supervisors, and support services needed to address the 570 additional cases. The fiscal note assumes the majority of cases will require a low-to-medium level of supervision or services. Staff will also conduct alcohol and drug evaluations for those on probation plus an additional 50 cases of impaired driving offenses that were not sentenced

to probation. The fiscal note assumes a July 2024 start date and includes personal services, operating costs, capital outlay costs, and travel costs.

- **Trial courts and independent agencies.** The bill increases workload to the trial courts and independent agencies that represent indigent persons by changing penalties for unlawful operation of a commercial vehicle and adding convictions for failure to comply with blood draw warrant. While this increases the number of case filings, the workload impact is minimal and absorbable within existing resources.

**Department of Revenue.** The bill requires \$86,965 in FY 2024-25 for programming to the Driver License, Record, Identification and Vehicle Enterprise Solution (DRIVES) system to update citations, add a new violation code, and update interlock durations. This includes \$65,472 for 264 hours of programming at a rate of \$248 an hour plus \$21,473 for ISD development, Office of Information Technology support, and additional testing. The second round of programming in FY 2025-26 requires \$88,813 to account for an increase in DRIVES programming costs to \$255 an hour. Costs for programming will come from the DRIVES Cash Fund.

- **DRIVES programming.** The Division of Motor Vehicles (DMV) in the DOR uses DRIVES information technology system for all driver license and motor vehicle transactions. The DRIVES system requires an extensive 18-month upgrade which is scheduled to take place from July 1, 2024, through March 31, 2026. As a result, the DOR has requested that any new legislation requiring DRIVES programming have an effective date of April 1, 2026, with roll-forward spending authority through FY 2026-27, noting that each programming requirement during the system upgrade period may increase the overall project timeline. Based on the current effective date in the bill, the fiscal note includes costs for the DRIVES programming to take place twice — in the existing and new system.

**Department of Corrections.** Section 2-2-701, C.R.S., requires Legislative Council Staff to provide information to the General Assembly on long-term costs for prison capital construction, operations, and parole for any bill that potentially increases periods of imprisonment in the Department of Corrections. These impacts are described below.

- **Department of Corrections prison and parole costs (five-year fiscal impact).** Based on the assumptions provided in the Comparable Crime Analysis section, this bill increases prison operating costs for the DOC by a total of \$1.3 million over the five-year period beginning in FY 2024-25. The fiscal note assumes no prison operating impacts will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. Once an offender is released from prison, he or she is assigned to parole. The parole impact is assumed to first occur in FY 2027-28. Table 4 shows the estimated cost of the bill over the next five fiscal years.

**Table 4  
Prison and Parole Operating Costs Under HB 24-1135**

<b>Fiscal Year</b>	<b>Prison ADP Impact</b>	<b>Prison Cost</b>	<b>Parole ADP Impact</b>	<b>Parole Cost</b>	<b>Total Costs</b>
FY 2024-25	-	-	-	-	-
FY 2025-26	6.00	\$145,679	-	-	\$145,679
FY 2026-27	12.00	\$291,358	-	-	\$291,358
FY 2027-28	14.79	\$358,977	3.22	\$26,966	\$385,943
FY 2028-29	14.79	\$358,977	9.22	\$77,293	\$436,269
				<b>Total</b>	<b>\$1,259,249</b>

- Department of Corrections capital construction costs.** In addition to the five-year operating and parole impacts discussed above, Section 2-2-703, C.R.S., requires that the General Assembly consider increased capital construction costs for the DOC to house additional inmates. Based on the average per bed construction costs of previous prison facilities, capital construction costs of \$2.6 million would be required to increase prison bed space in line with the estimated increase in prison population under this bill. If the General Assembly determines that additional prison bed space is needed, this bill should include a transfer of General Fund to the Capital Construction Fund, to be reappropriated to the Corrections Expansion Reserve Fund. Money in the Corrections Expansion Reserve Fund is available for future DOC construction projects, which would be identified and funded through the annual budget process based on the state's overall prison needs.

**Future year impacts.** By adding refusal for a blood draw to the list of offenses that would constitute a previous offense of any of the driving while impaired offenses, the bill may increase the number of felony DUI, DUI per se, or DWAI offenses in future years. Because it will take time for these impacts to be realized, any increased in cost to probation, the courts, or the DOC will be addressed through the annual budget process.

### **Other Budget Impacts**

**TABOR refunds.** The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. 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. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

## Local Government

**HUTF revenue.** The bill increases local government revenue and expenditures. First, by increasing traffic fines and offenses, revenue from the HUTF to counties and municipalities will also increase. In addition, in future years, any additional felony DUI, DUI per se, or DWAI offense due to a past conviction of refusal to blood draw will increase revenue to local governments as 50 percent of any fine, fee, or forfeiture for DUI, DUI per se, or DWAI is transmitted to the local government where the offense occurred.

**District attorneys.** Expenditures to district attorney offices will increase to prosecute additional offenses. District attorney offices are funded by counties within each office's judicial district.

**County jail.** To the extent the bill increases jail sentences, costs to county jails will increase to incarcerate additional individuals. An exact increase to each county jail cannot be determined at this time.

**Denver County Court.** Similar to the state, workload to Denver County Court will increase to try additional misdemeanor cases. Denver County Court is funded by the city and county of Denver.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to offenses

## State Appropriations

For FY 2024-25, the bill requires the following appropriations totaling \$1.2 million:

- \$1,109,083 from the General Fund to the Judicial Department and 13.6 FTE; and,
- \$86,965 from the DRIVES Cash Fund to the Department of Revenue.

## State and Local Government Contacts

Corrections  
Judicial  
Revenue

Counties  
Law  
Transportation

District Attorneys  
Public Safety

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).