



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 4, 2022)

Drafting Number: LLS 22-0063 **Date:** April 25, 2022
Prime Sponsors: Rep. Ricks; Hooton **Bill Status:** House Appropriations
 Sen. Gonzales; Sonnenberg **Fiscal Analyst:** Will Clark | 303-866-4720
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Bill Topic: TOWING CARRIER NONCONSENSUAL TOWS

Summary of Fiscal Impact:

<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. 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 \$68,826 to the Department of Regulatory Agencies.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by the House Business Affairs and Labor Committee.

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

	Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	-	-
Expenditures		
General Fund	\$68,826	\$82,185
Centrally Appropriated	\$19,246	\$24,086
Total Expenditures	\$88,072	\$106,271
Total FTE	0.8 FTE	1.0 FTE
Transfers	-	-
Other Budget Impacts		
General Fund Reserve	\$10,324	\$12,328

Summary of Legislation

The bill updates state towing requirements, notification procedures, and lien processes, and grants the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) additional authority to promulgate rules related to non-consensual towing and to deny permit applications or permit renewals of towing carriers who commit towing-related offenses or act against the public interest.

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:

- prominently display maximum allowable rates that may be charged for towing services, as permitted by the PUC, at the company's place of business and on their website;
- 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 after the owner signs a form affirming they owe the towing company 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;
- release a vehicle that has been hooked up but not towed from the property if approached by an authorized or interested person; 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 ensure that adequate signage of parking regulations is maintained 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 attached accessories and equipment, and the contents of a vehicle from towing carrier liens, and exempts vehicles from liens for 30 days after notice is provided to a vehicle owner, 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.

Towing task force recommendations. The bill requires the towing task force to analyze and make recommendations to the PUC about non-consensual towing rates charged to the public. The PUC must include these recommendations in its annual reporting to the General Assembly.

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 per year, as a result of new towing regulations and requirements.

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) in the Department of Revenue.

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 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, which may increase cases heard in trial courts. Given existing administrative remedies under DORA to regulate towing companies and resolve complaints and the historic availability of alternative causes of action against towing companies, the fiscal note assumes that the 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 \$88,072 in FY 2022-23 and \$106,271 in FY 2023-24 from the General Fund. It will also increase workload for several other state agencies. Expenditures are shown in Table 2 and detailed below.

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

	FY 2022-23	FY 2023-24
Department of Regulatory Agencies		
Personal Services	\$52,342	\$69,790
Operating Expenses	\$1,080	\$1,350
Capital Outlay Costs	\$6,200	-
Vehicle Lease	\$5,733	\$6,879
Vehicle Operating	\$3,472	\$4,166
Centrally Appropriated Costs ¹	\$19,246	\$24,086
Total Cost	\$88,072	\$106,271
Total FTE	0.8 FTE	1.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Regulatory Agencies. DORA requires a complaint investigator to investigate additional towing complaints from expanded towing requirements and will have increased workload from rulemaking and to support the towing task force.

- **Complaint investigator.** DORA requires 1.0 FTE 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. 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.
- **Rulemaking.** Workload will increase for PUC staff to adopt new rules, create a towing company release form, 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. The fiscal note assumes that increase to trial court workload will be minimal and absorbable using existing resources. However, if there is a significant increase in case filings as a result of the bill, the Judicial Department will seek additional resources through the annual budget process.

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.

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.

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 \$68,826 to Department of Regulatory Agencies, with 1.0 FTE. Of this amount, \$5,733 is reappropriated to the Department of Personnel and Administration.

State and Local Government Contacts

Counties
Law
Personnel
Revenue

Information Technology
Local Affairs
Public Safety
Sheriffs

Judicial
Municipalities
Regulatory Agencies
Transportation