



Legislative Council Staff
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Fiscal Note

Drafting Number: LLS 23-0043 Date: March 7, 2023
Prime Sponsors: Rep. Epps Bill Status: House Judiciary
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Bill Topic: PROHIBIT ASSAULT WEAPONS IN COLORADO

- Summary of Fiscal Impact:
[X] State Revenue [X] TABOR Refund
[X] State Expenditure [X] Local Government
[] State Transfer [] Statutory Public Entity

The bill prohibits the possession of rapid-fire trigger activators and the manufacture, importation, purchase, sale, or transfer of assault weapons. The bill increases state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Table 1
State Fiscal Impacts Under HB 23-1230

Table with 4 columns: Category, Budget Year FY 2023-24, Out Year FY 2024-25, Out Year FY 2025-26. Rows include Revenue, Expenditures, Transfers, and Other Budget Impacts.

Summary of Legislation

The bill prohibits the possession of rapid-fire trigger activators and the manufacture, import, purchase, sale, or transfer of assault weapons, including rapid-fire trigger activators. Failure to comply with these prohibitions is a class 2 misdemeanor, with a civil penalty of \$1,000 for offenses between July 1, 2023, and December 31, 2024, and \$5,000 for offenses on or after January 1, 2025. A licensed gun dealer, firearms dealer, gun show vendor, or person attempting to sell an assault weapon on or after July 1, 2023, is assessed a civil penalty of \$250,000 for the first weapon sold and \$500,000 for subsequent sales. The bill makes exceptions to these prohibitions for military and peace officer job duties, lawful transfers for maintenance, and forensic laboratories, among others.

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. Using Judicial Department and Denver County Court data, the following section outlines crimes that are comparable to the offenses in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

- **Unlawful manufacture, import, purchase, sale, and transfer of assault weapons.** This bill creates the new offense of unlawful manufacture, import, purchase, sale, and transfer of assault weapons, a class 2 misdemeanor. To form an estimate on the prevalence of this new offense, the fiscal note analyzed the existing offense of failure to perform a background check during a private firearm transfer as a comparable crime. From FY 2019-20 to FY 2021-22, 19 offenders have been sentenced and convicted for this existing offense, or about 7 per year. Of the persons convicted, 16 were male and 3 were female. Demographically, 14 were White, 4 were Black/African American, and 1 was Hispanic.
- **Unlawful possession of rapid-trigger activators.** This bill creates the new offense of unlawful possession of rapid-fire trigger activators, a class 2 misdemeanor. To form an estimate on the prevalence of this new offense, the fiscal note analyzed the existing offense of unlawful sale, transfer, or possession of a large-capacity magazine—not including charges for possession of a large-capacity magazine during commission of a crime—as a comparable crime. From FY 2019-20 to FY 2021-22, 80 offenders have been sentenced and convicted for this existing offense, or about 27 per year. Of the persons convicted, 76 were male, 3 were female, and 1 was unknown. Demographically, 45 were White, 31 were Black/African American, 1 was Hispanic, 2 were Asian, and 1 was unknown.

Assumptions. The fiscal note assumes that the bill will increase misdemeanor convictions by about 35 cases per year. It is assumed most of these cases will be filed in county courts. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

Criminal fines and court fees. By creating new misdemeanor offenses that are subject to civil penalties, the bill will increase state revenue from criminal fines and court fees beginning in FY 2023-24 by at least \$23,000 in FY 2024-25 and at least \$117,000 in FY 2025-26 and future years, credited to various cash funds in the Judicial Department and the General Fund. Criminal fine and court fee revenue is subject to TABOR. These impacts are discussed below.

Fine penalties for manufacture, import, purchase, sale, and transfer of assault weapons and possession of rapid-trigger activators. For violations under this section, the bill imposes two types of fine penalties: 1) the standard fine penalty for a class 2 misdemeanor, which may be imposed at the discretion of a judge and range from \$250 to 750, and 2) an additional mandatory civil penalty, starting at \$1,000 per conviction for offenses committed through January 1, 2025, and then \$5,000 per conviction thereafter, credited to the General Fund. Based on the assumed number of convictions and assuming two-thirds of cases pay the fine penalty in the year following the year in which the offense occurred (to account for the time required to adjudicate the case and for a payment to be made), fine revenue for these convictions is estimated to be at least \$23,000 in FY 2024-25 and then at least \$117,000 in FY 2025-26 and future years. Actual fine revenue will vary depending on discretionary fine amounts imposed by judges, defendant indigence, and other factors.

Fine penalty for the sale of an assault weapon. The bill imposes mandatory civil penalties of \$250,000 for the first assault weapon sold and \$500,000 for each subsequent assault weapon sold by a licensed gun dealer, licensed firearms dealer, gun show vendor, or person attempting to sell an assault weapon. Given the high amount of the potential fine revenue, the fiscal note assumes a high level of compliance, especially by licensed businesses. However, should fines be imposed and collected, it could potentially result in a significant amount of General Fund revenue, even from a small number of convictions.

Other court fees. In addition to fine penalties above, persons convicted of a crime may be charged for various other court fees on a case by case basis for court related costs, such as probation supervision or late fees. This fee revenue has not been estimated.

State Expenditures

Based on the caseload assumptions above, this analysis assumes that there will be a minimal impact on state expenditures. Any increase in workload and costs for the Judicial Department, including the trial courts, Division of Probation, and agencies that provide representation to indigent persons, are assumed to be minimal and no change in appropriations is required.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25.

Local Government

Similar to the state, the bill will have a minimal impact on local government expenditures, specifically for district attorneys to prosecute a new class 2 misdemeanor offense; for county jails to house additional offenders; and for the Denver County Court to try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience an increase in revenue and expenditures to supervise persons convicted under the bill within Denver County. Impacts will vary depending on the number of offenses committed within a local government's jurisdiction.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

District Attorneys

Judicial

Public Safety