



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 19-1076

FINAL FISCAL NOTE

Drafting Number: LLS 19-0489 Date: August 21, 2019
Prime Sponsors: Rep. Michaelson Jenet; Larson Bill Status: Signed into Law
Sen. Priola; Donovan Fiscal Analyst: Clare Pramuk | 303-866-2677
clare.pramuk@state.co.us

Bill Topic: CLEAN INDOOR AIR ACT ADD E-CIGS REMOVE EXCEPTIONS

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

This bill modifies the Colorado Clean Indoor Air Act to add electronic smoking devices and repeal certain exceptions. It will increase state revenue and expenditures beginning in FY 2019-20.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Summary of Legislation

This bill makes changes to the Colorado Clean Indoor Act. These changes include:

- making electronic smoking devices (ESDs) and their emissions subject to the act;
clarifying the definition of smoking to include plant products, synthetic marijuana, and ESDs;
adding ESDs to the definition of tobacco business;
increasing the smoke-free radius from a building entryway from 15 feet to 25 feet, except where existing local regulations permit a smaller radius;
prohibiting a local jurisdiction from adopting less stringent smoking regulations with some exceptions;
prohibiting persons under 18 years of age from entry into a cigar-tobacco bar or retail tobacco business and requiring signage to that effect;
reducing the number of exceptions to the act; and
repealing the option of property owners and managers to designate smoking and non-smoking areas.

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 changes an element of an existing crime. The following section addresses prior violations of the act. As these offenses occur rarely, the fiscal note assumes the bill will result in a negligible increase in violations.

Prior conviction data. This bill changes an element of the existing offense of smoking in an area where smoking is prohibited which is a class 2 petty offense. From January 1, 2018, to December 31, 2018, four people were fined for this offense. Of the persons fined, three were male, one was female. Demographically, all were White.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

Criminal fines and court fees. By modifying an existing petty offense to cover ESDs and larger smoke-free areas, the bill may increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2019-20. Fines are distributed 75 percent to the local jurisdiction and 25 percent to the General Fund. The fine penalty for a class 2 petty offense is up to \$200 for a first violation within a calendar year; up to \$300 for a second violation within a calendar year; and up to \$500 for each additional violation in a calendar year. Each day of a continuing violation is deemed a separate violation. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs. Because the courts have discretion in the amount of a fine, a precise state revenue impact cannot be determined but based on prior violation history of four cases in 2018, is expected to be minimal. Criminal fine and court fee revenue is subject to TABOR.

Civil fines. The bill creates penalties for signage violations which includes a written warning for a first violation, a fine not to exceed \$300 for a second violation, and a fine up to \$500 for each additional violation within a 24-month period. The bill allows for an affirmative defense if the business has taken certain actions prior to the violation. This fine revenue is also subject to TABOR.

State Expenditures

This bill will increase workload for the Department of Public Health and Environment (CDPHE), the Department of Personnel and Administration (DPA), and Judicial Department as explained below.

CDPHE. The Tobacco Education, Prevention and Cessation Program within the Prevention Services Division provides education and resources to businesses and local governments on smoke-free policies. This bill will increase the workload of the program to provide updated educational information, but this increase can be accomplished within existing appropriations.

DPA. The DPA will have an increase in workload and expenditures to update state building smoking policies and signage. This increase can be accomplished within existing appropriations.

Judicial Department. This bill may increase costs and workload for the trial courts in the Judicial Department to process additional criminal case filings. This increase can be accomplished within existing appropriation

Local Government

Beginning in FY 2019-20, this bill is expected to increase local government revenue, costs, and workload as described below.

Under the bill, local governments are prohibited from having smoking regulations less restrictive than the provisions in the Colorado Clean Indoor Air Act with the exception of a regulation that specifies a radius of less than 25 feet from an entryway in which smoking is permissible and was adopted prior to January 1, 2019. A business premise that was under construction or renovation on July 1, 2019, and that complied with a local regulation that specified a radius under 25 feet that has applied for or received a certificate of occupancy, is deemed to be in compliance. If any local governments enacted less restrictive regulations after January 1, 2019, then those local governments will need to update those regulations and signage. The amount of workload and expenditures associated with these changes will depend on the policies currently in force in each jurisdiction.

Local jurisdictions that fine violators of the Clean Indoor Air Act will see an increase in revenue. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

Effective Date

The bill was signed into law by the Governor on May 29, 2019, and took effect July 1, 2019, except Section 25-14-204 (2) and (3) as amended, which will take effect October 1, 2019.

State and Local Government Contacts

Counties	Information Technology
Law	Local Affairs
Municipalities	Personnel
Public Health and Environment	