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Fiscal Note

Drafting Number: LLS 23-0103
Prime Sponsors:

Date: September 16, 2022
Bill Status: Bill Request
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Bill Topic: AUTOMATED VEHICLE IDENTIFICATION SYSTEMS

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

The bill makes several changes to the use of automated vehicle identification systems (red light and speed cameras). Starting in FY 2023-24, the bill impacts state and local revenue and increases state and local expenditures.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$383,263 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the bill draft requested by the Transportation Legislation Review Committee.

Table 1
State Fiscal Impacts Under Bill 4

Table with 4 columns: Category, Budget Year FY 2023-24, Out Year FY 2024-25. Rows include Revenue, Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts.

Summary of Legislation

The bill makes several changes to how the state and local government may use an automatic vehicle identification system (AVIS).

Issuing and paying penalty assessments. The bill requires local governments that use AVIS to send penalty assessments detected by AVIS by mail, within 30 days of the violation, instead of being mailed or personally served within 90 days. The registered owner of the vehicle is presumed liable for any penalty imposed. If the owner does not pay the penalty, the notice constitutes a complaint to appear in court or an administrative proceeding. If an owner does not pay the penalty or request a hearing, a final order of liability must be entered against the registered owner of the vehicle to enable the registered owner to appeal and allowing the state or local government to proceed to judgement.

A registered owner of a vehicle may not be liable for the civil penalty if:

- the motor vehicle owner is in the business of leasing or renting motor vehicles and the owner obtains payment from the user of the rented or leased car and forwards to the state or local government, or can furnish sufficient evidence that the motor vehicle was leased or rented to another person; or
- the registered owner sold or transferred ownership of the vehicle before the violation occurred or the owner did not have their vehicle due to a theft.

AVIS and speeding violations. The bill allows municipalities to designate a street as an “AVIS corridor” to allow a municipality to move an AVIS to a street to detect speeding violations and to post permanent signs signaling that it is an AVIS corridor.

Changes to Penalty Assessments. The bill establishes a number of restrictions when issuing penalty assessments through an AVIS. First, for the first 15 days of placing an AVIS, only warnings may be issued for violations. For speeding violations, for the first year, civil penalties can only be assessed if they are at least 11 mph above the speed limit. After that, the threshold is lowered to 6 mph. Second, the state or local government who issues a penalty assessment or summons must:

- offer a diversion program at no cost in lieu of paying a civil penalty;
- offer an option to pay penalty in installments if individual has low income; and
- reduce the penalty by 50% for low income individuals.

State or local governments cannot report failure to pay civil penalty to a consumer reporting agency.

Finally, the bill allows the maximum penalty for a 2nd speeding violation detected by AVIS to increase by inflation starting July 1, 2024. Currently, the maximum penalty in statute is \$40 unless the 2nd violation occurs in a school zone, in which case the penalty is doubled.

Revenue requirements. The bill adds the requirement that revenue collected in excess of operating an AVIS system must go to street safety or multimodal infrastructure programs.

Operation and location restrictions. The bill requires AVIS to be programed to take photographs only when a traffic violation occurs and the vendor or government operating the system must treat all photographs as confidential; cannot use, disclose, sell, or permit access to data collected by the system; and must destroy any photograph of a violation within seven days following final disposition. The bill also requires the state or local government to conduct an assessment to determine if a location would adversely affect racial equity, socio-economic equity, or privacy before placing AVIS. Finally, the bill requires a government that use AVIS to publish an annual report that includes specified data.

Removal of restrictions. The bill also removes a number of restrictions when using AVIS under current law. This includes:

- removing the prohibition that a local government cannot require a registered owner to disclose the identity of the driver during violation;
- removing the requirement that an officer or a government employee be present during the operation of the AVIS system; and
- removing the prohibition of sending a penalty assessment for traffic violations unless the violation occurred in a school zone, residential neighborhood, or construction zoon, or along a street with a park.

Department of Revenue requirements. The bill requires state and local government to report to the Department of Revenue (DOR) any conviction or entry of judgement detected by AVIS. The DOR cannot assess points to a driver's license but must keep record of the violation. If the vehicle has been involved in five or more violations within a two-year period, the DOR may notify the its insurance company of the violations. Finally, the DOR may suspend the vehicle's registration for 90 days if the owner failed to pay an outstanding penalty within 90 days after the final determination of obligation to pay or the motor vehicle has been involved in six or more such violation within a two-year period.

Background

Use of AVIS. Under current law, a municipality may adopt an ordinance authorizing the use of AVIS to detect traffic violations. The Department of Public Safety is also authorized to use AVIS, upon request of the Colorado Department of Transportation (CDOT), to detect speeding violations within a highway maintenance, repair, or construction zone. The Department of Public Safety currently does not use AVIS; however, the Colorado Transportation Investment Office (CTIO, formally the High Performance Transportation Enterprise), an enterprise within CDOT, may use AVIS for the enforcement of toll evasion enforcement. The CTIO is currently in the process of implementing House Bill 22-1074, which allows the enterprise to enforce toll lane violations on Interstate 70. Locally, there are 11 municipalities that use AVIS: Boulder, Cherry Hills Village, Colorado Springs, Commerce City, Denver, Fort Collins, Greenwood Village, Lone Tree, Northglenn, Pueblo, and Sheridan.

Statutory guidelines for fines. Maximum original penalties for a traffic violation detected by AVIS for a violation are set in state law. The maximum original penalty for a violation captured by a red light camera is \$75, and the maximum ordinal penalty caught by a photo speed van is \$40. If the violation caught by a photo speed van was committed in a school zone, the fee is doubled; there is no maximum penalty applied within a maintenance, construction, or repair zone. If AVIS catches a speeding violation of less than 10 miles per hour, and it is a driver's first offense, the government entity must mail a warning and cannot impose a fine. Subsequent fees may apply due to failure to respond, personal service, and default.

AVIS restrictions. AVIS cannot be used unless a sign is posted, no fewer than 300 feet away, to notify the public that such a system is in use. A penalty assessment notice or a summons cannot be issued if captured on a photo radar, unless an enforcement officer is present. Photo radar can only issue penalties in school zones, neighborhoods, construction zones, or streets that border parks. Government entities are not permitted to enforce a penalty by immobilizing a vehicle or reporting it to the Division of Motor Vehicles. No points may be assessed against an individual's driver license for a violation detected through the use of AVIS.

Assumptions

The fiscal note assumes that there are approximately 300,000 citations issued by municipalities from violations detected by AVIS each year.

State Revenue

The bill may impact future revenue to the CTIO from toll violations in two ways. First, to the extent that more people pay their tickets through suspending vehicle registration for unpaid tickets, revenue will increase. Conversely, to the extent that some fines are reduced or that people are allowed to do community service in lieu of paying a fine, revenue will decrease. Overall, any change in revenue is expected to be minimal. Revenue to the CTIO is not subject to TABOR.

State Expenditures

The bill increases state expenditures in the DOR by \$419,245 in FY 2023-24 and \$410,692 in FY 2024-25 from the DRIVES Service Account. Expenditures are shown in Table 2 and detailed below. Finally, expenditures in the CTIO may also be impacted.

**Table 2
Expenditures Under Bill 4**

	FY 2023-24	FY 2024-25
Department of Revenue		
Personal Services	\$296,399	\$296,399
Operating Expenses	\$9,450	\$9,450
Capital Outlay Costs	\$46,690	-
Computer Programing	\$30,724	-
Centrally Appropriated Costs ¹	\$104,843	\$104,843
Total Cost	\$488,106	\$410,692
Total FTE	7.0 FTE	7.0 FTE

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

Department of Revenue— Record keeping. Starting in FY 2023-24, the DOR will require 1.7 FTE to record AVIS violations in the department’s Driver License, Record, Identification, and Vehicle Enterprise Solutions (DRIVES) system. The fiscal note assumes that there will be around 300,000 convictions reported to the DOR annually, with each taking 45 seconds each to record.

Department of Revenue— Customer service. Starting in FY 2023-24, the DOR will require 5.3 FTE to answer calls regarding AVIS violations and car registration suspensions. The fiscal note assumes that 20 percent of the violations will not be paid in a timely manner and result in the suspension of the owner’s ability to renew their vehicle registration, which will lead to increased calls to the DOR. Each call is assumed to take about 11 to 12 minutes per call.

Department of Revenue— Computer programming. In FY 2023-24, the DOR will be required to update DRIVES to track and input AVIS violations. Programming costs are calculated at 100 hours at a rate of \$225/hour for a total of \$22,500. In addition, programming and testing within the innovation strategy and delivery team, which maintains the DRIVES system, will cost \$8,224, of which \$5,297 must be reappropriated to the Office of Information Technology.

Colorado Transportation Investment Office. The bill will increase administrative costs within the CTIO to oversee the AVIS enforcement process to ensure that the use of AVIS on I-70 toll lanes meets the requirements of the bill. However, because the CTIO is only involved in toll violations, this additional workload is expected to be minimal and any change in appropriations will be requested through the annual budget process.

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.

Local Government

Starting in FY 2023-24, the 11 municipalities that use AVIS may see an impact in revenue and an increase in expenditures.

Revenue impacts. First, similar to the state, to the extent that more people pay their citations, revenue to the municipalities will increase. Conversely, to the extent that fines are reduced or that people participate in community service in lieu of paying a fine, revenue will decrease.

Expenditure impacts. The bill will also impact local expenditures in several ways. First, the bill will change what municipalities can spend AVIS excess revenue on. This will increase municipal expenditures on street safety or multimodal infrastructure programs and will reduce expenditures in other programs that currently use AVIS revenue. Second, expenditures will increase to modify contracts with vendors, to establish alternative forms of payment, and to make sure that use of AVIS falls within the requirements of the bill. For informational purposes, it currently costs municipalities \$60,000 to \$2.7 million to run an AVIS system, depending on the number of red light cameras or photo vans used.

Technical Note

The bill does not specifically list debt service as an allowable use of excess revenue from AVIS detected violations. Not allowing payment for debt service may conflict with financial agreements entered into by the CTIO.

Effective Date

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

State Appropriations

For FY 2023-24, the bill requires an appropriation of \$383,263 and 7.0 FTE from the DRIVES Service Account to the Department of Revenue. Of this amount, \$5,297 is reappropriated to the Office of Information Technology.

State and Local Government Contacts

Counties	Information Technology	Judicial
Municipalities	Public Safety	Revenue
Transportation		