



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

SB 26-132: VOLUNTARY ALCOHOL BREATH TEST

Prime Sponsors:

Sen. Roberts; Carson
Rep. Joseph; Soper

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Fiscal note status: This revised fiscal note reflects the reengrossed bill. It has also been updated to reflect new information.

Summary Information

Overview. The bill requires law enforcement officers to offer a voluntary, preliminary alcohol screening breath test when a vehicle collision results in death or suspected serious bodily injury.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis starting in FY 2026-27:

- Minimal State Revenue
- State Expenditures
- Local Government

Appropriations. No appropriation is required; the Parks and Outdoor Recreation Cash Fund and the Wildlife Cash Fund are continuously appropriated to the Department of Natural Resources.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$0	\$0
State Expenditures (Cash Funds)	\$120,000	\$3,600
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

Summary of Legislation

The bill requires law enforcement officers to offer a voluntary, preliminary alcohol screening breath test following lawful contact with a person who has been driving a motor vehicle involved in a collision resulting in death or suspected serious bodily injury. Officers are required to offer the test when:

- the officer has reasonable suspicion the driver being tested is at fault in the collision;
- the driver is not significantly injured or in need of immediate medical attention; and
- the officer does not have probable cause necessary for expressed consent requirements.

Officers must advise the driver being tested that:

- the preliminary test is requested because the driver was involved in a serious collision;
- the preliminary test is not admissible in court, nor is the refusal to take the test;
- results may be used to request further, admissible testing used to make an arrest;
- the preliminary test is voluntary; and
- refusal to take the preliminary test does not affect the status of a driver license.

Officers are not required to offer a preliminary test if certain circumstances apply. If an officer is unable to administer a preliminary test because the device malfunctions, is unable to produce a valid result, or a device is unavailable, then the officer must verbally document through a body-worn camera and in any incident reports that the test could not be administered and state the reason why.

State Revenue

Starting in FY 2026-27, if the administration of preliminary tests increases the number of criminal cases filed, revenue from court fines and fees may increase in various state criminal justice agencies. This revenue is subject to TABOR. The fiscal note assumes that in cases with death and serious bodily injury, individuals are already being charged with a crime, when appropriate. Therefore, any increase is assumed to be minimal.

State Expenditures

The bill increases state expenditures in the Department of Natural Resources (DNR) and affects workload and costs in other state law enforcement agencies and the Judicial Department, as discussed below.

Department of Natural Resources

The DNR employs peace officers who sometimes make initial contact for motor vehicle collisions. Since the bill requires the law enforcement officer making initial contact to offer and administer the preliminary test, the DNR will purchase portable breath testers for about 200 law

enforcement officers. For FY 2026-27, this increases state expenditures by \$120,000, with about \$90,000 paid from the Parks and Outdoor Recreation Cash Fund and \$30,000 paid from the Wildlife Cash Fund. Starting in FY 2027-28, expenditures will increase to purchase replacement portable breath testers. About 6 replacements are estimated per year, at a total cost of \$3,600, with \$2,400 paid from the Parks and Outdoor Recreation Cash Fund and \$1,200 paid from the Wildlife Cash Fund.

Other State Law Enforcement Agencies

Starting in FY 2026-27, the bill will increase workload for state law enforcement agencies that respond to motor vehicle collisions to request or administer the preliminary tests. The fiscal note assumes that responding to these incidents already involves significant work, and any increase in workload is expected to be minimal. Additionally, these agencies may need to purchase additional portable breath testers to comply with the bill's requirements. No change in appropriations is required at this time, and any future adjustments to appropriations will occur through the annual budget process.

Judicial Department

Starting in FY 2026-27, if the administration of preliminary tests increases the number of criminal cases filed, workload and expenditures in various state criminal justice agencies may increase. The fiscal note assumes that in cases with death and serious bodily injury, individuals are already being charged with a crime, when appropriate. Therefore, any increase is assumed to be minimal.

Local Government

Similar to the state, workload will increase for local law enforcement agencies to request or administer the preliminary test. The exact impact will depend on how many motor vehicle collisions the agency responds to, but is assumed to be minimal. Workload may also increase for district attorney offices if more criminal cases are filed. District attorney offices are funded by counties.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to incidents occurring on or after this date.

State and Local Government Contacts

District Attorneys

Public Health and Environment

Judicial

State Law Enforcement

Public Defender