



**Colorado  
Legislative  
Council  
Staff**

**Bill 5**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0132  
**Prime Sponsor(s):**

**Date:** September 19, 2016  
**Bill Status:** Committee on Cost-Benefit  
Analysis of Legalized Marijuana Bill  
Request

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**BILL TOPIC:** DISTINGUISH ALCOHOL DUIS FROM DRUG DUIS

Fiscal Impact Summary	FY 2016-2017 (Current year)	FY 2017-2018	FY 2018-2019
State Revenue			
State Expenditures	Increase.		
<b>Appropriation Required:</b> None.			
<b>Future Year Impacts:</b> Ongoing state expenditures increase.			

**Summary of Legislation**

This bill, *requested by the Cost-Benefit Analysis of Legalized Marijuana in Colorado Interim Committee*, adds new subcategories to the existing criminal offenses of driving under the influence (DUI) and driving while ability impaired (DWAI). The bill requires peace officers who issue a summons or complaint for DUI, DUI per se, or DWAI to indicate, to the extent possible, the exact nature of the offense by citing the appropriate subcategory.

The subcategories include driving under the influence of alcohol, marijuana, one or more drugs for which a person has a valid prescription, one or more drugs for which the person does not have a valid prescription, or any combination thereof.

**Background**

Driving while under the influence occurs when a person drives a motor vehicle while under the influence of drugs, alcohol, or both. Driving while ability impaired occurs when a person drives while impaired by drugs, alcohol, or both. DUI per se occurs when a person has a BAC of 0.08 or higher at the time of driving, or within two hours of driving. Driving under the influence is a misdemeanor unless the violation occurred after three or more prior convictions for DUI, DUI per se, DWAI, vehicular homicide, vehicular assault, or any combination thereof, in which case it is a class 4 felony. Individuals convicted of misdemeanor DUI or DWAI may be fined between \$600 and \$1,500 and may be sentenced to county jail. The penalty for a class 4 felony is 2 to 6 years in prison, a \$2,000 to \$500,000 fine, or both. In FY 2015-16, there were 22,218 DUI/DWAI misdemeanor case filings and 1,133 felony DUI case filings in Colorado.

## **State Expenditures**

Beginning in FY 2016-17, this bill increases workload in the Judicial Department, the Department of Revenue (DOR), and the Department of Public Safety (DPS). The bill may also increase costs in DOR and DPS, as described below.

**Assumptions.** The bill is not expected to change criminal filing or sentencing for any DUI, DUI per se, or DWAI offenses.

**Judicial Department.** Prosecutors may file additional motions to amend charges for existing cases to better reflect the specific nature of the offenses with which defendants are charged. Any increase in the number of motions filed and responded to by trial courts and the Office of the State Public Defender or the Office of the Alternate Defense Counsel is likely to be minimal and can be accomplished within existing appropriations.

**Department of Revenue (DOR).** The Division of Motor Vehicles (DMV) within DOR tracks DUI and DWAI offenses as part of a person's driving record. The bill requires updates to DRIVES, the DMV's driver license system, in order to capture the specific conviction codes for the various DUI and DWAI offenses. The DMV estimates that these changes can be included in ongoing programming of the DRIVES system. The DOR will also experience a workload increase in order to provide training to agents, staff, law enforcement, and other entities impacted by this bill. Rules, forms, manuals, and websites will require updating to reflect the change in law. In addition, results from a breath alcohol test return faster (within around three weeks) than the results from a blood test for drugs (which can take up to three months). Should the number of blood tests increase, the DMV may see an increase in workload to update records for an individual convicted of multiple offenses during the same stop. The fiscal note assumes that this change in workload can be accomplished within existing appropriations or that DOR will request additional appropriations through the annual budget process if needed.

**Department of Public Safety (DPS).** State patrol officers within DPS will need to update training procedures to comply with the provisions of the bill requiring them to cite specific sections of statute when charging a person with DUI or DWAI. Should the bill compel law enforcement officers, either those from local agencies or the State Patrol, to submit more blood tests, costs for DPS will increase. Blood tests conducted by local law enforcement agencies are submitted to DPS for processing. As of this writing, it is unclear how DUI/DWAI procedures will change, and any increase in costs has not been quantified. The fiscal note assumes that if DPS requires additional appropriations, it will request them through the annual budget process.

## **Local Government Impact**

This bill may increase workload for district attorneys and local law enforcement agencies. To the extent that district attorneys file additional motions to clarify the nature of the charges against DUI and DWAI defendants, workload may increase. In addition, law enforcement agencies will need to update training procedures to comply with the provision of the bill asking for officers to cite specific sections of statute when charging a person with DUI or DWAI. Finally, in the event that local law enforcement agencies conduct more blood tests and pay for these tests themselves, costs will increase.

**Effective Date**

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

**State and Local Government Contacts**

Counties  
Municipalities  
Sheriffs

District Attorneys  
Public Safety

Judicial  
Revenue