

  
*Colorado Legislative Council Staff Fiscal Note*  
**FINAL**  
**FISCAL NOTE**

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

**Date:** August 5, 2008  
**Bill Status:** Signed into Law  
**Fiscal Analyst:** Brad Denning (303-866-4777)

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

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
<b>State Revenue</b>		
General Fund		
Cash Funds		
Highway Users Tax Fund (HUTF)	\$3,360,000	\$3,360,000
Highway Construction Workers' Safety Account, HUTF	Increase	Increase
Victims and Witnesses Asst & Law Enforcement Fund	"	"
<b>State Expenditures</b>		
Cash Funds		
Highway Users Tax Fund (HUTF)	Increase	Increase
Highway Construction Workers' Safety Account, HUTF	"	"
Victims and Witnesses Asst & Law Enforcement Fund	"	"
<b>FTE Position Change</b>	0.0 FTE	0.0 FTE
<b>Effective Date:</b> The bill was signed by the Governor and became law on June 3, 2008.		
<b>Appropriation Summary for FY 2008-2009:</b> See State Appropriations section.		
<b>Local Government Impact:</b> Increased HUTF distributions to cities and counties.		

**Summary of Legislation**

Current law authorizes 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:

- allows the Department of Public Safety to contract with a vendor to operate photo radar in these zones, including having the vendor process penalty assessments;
- specifies that no penalty assessment or summons and complaints for violations detected by photo radar are to be forwarded to the Department of Revenue for processing;
- creates a fine of \$540 for driving 24 miles per hour over the speed limit in these zones;
- creates a class 1 misdemeanor traffic offense for driving 25 or more miles per hour above the speed limit in these zones;
- requires due care to be taken by drivers who approach vehicles that are being equipped with chains;
- repeals the maximum fine limit of \$40 in these zones when photo radar is used;

- authorizes 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, upon 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 Department of Public Safety 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, or vehicles being equipped with chains.

## **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. All revenue credited to the account is continuously appropriated to 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 **\$3,360,000 annually** for the HUTF. The amended bill increases fines and surcharges, and creates a class 1 misdemeanor traffic offense. This will increase fine revenue above the estimated \$3.4 million, but the actual increase cannot be determined as there is no historical data available.

This fiscal note assumes that CDOT will request the Department of Public Safety to contract with a vendor to lease 2 photo radar vans annually for 12-16 hours daily, to be monitored by the Department of Public Safety. Assuming 60,000 citations annually, this results in estimated total fines of \$5,040,000. Vendors typically recoup their costs up front from fine revenue they collect. Annual vendor costs to operate 2 photo radar vans are estimated at \$1,680,000, reducing the state's fine revenue to \$3,360,000.

Revenue will increase because: (1) CDOT and local entities may 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.

*Additional fine revenue.* Revenue will be generated from violations in these zones that do not involve speeding, most notably right-of way violations. 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 Witnesses Assistance and Law Enforcement Fund and is not quantified.

## **State Expenditures**

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.* CDOT is to reimburse the Department of Public Safety for the monitoring 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.

*Judicial Branch.* Traffic violations committed in zones would result in increased cases should CDOT request photo radar use. The City and County of Denver indicates that 1 to 2 percent of all citations issued result in court cases. The branch's weighted caseload standard requires an additional 1.0 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 will monitor the contracted photo radar service. Costs have not been quantified, as the department has not indicated the amount of monitoring required.

***Department of Revenue.*** In the introduced bill, the department required \$227,646 and 6.6 FTE in FY 2008-09 for administrative expenses related to receiving, handling, payment of penalty assessments, and hearings for 60,000 citations. The reengrossed bill prohibits the forwarding of penalty assessments for violations of this bill to the department, thus eliminating these costs.

**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**

For FY 2008-09, no new appropriation is required.

**Departments Contacted**

Judicial  
Revenue

Local Affairs  
Transportation

Public Safety  
Treasury