



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated March 12, 2024)

Drafting Number:	LLS 24-0240	Date:	April 16, 2024
Prime Sponsors:	Rep. Boesenecker; Mauro Sen. Cutter; Priola	Bill Status:	House Appropriations
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Bill Topic: TOWING CARRIER REGULATION

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

The bill creates new regulations for towing carriers. It increases state revenue and expenditures, and may increase local workload, on an ongoing basis beginning in FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$165,629 to the Department of Regulatory Agencies.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by the House Transportation, Housing, and Local Government Committee and the House Finance Committee.

**Table 1
State Fiscal Impacts Under HB 24-1051**

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	Motor Carrier Fund	\$176,849	\$179,339
	Total Revenue	\$176,849	\$179,339
Expenditures	Motor Carrier Fund	\$165,629	\$166,249
	Centrally Appropriated	\$11,220	\$13,090
	Total Expenditures	\$176,849	\$179,339
	Total FTE	1.1 FTE	1.2 FTE
Transfers		-	-
Other Budget Impacts	TABOR Refund	\$176,849	\$179,339

Summary of Legislation

The bill creates new regulations for towing carriers as follows:

- the Public Utilities Commission (PUC) must promulgate rules by September 1, 2025, regarding towing carrier disclosures;
- the PUC is authorized to deny, suspend, revoke, or refuse towing carrier permits for certain carrier violations;
- towing carriers are prohibited from patrolling or monitoring a property to enforce parking restrictions;
- towing carriers must receive documented permission via a PUC form signed by the owner, leaseholder, or employee of the property for each individual tow of a vehicle from private property within 24 hours of the tow, except that the signer of the form may not have a financial interest in the nonconsensual tow—these forms must be retained for three years by the towing carrier;
- towing carriers shall return improperly towed vehicles to their original location within 48 hours of the improper tow;
- members of the Towing Task Force must recuse themselves from a vote where the outcome has a direct financial impact on the member or the task force is advising the PUC regarding a complaint that the member is the subject of or has a financial interest in; and
- a towing carrier conducting a nonconsensual tow in violation of these requirements is considered a deceptive trade practice.

Finally, the bill moves the repeal date for the PUC's regulation of towing carriers from September 1, 2025, to September 1, 2030.

Background

The PUC in the Department of Regulatory Agencies (DORA) is responsible for the oversight of towing carriers operating within the state. It assesses fees on towing carriers which are credited to the Motor Carrier Fund to cover the costs of the PUC's regulatory duties. A 14-member Towing Task Force provides recommendations and advice to the PUC and legislature on various aspects related to the regulation of towing carriers. For more information on the regulation of towing companies, see this [Legislative Council Staff Issue Brief on Vehicle Towing and Booting](#) or the [Public Utilities Commission Towing website](#).

State Revenue

The bill increases state cash fund revenue by about \$177,000 in FY 2024-25, and \$179,000 in FY 2025-26 and ongoing to the Motor Carrier Fund in the PUC. In addition, it may increase revenue from civil penalties and filing fees.

Fee impact on towing carriers. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The bill increases permitting fees on towing carriers to cover the costs of its regulatory work under the bill. As shown in Table 2, the fiscal note estimates this fee increase will be about \$240 per carrier. This fee amount is an estimate only, actual fees will be set administratively by DORA based on cash fund balance, program costs, and the number of carriers subject to the fee.

Table 2
Fee Impact on Towing Carriers

Fiscal Year	Type of Fee	Fee	Number Affected	Total Fee Impact
FY 2024-25	Towing Permit Fee Increase	\$236	750	\$176,849
FY 2025-26	Towing Permit Fee Increase	\$239	750	\$179,339

Civil penalties. Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

Filing fees. The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

State Expenditures

The bill increases state expenditures from the Motor Carrier Fund in the PUC by about \$177,000 in FY 2024-25 and \$179,000 in FY 2025-26. The bill may increase workload for the Department of Law and the Judicial Department. Expenditures are shown in Table 3 and detailed below.

**Table 3
 Expenditures Under HB 24-1051**

	FY 2024-25	FY 2025-26
Public Utilities Commission (DORA)		
Personal Services	\$42,973	\$50,135
Operating Expenses	\$768	\$896
Capital Outlay Costs	\$6,670	-
Legal Services	\$115,218	\$115,218
Centrally Appropriated Costs ¹	\$11,220	\$13,090
FTE – Personal Services	0.6 FTE	0.7 FTE
FTE – Legal Services	0.5 FTE	0.5 FTE
Total Cost	\$176,849	\$179,339
Total FTE	1.1 FTE	1.2 FTE

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

Assumptions. There are approximately 750 active towing permits in the state at any given time, and the PUC receives and processes over 1,000 towing applications each year. The bill requires that the PUC determine if there is good cause to deny, suspend, or revoke any towing permits and allows the commission to proactively suspend or revoke towing permits, which is anticipated to increase the number of enforcement actions taken by the PUC.

Public Utilities Commission. Based on the assumptions outlined above, the PUC requires staff and legal services to implement the bill.

- **Staff.** PUC requires 0.7 FTE investigative staff to investigate criminal histories of towing carrier applicants, enforce prohibition on towing carriers patrolling or monitoring private properties, monitor compliance with returning improperly towed vehicles, and investigate violations. First-year costs are prorated for the bill's effective date and standard operating and capital outlay costs are included.
- **Legal services.** The bill's expansion of the PUC's authority to restrict permit issuance and enforce restrictions on parking lot monitoring and nonconsensual tows is expected to create new administrative review and appeals, as well as avenues for litigation. It is estimated that the Department of Law will provide at least 900 hours annually to provide counsel and representation to the PUC in these matters, resulting in costs of \$115,218 per year. The Department of Law requires reappropriated funds and 0.5 FTE for this work.
- **Rulemaking.** The PUC is also expected to hold rulemaking events under the bill, which can be accomplished within the normal course of business.

Department of Law. Workload in the Department of Law will minimally increase to the extent that deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources.

Judicial Department. The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that online marketplaces will abide by the law and that any violation of the legislation will result in minimal number of new cases. The fiscal note assumes that this can be accomplished within existing resources and that 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 3.

Local Government

Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to acts committed on or after that date.

State Appropriations

For FY 2024-25, the bill requires an appropriation of \$165,629 to the Public Utilities Commission from the Motor Carrier Fund, and 0.6 FTE, of which \$115,218 is reappropriated to the Department of Law, with an additional 0.5 FTE.

State and Local Government Contacts

Regulatory Agencies
Revenue

Law

Public Safety

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).