



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

<b>Drafting Number:</b>	LLS 22-0063	<b>Date:</b>	April 4, 2022
<b>Prime Sponsors:</b>	Rep. Ricks; Hooton Sen. Gonzales	<b>Bill Status:</b>	House Business
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**Bill Topic:** TOWING CARRIER NONCONSENSUAL TOWS

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill expands consumer towing protections and creates the Office of Tow Hearings. It will increase state expenditures on an ongoing basis, and may increase local expenditures in FY 2022-23.

**Appropriation Summary:** For FY 2022-23, the bill requires an appropriation of \$755,836 to the Department of Regulatory Agencies.

**Fiscal Note Status:** The fiscal note reflects the introduced bill. This analysis is preliminary and will be updated following further review and any additional information received.

**Table 1  
State Fiscal Impacts Under HB 22-1314**

		Budget Year FY 2022-23	Out Year FY 2023-24
<b>Revenue</b>		-	-
<b>Expenditures</b>	General Fund	\$755,836	\$486,659
	Centrally Appropriated	\$148,579	\$145,932
	<b>Total Expenditures</b>	<b>\$904,415</b>	<b>\$632,591</b>
	<b>Total FTE</b>	<b>4.7 FTE</b>	<b>6.0 FTE</b>
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>	General Fund Reserve	\$113,375	\$72,999

## Summary of Legislation

The bill updates state towing requirements, notification procedures and lien processes, and creates the Office of Tow Hearings in the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA).

**Towing companies.** This bill modifies towing company notification requirements to law enforcement, the Department of Revenue and the owners or lienholders of a vehicle. It also establishes new responsibilities for vehicle towing companies and storage facilities, including that companies:

- charge the same fees for tows made without a vehicle owner's consent as are charged for tows made with an owner's consent;
- provide adequate lighting and signage in storage facilities, maintain safety and security of towed vehicles, and provide evidence of insurance upon request;
- only charge for storage when it is provided, not charge for storage before providing notification to interested parties, and give owners or lienholders an itemized bill upon request;
- photographically document vehicle condition and reason for a tow before towing, record and retain information of non-consensual tows for three years, and provide these records upon request;
- upon demand of the vehicle's owner, retrieve the contents of a towed vehicle or allow the owner to retrieve the vehicle without payment;
- except under certain circumstances, obtain authorization from the property owner, leaseholder, or common interest community and give notice to a vehicle owner 24 hours before removing a vehicle from private property;
- adhere to drop charge procedures, and unless ordered by a peace officer, not tow vehicles due to expired vehicle registration.

**Private property owners.** Private property owners must provide written notice of parking policies to tenants and maintain adequate signage of parking regulations on their property. Towing carriers are prohibited from acting as an agent for a property owner.

**Vehicle owners.** Individuals who have had their vehicles towed non-consensually may seek and recover damages from a towing company if their vehicle is towed in violation of these regulations. The bill also exempts vehicles, attached accessories and equipment, and the contents of a vehicle from towing carrier liens if the vehicle was towed non-consensually. If a carrier damages a vehicle or violates these provisions in a manner that causes damages and refuses to reimburse the owner or lienholder, the owner may recover attorney fees. The bill also establishes a deceptive trade practice for violations of this act, and provides the Attorney General with authority to address violations.

**Office of Tow Hearings.** The Office of Tow Hearings is created within the PUC to adjudicate disputes between carriers and owners or lienholders when a vehicle is towed without the owner's or lienholder's consent. The office will employ hearing officers or use administrative law judges to govern proceedings and to hold hearings to determine whether a carrier violated the law or caused damages. The office can order carriers to reimburse owners or lienholders, and this reimbursement may include attorney fees. The final actions of the office are subject to appeal under the "State Administrative Procedure Act".

## **Background and Assumptions**

**Towing regulation and investigations.** The PUC currently regulates Colorado's 732 towing companies regarding towing rates, scope of operations, insurance, safety, compliance and complaints. The PUC employs 6 investigators who investigate around 400 towing complaints each year on average. The fiscal note assumes these investigations will increase by roughly 15 percent starting in FY 2022-23, an increase of around 60 a year, as a result of new towing regulations and requirements. In addition, the fiscal note assumes that around 25 percent of towing complaints will result in a request for damages, which will lead to around 100 new case filings with the Office of Tow Hearings.

**Taking possession of abandoned vehicles.** Upon towing an abandoned vehicle, towing carriers are required to perform both a Colorado motor vehicle records search and a national records search. Towing carriers may take possession of an abandoned vehicle and sell the vehicle if it is not recovered, after meeting certain reporting, notification and appraisal requirements and using forms provided by the Department of Motor Vehicles (DMV).

## **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 creates a new factual basis for an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

**Prior conviction data and assumptions.** This bill creates a new factual basis for the existing offense of violating motor vehicle carrier rules and regulations, a class 2 misdemeanor, by expanding the rules and requirements for towing carriers concerning non-consensual tows. From FY 2018-19 to FY 2020-21, one offender has been sentenced and convicted for this offense. Demographically, the offender was white male. Though convictions could increase because of the lower burden required to prove a violation and the expanded type of behaviors that must be reported, the fiscal note assumes there will continue to be minimal or no additional criminal case filings or convictions for this offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note.

Visit [leg.colorado.gov/fiscalnotes](https://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## **State Revenue**

To the extent the bill increases civil case filings, state revenue will increase beginning in FY 2022-23. The bill creates additional violations of motor carrier rules and regulations and permits persons subjected to improper non-consensual tows to file civil actions, which may increase cases heard in trial courts. Because most complaints will likely be addressed through the new Office of Tow Hearings, the fiscal note assumes that any increase in civil filing fees will be minimal. This fee revenue is subject to TABOR.

**State Expenditures**

The bill increases state expenditures in DORA by \$904,415 in FY 2022-23 and \$632,591 in FY 2023-24 from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2  
 Expenditures Under HB 22-1314**

	FY 2022-23	FY 2023-24
<b>Department of Regulatory Agencies</b>		
Personal Services	\$331,009	\$441,345
Operating Expenses	\$6,615	\$8,100
Capital Outlay Costs	\$37,200	-
Vehicle Lease	\$2,220	\$2,664
Vehicle Operating	\$11,042	\$13,250
Computer Programming	\$350,000	-
IT Support	\$17,750	\$21,300
Centrally Appropriated Costs <sup>1</sup>	\$148,917	\$145,932
<b>Total Cost</b>	<b>\$904,415</b>	<b>\$632,591</b>
<b>Total FTE</b>	<b>4.7 FTE</b>	<b>6.0 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Regulatory Agencies.** DORA requires 5.0 FTE to create the new Office of Tow Hearings and 1.0 FTE to investigate additional towing complaints from expanded towing requirements. Standard operating and capital outlay costs are included, along with leasing and operating costs for one vehicle. The fiscal note assumes a September 1 start date, and first year costs reflect the General Fund pay date shift.

- **Office of Tow Hearings.** The new office in the PUC will require a director, an administrative law judge, and three hearing support staff to mediate disputes between towing companies and individuals subjected to nonconsensual tows. The fiscal note assumes the office will hear around 100 cases annually.
- **Complaint investigator.** DORA will require one additional staff to investigate complaints against towing companies, respond to questions, and provide enforcement. The new investigator will require a vehicle, with lease costs reappropriated to the Department of Personnel and Administration.
- **IT support.** In FY 2022-23, DORA requires one-time computer programming costs of around \$350,000, at \$175 per hour for 2,000 hours, to integrate the Office of Tow Hearings with the PUC information system. Estimated costs are based on current costs for the PUC's Gas Pipeline Safety section. DORA will also require \$15,000 annually for IT subscription costs, and \$6,300 in ongoing annual support from Office of Information Technology staff co-located with DORA.

- **Rulemaking.** Workload will increase for PUC staff to adopt new rules and make other administrative changes as required by the bill. This increase in workload can be accomplished within existing legal services appropriations.

**Judicial Department.** Workload may increase in the trial courts for any civil actions brought under the bill. Because most complaints will likely be addressed through the new Office of Tow Hearings, the fiscal note assumes that any impact on trial court workload will be minimal

**Department of Revenue.** The bill requires DMV administrative changes and updates to rules, forms, manuals, and websites upon the effective date of this bill. Training will also be provided to authorized agents, Vehicle Services Section staff, law enforcement, and other entities affected by this bill. No appropriation is required.

**Department of Law.** Violations of new requirements under the bill are considered deceptive trade practices, which allows the Attorney General to investigate and prosecute as appropriate. Violations will be addressed within the department's consumer protection resources, and no change in appropriations is required.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## Other Budget Impacts

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1 above, which will decrease the amount of General Fund available for other purposes.

## Local Government

Local governments may have costs to update requirements related to towing carrier notifications, particularly for local law enforcement agencies. Similar to the Department of Law, district attorneys may have increased workload to prosecute the deceptive trade practice.

## Technical Note

The bill provides no authority to the PUC to increase fees to support administrative costs; therefore, the fiscal note indicates a General Fund requirement.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## State Appropriations

For FY 2022-23, the bill requires a General Fund appropriation of \$755,836 to Department of Regulatory Agencies, with 4.7 FTE. Of this amount, \$5,250 is reappropriated to the Office of Information Technology, and \$2,220 is reappropriated to the Department of Personnel and Administration.

## State and Local Government Contacts

Counties	Information Technology	Judicial
Law	Local Affairs	Municipalities
Personnel	Public Safety	Regulatory Agencies
Revenue	Sheriffs	Transportation