



**Colorado
Legislative
Council
Staff**

HB16-1020

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0645
Prime Sponsor(s): Rep. Rosenthal
Sen. Cooke

Date: May 19, 2016
Bill Status: Postponed Indefinitely
Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: NO DRONES NEAR AIRPORTS OR JAILS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	<u><\$5,000</u>	<u><\$5,000</u>
Cash Funds	<5,000	<5,000
State Expenditures	Minimal workload and potential cost increase.	
TABOR Impact		<\$5,000
Appropriation Required: None.		
Future Year Impacts: Ongoing revenue, workload, and potential cost increase.		

Note: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

The bill creates a class 1 misdemeanor for any person who operates an unmanned aircraft system (UAS), commonly referred to as a drone:

- within five miles of an airport, unless the person is authorized by the airport's air traffic control;
- in a manner that interferes with the operation of manned aircraft;
- more than 400 feet above ground;
- in a manner that is prohibited by any federal law or rule;
- in violation of any temporary flight restriction or notice to airmen issued by the Federal Aviation Administration (FAA); or
- in the airspace above any detention facility.

These prohibitions do not apply to a public UAS operated in compliance with any current and enforceable authorization granted by the FAA.

In addition, the bill expands the definition of introducing contraband in the first degree — a class 4 felony — to include knowingly operating a UAS within five miles of a detention facility with the intent to introduce a dangerous instrument, alcohol, a controlled substance, or any form of marijuana into the detention facility.

Background

The use of drones is regulated by the FAA, although at least 20 states have enacted legislation regarding their use. Depending on the location, drones are used in a variety of contexts, including law enforcement, land surveillance, wildlife tracking, search and rescue operations, disaster response, border patrol, and photography. In Colorado, several law enforcement agencies including the Mesa County Sheriff's Department, use drones. Colorado Parks and Wildlife, within the Department of Natural Resources, also uses drones to monitor wildlife.

Comparable Crime

Pursuant to Section 2-2-322 (2.5), C.R.S., 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 changes an element of the existing crime that creates a new factual basis for the offense. Between January 1, 2013, and January 20, 2016, there were 132 convictions for introducing contraband in the first degree. Of these convictions, 71 involved males and 61 involved females, while the minority status of the criminals was 100 Caucasian, 19 Hispanic, 9 African-American, 3 Indian, and 1 Asian. It is not known if any of these offenses involved the use of a drone. There is no comparable misdemeanor related to airspace violations, as these generally fall under FAA purview.

State Revenue

Beginning in FY 2016-17, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The penalty for a class 4 felony is a fine of \$2,000 to \$500,000, between 2 to 6 years in prison, or both. The penalty for a class 1 misdemeanor is \$500 to \$5,000, between 6 to 18 months in jail, or both. Probation revenue from misdemeanor convictions may also increase by \$50 per month per person sentenced to probation under the bill. Because the courts have the discretion of imposing a fine, incarceration, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed in 2015 and the assumption that few existing cases of first degree contraband involve the use of a drone, the fiscal note estimates that any revenue generated is likely to be less than \$5,000 per year.

TABOR Impact

This bill increases state cash fund revenue from fines, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. No TABOR refund is expected in FY 2016-17.

State Expenditures

Overall, this bill is expected to minimally increase workload in the Judicial Department and may increase costs in the Department of Corrections beginning in FY 2016-17.

Judicial Department. Workload will increase in the Judicial Department to modify the court's information technology system. Workload may also increase to hear any new cases of contraband or prohibitions under HB16-1020; the fiscal note assumes this caseload will be low. Probation services in the Judicial Department may experience a minimal increase in workload to supervise any offenders convicted under the bill. Finally, the bill may increase workload or costs for the Office of the State Public Defender and Office of Alternate Defense Counsel to provide representation for any persons deemed to be indigent. The fiscal note assumes these workload increases are minimal and will not require an increase in appropriations for any agency within the Judicial Department.

Corrections. To the extent that any convictions of introducing contraband in the first degree using a drone occur and a person is sentenced to a term of incarceration, costs for the Department of Corrections (DOC) will increase. For informational purposes, offenders placed in a private contract prison cost the state about \$59.90 per offender per day, including the current daily rate of \$56.02 and an estimated \$3.88 per offender per day for medical care provided by the DOC. No impact is expected in the first year because of the estimated time for criminal filing, trial, disposition, and sentencing. The fiscal note assumes that any costs in future years arising under HB16-1020 will be addressed through the annual budget process.

Local Government Impact

This bill will affect local governments in several ways, as discussed below.

Misdemeanor offenses in county courts. First, the bill may increase workload for district attorneys to prosecute any new offenses under the bill. Second, to the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. It is assumed that the impact of this bill will be minimal.

Denver County Court. The bill may result in an increase in revenue and workload for the Denver County Court, managed and funded by the City and County of Denver. The court will try misdemeanor cases under the bill where harassment involves the use of drones within its jurisdiction. Probation services in the Denver County Courts may also experience a minimal increase in workload to supervise any persons convicted under the bill.

Effective Date

The bill was postponed indefinitely by the House Judiciary Committee on January 26, 2016.

State and Local Government Contacts

Corrections
Information Technology
Public Safety

Fire Chiefs
Judicial
Transportation

Governor's Marijuana Office
Military Affairs