

*Colorado Legislative Council Staff Fiscal Note*

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 08-0257  
**Prime Sponsor(s):** Rep. McFadyen  
 Sen. Williams

**Date:** February 25, 2008  
**Bill Status:** House Transportation and Energy  
**Fiscal Analyst:** Brad Denning (303-866-4777)

**TITLE:** CONCERNING PREVENTION OF DANGEROUS CONDITIONS ON ROADWAYS.

<b>Fiscal Impact Summary</b>	<b>FY 2008-2009</b>	<b>FY 2009-2010</b>
<b>State Revenue</b>		
General Fund		
Cash Funds		
Highway Users Tax Fund (HUTF)	\$2,400,000	\$2,400,000
Highway Construction Workers' Safety Account, HUTF	Increase	Increase
Victim's/Witness Asst & Law Enforcement Fund	"	"
<b>State Expenditures</b>		
General Fund*	\$230,448	\$227, 646
Cash Funds		
Highway Users Tax Fund (HUTF)	Increase	Increase
Highway Construction Workers' Safety Account, HUTF	"	"
Victim's/Witness Asst & Law Enforcement Fund	"	"
<b>FTE Position Change</b>	6.6 FTE	6.6 FTE
<b>Effective Date:</b> Upon the signature of the Governor; applies to offenses committed on or after that date.		
<b>Appropriation Summary for FY 2008-2009:</b> See State Appropriations section.		
<b>Local Government Impact:</b> Increased HUTF distributions to cities and counties.		

\* Of this amount, \$2,802 may be funded by line item in the FY 2008-09 Long Bill for programming costs in the Department of Revenue for 2008 legislation.

**Summary of Legislation**

Current law allows the Colorado Department of Transportation (CDOT) to designate a portion of a state highway as a highway maintenance, repair, or construction zone when these activities are occurring on a highway. The bill includes the following provisions:

- *requires* both the CDOT and local governments to designate maintenance, repair, or construction zones where these activities are occurring;
- doubles fines for certain moving traffic violations, including speeding, within the zones designated by local governments;

- requires the Department of Public Safety (DPS), upon the CDOT's request, to use photo radar to detect speeding violations while maintenance, repair, or construction is occurring in these zones;
- requires the CDOT to reimburse the DPS for the use of photo radar; and
- requires drivers approaching these zones to exhibit due care and yield the right-of-way to maintenance, repair, or construction vehicles.

## **Background**

Current law specifies that the *Highway Construction Workers' Safety Account* in the HUTF will receive additional fine revenue if a fine is doubled for speeding and certain traffic violations. **However, Section 42-4-110.5 (4) (b) (I), C.R.S. limits the fine amount to \$40 when photo radar is used in these zones.** All revenue credited to the account is continuously appropriated to the CDOT for work zone safety equipment, signs, and law enforcement.

*Photo radar use in the City and County of Denver.* The City and County of Denver currently contracts for the use of 3 photo radar vans between 12 and 18 hours per day, 5 days per week, annually. The total *detected* violations average between 8,000 to 14,000 monthly, or 96,000 to 168,000 annually. Fewer citations are actually *issued*, ranging from 55 to 70 percent, due to poor photos, no match between license plate and photo, inclement weather, and equipment malfunction. The majority of the program's costs are paid to the vendor and range between \$140,000 to \$165,000 monthly. Of the citations issued, about 75 to 80 percent are paid. Additionally, about 1 to 2 percent of the violations result in court cases.

## **State Revenue**

Fines are likely to increase in these zones with the use of photo radar, and are estimated at **\$2,400,000 annually** for the HUTF. This fiscal notes assumes collections on 60,000 citations annually. Revenue will increase because: (1) CDOT and local entities are required to designate an increased number of zones for certain kinds of traffic violations; (2) there will be more doubled fines; and (3) photo radar will be used in these zones to detect violations. Revenue impacts are discussed below.

*Doubling of fines in conventional construction zones without photo radar.* This practice has been in place for approximately 6 months, resulting in 1,850 citations. Approximately 95 percent of these are for speeding and fines are split 50-50 between the HUTF and the local government. Of the 1,850 citations for the last 6 months, the average fine was \$84.

*Photo radar use.* The bill *authorizes* CDOT to request the use of photo radar to detect violations in the new zones. As a result, revenue into both the Highway Construction Worker's Safety Account and the HUTF is expected to increase beginning in FY 2008-09. The CDOT works on approximately 50 projects a year. It is assumed that the department will use two photo radar vans on state highways, generate 96,000 citations per year, and collect fines on roughly 60,000 citations (\$40 \* 60,000). If fines in these zones were not limited to \$40 when photo radar is used, revenue would likely approach \$5,040,000 annually (\$84 \* 60,000).

*Additional fine revenue.* Revenue will be generated from violations in these zones that do not involve speeding, most notably right-of way violations. This revenue has not been estimated, but will be provided if future information becomes available. In addition, surcharges are doubled in the areas where public entities are required to enforce these new zones. This revenue is deposited into the Victims and Witness Assistance and Law Enforcement Fund and is not quantified.

### **State Expenditures**

At a minimum, costs are estimated at \$230,448 for FY 2008-09 and \$227,646 in FY 2009-10; 6.6 FTE are required in both years. The majority of the costs are related to the contractual use of photo radar and the number of citations issued. The potential impact for each department follows.

*Colorado Department of Transportation.* The department's costs are estimated to range from \$140,000 to \$165,000 monthly, or at a minimum \$1.68 million annually. This note assumes CDOT will lease of 2 photo radar vans annually for 12-16 hours daily, to be monitored by the Department of Public Safety. CDOT is to reimburse the Department of Public Safety for photo radar from funds continuously appropriated from the Highway Construction Worker's Safety Account. Additional costs are expected for zone signs, but these costs have not been quantified.

*Department of Revenue.* The department will require \$227,646 for administrative expenses related to receiving, handling, payment of penalty assessments, and hearings for 60,000 citations.

<b>Per 60,000 Citations</b>	<b>FTE</b>	<b>Personal Services</b>	<b>Operating/Capital</b>	<b>Total</b>
Admin. Asst. II	4.8	\$144,174	\$19,824	\$163,998
Cashier	1.8	55,719	\$7,929	\$63,648
<b>Total</b>	<b>6.6</b>	<b>\$199,893</b>	<b>\$27,753</b>	<b>\$227,646</b>

*Computer programming* — \$2,802 in FY 2008-09 only. Penalties and surcharges collected by a local governments in these new zones will require 80 hours of reprogramming to the penalty assessment system and the electronic citations system. These costs will be funded by line item in the FY 2008-09 Long Bill.

*Judicial Branch.* Traffic violations committed in zones would result in increased cases should the CDOT request photo radar use. The City and County of Denver indicated that 1 to 2 percent of all citations issued result in court cases. The branch's weighted caseload standard requires an additional 1.00 FTE magistrate and support staff for an additional 18,137 infraction cases. Assuming 60,000 citations, the number of court cases generated is anticipated to be 600-1,200. This range of increased cases is absorbable within existing resources.

*Department of Public Safety.* The Department of Public Safety will monitor the contracted photo radar service. Costs have not been quantified, as the department has not indicated the amount of monitoring required.

**Local Government Impact**

The bill requires public entities to designate more zones and doubles the penalties and surcharges imposed for certain kinds of traffic violations that occur within these zones. The bill will therefore increase the amount of fine revenue deposited into the HUTF, which will increase distributions to cities and counties. Expenditures will increase for signs. The fiscal note has not estimated the additional amount that will be distributed to local governments at this time.

**State Appropriations**

At a minimum, for FY 2008-09, the Department of Revenue will require a \$227,646 General Fund appropriation and 6.6 FTE.

**Departments Contacted**

Judicial  
Revenue

Local Affairs  
Transportation

Public Safety  
Treasury