



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-0088 Date: January 22, 2018
Prime Sponsors: Sen. Court Bill Status: Senate SVMA
Rep. Melton Fiscal Analyst: Aaron Carpenter | 303-866-4918
Aaron.Carpenter@state.co.us

Bill Topic: USE OF MOBILE ELECTRONIC DEVICES WHILE DRIVING

- Summary of Fiscal Impact:
- State Revenue
- State Expenditure (minimal)
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

This bill makes driving while using an electronic mobile device a class 2 misdemeanor unless the driver is over the age of 18 and using a hands-free device. It also increases the fine for minors in violation from \$50 to \$300. This bill will increase revenue to the Highway Users Tax Fund, and have a minimal workload impact on a number of agencies on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB18-049

Table with 4 columns: Revenue/Expenditures/Transfers, Highway Users Tax Fund, FY 2018-19, FY 2019-20. Revenue: at least \$59,050. Expenditures: -. Transfers: -.

## **Summary of Legislation**

Current law prohibits drivers 18 years of age and over from texting while driving and drivers under the age of 18 from using a wireless telephone while driving. This bill prohibits the use of all electronic mobile devices while driving unless the driver is over the age of 18 and using a hands-free device. An exception is made for individuals using an electronic mobile device while their vehicle is lawfully at rest and for law enforcement officers using a device within the scope of their duties. The bill increases the fine for violations committed by drivers under the age of 18 from \$50 to \$300. It also repeals the provision that an individual commits a class 1 misdemeanor traffic offense if they causes bodily injury or death to another because they were texting and driving.

## **Comparable Crime and Assumptions**

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.

**Class A traffic infraction for minors.** It is currently a class A traffic infraction to use a mobile phone while driving when you are under the age of 18, punishable by a \$50 fine for a first offense and \$100 for a second. Between January 2015 and January 2018, 236 minors were convicted of using a wireless phone while driving and 9 were convicted for a second offense. That is an average of 79 convictions a year for a first offense and 3 convictions a year for a second. Of all minors convicted of texting and driving, 211 were Caucasian, 12 were African American, 7 were Hispanic, 4 were Asian, 1 race listed as other, and 10 where race information wasn't available. Although a higher penalty may dissuade some from using their mobile devices while driving, decreases are expected to be minimal. Therefore, this fiscal note assumes that average per year conviction rates for offenses will remain the same at a higher penalty.

**Class 2 misdemeanor for adults.** An adult who texts and drives commits a class 2 misdemeanor traffic offense, punishable by a \$300 fine, 10 to 90 days imprisonment, or both. From January 2015 to January 2018, there were 771 adult drivers convicted of texting and driving, or 257 drivers per year. Of those drivers, 567 were Caucasian, 23 were African American, 29 were Hispanic, 7 were Asian, 3 other and 142 where race information wasn't available. Only one adult conviction resulted in jail time. This bill expands the existing class 2 misdemeanor from texting and driving to include using any electronic mobile device while driving. This fiscal note assumes that by prohibiting all electronic mobile devices while driving, there will be at least be a 50 percent increase, or 129 cases of new class 2 misdemeanors per year under the bill.

**Class 1 misdemeanor for adults.** An adult who texts and drives and causes bodily injury or death commits a class 1 misdemeanor traffic offense and is punishable by 10 - 365 days in jail, a fine between \$300 and \$1,000, or both. Since June 1, 2017, when the law took effect, there have been no convictions. This fiscal note assumes, based on no convictions, that removing the class 1 misdemeanor charge has no fiscal impact.

## **State Revenue**

This bill increases state cash fund revenue by at least \$59,050 per year in FY 2018-19 and FY 2019-20. Revenue increases are outlined in Table 2 and discussed below.

**Table 2  
Revenue Under SB 18-049**

<b>Fiscal Year</b>	<b>Texting and Driving Infractions</b>	<b>Fine Assessed</b>	<b>Change in Fine</b>	<b>Number Affected</b>	<b>Total Fine Impact</b>
<b>FY 2018-19</b>	Minors- First Offense	\$300	\$250	79	\$19,750
	Minors- Second Offense	\$300	\$200	3	\$600
	Class 2 Misdemeanor	\$300	-	at least 129	at least \$38,700
<b>FY 2018-19 Total</b>					<b>at least \$59,050</b>
<b>FY 2019-20</b>	Minors- First Offense	\$300	\$250	79	\$19,750
	Minors- Second Offense	\$300	\$200	3	\$600
	Class 2 Misdemeanor	\$300	-	at least 129	at least \$38,700
<b>FY 2019-20 Total</b>					<b>at least \$59,050</b>

**Highway Users Tax Fund.** Raising the fine for minors convicted of using mobile devices while driving from \$50 to \$300 for a first offense, and from \$100 to \$300 for a second offense, and increases in the number of class 2 misdemeanors will increase revenue to the Highway Users Tax Fund (HUTF) by \$59,050 for FY 2018-19 and FY 2019-20, as discussed in the comparable crimes section. Penalty revenue from citations issued by both Colorado State Patrol officers and local law enforcement is credited to the HUTF, and distributed to the State Highway Fund in the Colorado Department of Transportation (CDOT) (65 percent), counties (26 percent), and municipalities (9 percent). Table 3 outlines how revenues may be split between CDOT, counties, and municipalities.

**Table 3  
Estimated HUTF Distribution Under SB 18-049**

<b>HUTF Distribution</b>	<b>FY 2018-19</b>	<b>FY 2019-20</b>
CDOT (65 percent)	at least \$38,382	at least \$38,382
Counties (26 percent)	at least \$15,353	at least \$15,353
Municipalities (9 percent)	at least \$5,315	at least \$5,315
<b>Total</b>	<b>at least \$59,050</b>	<b>at least \$59,050</b>

**TABOR Refund**

The bill increases state revenue subject to TABOR by at least \$59,050 in each of FY 2018-19 and FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

## **State Expenditures**

Beginning in FY 2018-19, this bill will increase workload in the Judicial Department and minimally increase workload in the Department of Revenue. Workload impacts are discussed below.

**Judicial Department.** Workload will increase in the Judicial Department as a result of more adults being convicted of using a mobile electronic device while driving than were convicted for texting and driving. Additionally, the increase in fine amounts for minors may increase workload in trial courts, if more challenge their citations. Probation services may also experience a workload increase to supervise adults convicted under the new factual basis of the crime of texting and driving. The fiscal note assumes these estimated workload increases will not require an increase in appropriations for the trial courts.

**Department of Revenue.** The Department of Revenue will be required to update its DRIVES system, as well as manuals and training material with the changes to current law. These impacts are expected to be minimal and accomplished within existing appropriations.

## **Local Government**

This bill will increase local government revenue from fines and increase county court workload, as discussed below.

**Fine revenue.** This bill will increase county and municipal HUTF revenue. HUTF revenue generated by court fines is distributed to counties (26 percent) and municipalities (9 percent) for transportation needs. Table 3 outlines the estimated distribution to counties and municipalities.

**Prosecution of offenses.** District attorneys may see increased workloads in offices that offer plea deals. District attorney offices are allowed by statute to negotiate plea bargains in traffic infraction cases and may see a workload increase in negotiating plea deals for drivers guilty of using a mobile electronic device while driving. Traffic offenses prosecuted in a municipal court will similarly increase revenue and workload for that particular municipality.

**Jail costs.** To the extent that this bill increases the number of misdemeanor offenders 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. However the fact that in the last three years only one conviction resulted in jail, impacts are assumed to be minimal.

**Denver County expenditures.** The bill results in an increased 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. Probation services in the Denver County Courts may also experience a minimal increase in revenue and workload to supervise any persons convicted under the bill within its jurisdiction.

## **Effective Date**

The bill takes effect on July 1, 2018.

**State and Local Government Contacts**

Information Technology  
Public Safety  
Transportation

Judicial  
Revenue

Municipalities  
Sheriffs