



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

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Prime Sponsors: Sen. Court Bill Status: Senate Transportation
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Bill Topic: USE OF MOBILE ELECTRONIC DEVICES WHILE DRIVING

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

This bill makes using a mobile electronic device while driving a class 2 misdemeanor and creates a class 1 misdemeanor traffic offense for any subsequent offense. The bill increases state and local revenue and expenditures.

Appropriation Summary: The bill requires a cash fund appropriation of \$20,250 to the Department of Revenue.

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

Table 1
State Fiscal Impacts Under SB 19-012

Table with 5 columns: Category, Fund Type, FY 2018-19, FY 2019-20, FY 2020-21. Rows include Revenue (Cash Funds), Expenditures (Cash Funds), Transfers, and TABOR Refund (General Fund).

Summary of Legislation

Under current law, drivers under the age of 18 are prohibited from using a mobile electronic device while driving, while drivers over 18 are prohibited from texting and driving. This bill prohibits the use of a mobile electronic device while driving for all drivers unless the driver is contacting a public safety entity, there is an emergency, or the driver is using a hands free accessory.

First Offense. Under current law, a driver under the age of 18 commits a class A traffic infraction and is subject to a \$50 fine for using a mobile device while driving, and a \$100 fine for a second offense. By expanding the prohibition on using mobile devices while driving, this bill eliminates the minor offense and imposes, for all drivers, a fine of \$300 and issues 4 points to their driver license.

Subsequent offenses. The bill also creates a class 1 misdemeanor traffic offense with a fine of \$500 and 6 points issued to a driver's license for a second violation of using a mobile electronic device while operating a vehicle and \$750 fine and 8 points issued to a driver's license for a third and each subsequent offense. Finally, the bill repeals a class 1 misdemeanor traffic offense for causing bodily injury or death to another because an individual was texting and driving.

Comparable Crime

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.

Use of wireless devices. This bill expands the class A traffic infraction to use a mobile phone while driving when the driver is under the age of 18 to a class 2 misdemeanor traffic offense and applies to all persons. Under current law, an infraction is punishable by a \$50 fine for a first offense and \$100 for a second. In the last three fiscal years, 201 minors were sentenced for using a wireless phone while driving with 9 sentenced for a second offense. This amounts to about 67 sentences per year, with 3 second offenses per year. Of all minors sentenced for texting and driving, 118 were male, 79 were female, and 4 did not have gender identified. Demographically, 176 were White, 11 were African American, 5 were Hispanic, 2 were Asian, 2 where race was listed as other, and 5 did not have race information available.

Adult texting and driving. This bill expands the existing class 2 misdemeanor traffic offense for texting and driving to include using any electronic mobile device while driving and creates a new class 1 misdemeanor traffic offense for subsequent offenses. Currently, 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. In the last three fiscal years, 660 adults were sentenced for texting and driving. Of these sentences, 294 were male, 236 were female, and 130 did not have gender information available. Demographically, 483 were White, 21 were African American, 21 were Hispanic, 6 were Asian, 1 race listed as other, and 128 did not have race information available. Only 1 adult sentence resulted in jail time. From FY 2015-16 to FY 2016-17, texting and driving was a class A traffic infraction for having a subsequent offense of texting and driving. During that time, 7 cases were sentenced for a subsequent texting and driving.

Class 1 misdemeanor traffic offense. The bill eliminates the class 1 misdemeanor traffic offense for an adult who texts and drives and causes bodily injury or death. Under current law, this misdemeanor traffic offense is punishable by 10 to 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 zero sentences.

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

Assumptions

The fiscal note makes the following assumptions based on the comparable crime data above:

- there will be 67 sentences per year for minors;
- there will be at least a 50 percent increase, or 110 new class 2 misdemeanor traffic offense sentences per year;
- there will be a total of 8 sentences for a class 1 misdemeanor traffic offense for a second violation, 5 being adults and 3 being minors;
- for FY 2019-20, any class 1 misdemeanor traffic offenses for a second violation for adults will not occur until halfway through FY 2019-20 resulting in 2 sentences in FY 2019-20 and 5 sentences in FY 2020-21; and
- that one third violation for using a mobile device while driving will happen in FY 2020-21.

State Revenue

The bill increases cash fund revenue by \$52,610 in the FY 2019-20 and \$54,869 in FY 2020-21. Revenue increases from fine revenue are credited to the Highway User Tax Fund (HUTF), while surcharges paid on each fine are credited to the Crime Victim Compensation Fund. HUTF revenue is outlined in Table 2 and revenue to the Crime Victim Compensation Fund is outlined in Table 4. Revenue impacts to each fund are discussed below.

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 \$500 for a second offense, as well as increasing in the number of class 2 misdemeanor traffic offenses, and creating a new class 1 misdemeanor traffic offense will increase revenue to the Highway Users Tax Fund (HUTF). For each violation, an individual pays a fine that is credited to the HUTF, as outlined in Table 2. As outlined in the Comparable Crime section, this bill results in a revenue increase to the HUTF of \$51,950 in FY 2019-20 and by \$54,200 in FY 2020-21. Table 3 shows how HUTF revenue will be distributed to the Colorado Department of Transportation (CDOT), counties, and municipalities.

Table 2
Revenue to Highway User Tax Fund Under SB 19-012

Fiscal Year	Type of Fee	Fine Assessed	Change in Fine	Number Affected	Total Fee Impact
FY 2019-20	Minor-First Offense	\$300	\$250	67	\$16,750
	Minor- Second Offense	\$500	\$400	3	\$1,200
	Adult-First Offense	\$300	-	110	\$33,000
	Adult Second Offense	\$500	-	2	\$1,000
				FY 2019-20 Total	\$51,950
FY 2020-21	Minor-First Offense	\$300	\$250	67	\$16,750
	Minor- Second Offense	\$500	\$400	3	\$1,200
	Adult-First Offense	\$300	-	110	\$33,000
	Adult-Second Offense	\$500	-	5	\$2,500
	Adult-Third offense	\$750	-	1	\$750
				FY 2020-21 Total	\$54,200

Table 3
HUTF Distribution Under SB 19-012

HUTF Distribution	FY 2019-20	FY 2020-21
CDOT (65 percent)	\$33,768	\$35,230
Counties (26 percent)	\$13,507	\$14,092
Municipalities (9 percent)	\$4,675	\$4,878
Total	\$51,950	\$54,200

Judicial Department. Cash fund revenue to the Judicial Department will increase from the \$6 surcharge as a result of an increase of class 2 misdemeanor traffic offense and the newly created class 1 misdemeanor traffic offense, credited to the Crime Victim Compensation Fund. This amount is estimated to be \$672 in FY 2019-20 and \$696 in FY 2020-21 and is outlined in Table 4.

Table 4
Revenue to Crime Victim Compensation Fund Under SB 19-012

Fiscal Year	Cash Funds	Surcharge	Number Affected	Total
FY 2019-20	Class 2 Misdemeanor	\$6	110	\$660
	Class 1 Misdemeanor	\$6	2	\$12
FY 2019-20 Total				\$672
FY 2020-21	Class 2 Misdemeanor	\$6	110	\$660
	Class 1 Misdemeanor	\$6	5	\$30
	Class 1 Misdemeanor- Third Offense	\$6	1	\$6
FY 2020-21 Total				\$696

State Expenditures

In the current FY 2018-19, state cash fund expenditures will increase by \$20,250. Judicial Department workload will increase starting in FY 2019-20, as described below.

Department of Revenue — computer programming. In the current FY 2018-19, the Department of Revenue (DOR) expenditures will increase by \$20,250 from the DRIVES Vehicle Services Account to program its DRIVES system. Programming is necessary to create a new common code for the new citation and configure the new fees, and points with each citation. It is estimated that 90 hours of work at \$225 per hour is necessary.

Judicial Department. Workload in the Judicial Department will increase beginning in FY 2019-20 to hear an increase of cases as a result of the bill. The department's workload model estimates that one county court judicial officer can process approximately 2,708 misdemeanor cases and 14,159 traffic infraction cases per year. Using the recent citations issued, as discussed in the Comparable Crimes section, the fiscal note assumes that this workload impact will be minimal and no change in appropriations is required.

TABOR refunds. The bill is expected to increase state General Fund obligations for TABOR refunds by \$52,610 in FY 2019-20. Under current law and the Legislative Council Staff December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Local Government

Beginning in FY 2019-20, this bill will increase local government revenues and expenditures, as discussed below.

HUTF fine revenue. The bill will increase local government HUTF revenue beginning in FY 2019-20. HUTF revenue generated by traffic fines is distributed to counties (26 percent) and municipalities (9 percent) for transportation needs, as outlined in Table 3.

District and city attorneys. District attorneys will see an increase in workloads to prosecute new traffic offenses. Since these new offenses can be handled with other traffic offenses, the expected increase in workload is assumed to be minimal. 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 due to the low conviction rate, this impact is assumed to be minimal.

Denver County. Similar to state-funded courts, the bill will increase revenue, expenditures and workload for the Denver County Court, which is managed and funded by the City and County of Denver.

Effective Date

The bill takes effect July 1, 2019.

State Appropriations

In the current FY 2018-19, this bill requires an appropriation of \$20,250 to the DRIVES Vehicle Services Account.

State and Local Government Contacts

Alternate Defense Counsel
Information Technology
Public Defender
Revenue

Counties
Judicial
Public Safety
Sheriffs

District Attorneys
Municipalities
Office of the Child's Representative
Transportation