

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated March 31, 2009)

Drafting Number: LLS 09-0351

Date: April 18, 2009

Prime Sponsor(s): Rep. Levy
Sen. Bacon

Bill Status: Senate SVMA

Fiscal Analyst: David Porter (303-866-4375)

TITLE: CONCERNING WIRELESS TELEPHONE PROHIBITIONS FOR DRIVERS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue		
General Fund	\$ 40,200	\$ 86,100
Cash Funds		
Multiple Cash Funds – Penalties and Surcharges	406,800	868,900
State Expenditures		
General Fund	\$ 80,653	\$ 62,536
Cash Funds		
State Highway Fund	44,100	
FTE Position Change	0.9 FTE	2.0 FTE
Effective Date: December 1, 2009.		
Appropriation Summary for FY 2009-2010: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

This *reengrossed* bill requires the use of a hands-free accessory when using a cell phone while driving. An exception is made for contacting a public safety entity or during an emergency. The bill identifies a number of other exceptions for certain professional drivers, including: police or peace officers, members of a fire department, ambulance drivers, members of rescue units, operators of an authorized emergency or service vehicle performing the duties of their job, or commercial drivers of vehicles over 10,001 pounds gross weight.

The bill also prohibits drivers from using a cell phone, even with a hands-free accessory, while the vehicle is in motion under the following circumstances:

- ▶ the driver is 18-years-old or younger;
- ▶ the vehicle is a school bus; and
- ▶ the vehicle is used to transport people for money and is subject to regulation by the Public Utilities Commission (i.e., a taxi or chartered bus).

Cell phone use includes forms of data transmission (i.e., text messaging or accessing the internet).

Violation of this law is a class A traffic infraction and carries a penalty of \$50 for the first offense, \$100 for second and subsequent offenses, and 3 points. A \$6 surcharge is also levied. Of the fine revenue, 10 percent is credited to the General Fund for costs in the Department of Revenue.

Background

Currently, it is a class A traffic infraction for a person driving on a minor's instruction permit or a temporary instruction permit to use a cell phone while driving. Exceptions for emergencies are permitted.

State Revenue

Total state penalty and surcharge revenue is estimated to be \$447,000 in FY 2009-10 and \$955,000 in FY 2010-11. This revenue estimate is based on Connecticut's experience with a similar law. The following assumptions were used to estimate the number of tickets issued and resulting revenue:

- ▶ the number of tickets issued is highly dependent on law enforcement and public awareness of the new law;
- ▶ the number of tickets issued will be approximately half of the number experienced in Connecticut as enforcement of the new law ramps up:
 - 10,250 tickets will be issued in FY 2009-10 and
 - 17,575 in FY 2010-11;
- ▶ the effective date of the bill (December 1, 2009) results in fewer tickets issued in FY 2009-10;
- ▶ second and third offenses are expected to comprise 1 percent of the total number of tickets in FY 2009-10 and 10 percent in FY 2010-11;
- ▶ county courts will process 20 percent of tickets issued, the remainder will be paid to the Department of Revenue directly; and
- ▶ due to court scheduling, timing of payments, and other factors, ticket revenue is not realized until some time after ticket issuance.

Penalties and Surcharges. Violation of this law is a class A traffic infraction and carries a \$50 penalty for the first offense and a \$100 for second and subsequent offenses. Violation also carries a \$6 surcharge. Penalty revenue from citations issued by both state patrol officers and local law enforcement is credited as follows:

- ▶ 90 percent to the Highway Users Tax Fund (HUTF) and distributed to the state, counties, and municipalities for highway purposes; and
- ▶ 10 percent to the General Fund for costs incurred in the Department of Revenue.

Surcharge revenue is split evenly between the Victims and Witnesses Assistance and Law Enforcement Fund and the Crime Victim Compensation Fund and is distributed to victims and witnesses. Table 1 breaks down the ticket revenue in greater detail and identifies the funds to which revenue is credited.

Table 1. Revenue under HB09-1094		
	FY 2009-10	FY 2010-11
Revenue from Court System		
Fine Revenue (\$50 for 1st offense; \$100 for subsequent offenses)	\$27,000	\$87,000
Surcharge Revenue (\$6 per citation)	3,000	10,000
Revenue from Tickets paid to Department of Revenue		
Fine Revenue	375,000	774,000
Surcharge Revenue	<u>42,000</u>	<u>84,000</u>
Total Fine Revenue	\$402,000	\$861,000
Total Surcharge Revenue	\$45,000	\$94,000
TOTAL REVENUE	<u>\$447,000</u>	<u>\$955,000</u>
90 % of Fine Revenue to Highway Users Tax Fund	\$361,800	\$774,900
10 % of Fine Revenue to General Fund for Department of Revenue	40,200	86,100
50 % of Surcharge Revenue to Crime Victim Compensation Fund	22,500	47,000
50 % of Surcharge Revenue to Victims and Witnesses Assistance and Law Enforcement Fund	22,500	47,000

State Expenditures

State expenditures under HB09-1094 are \$124,753 in FY 2009-10 and \$62,536 in FY 2010-11. The Department of Revenue has personnel costs associated with ticket processing. Other expenditures are to equip personnel in the Department of Transportation and Department of Corrections with hands-free accessories for cellular telephones. Generally, hands-free accessories will be provided to personnel that spend a great deal of time driving between work sites and handle business affairs while driving. Costs are shown in Table 2 on page 4 and discussed in the sections that follow.

Table 2. Expenditures under HB09-1094		
Cost Components	FY 2009-10	FY 2010-11
Department of Revenue		
Personal Services	\$27,342	\$60,636
<i>FTE</i>	0.9	2.0
Operating Expenses and Capital Outlay	<u>11,311</u>	<u>1,900</u>
<i>Department of Revenue Subtotal</i>	\$38,653	\$62,536
Department of Corrections		
Hands-free Headsets	42,000	0
Department of Transportation		
Hands-free Headsets	44,100	0
TOTAL	\$124,753	\$62,536

Department of Revenue (\$38,653 General Fund and 0.9 FTE). The Department of Revenue requires 0.9 FTE in FY 2009-10 and 2.0 FTE in FY 2010-11 in order to process tickets. Personnel requirements and costs are based the anticipated number of tickets as follows:

- ▶ 10,250 tickets will be issued in FY 2009-10 and 17,575 will be issued per year beginning in FY 2010-11;
- ▶ an Administrative Assistant II will receive the penalty assessment, match payments to tickets, enter ticket information, and balance tickets (0.7 FTE in FY 2009-10 and 1.5 FTE in FY 2010-11);
- ▶ an Accounting Tech I will post payments to the accounting system (0.2 FTE in FY 2009-10 and 0.5 FTE in FY 2010-11);
- ▶ personnel needs are based on current rates of data processing; and
- ▶ standard operating costs and capital expenses are required for new personnel.

Department of Corrections (\$42,000 General Fund) – The Department of Corrections has 600 employees who travel frequently and require a hands-free headset. Headsets cost roughly \$70 each.

Department of Transportation (\$44,100 State Highway Fund) – The Department of Transportation will provide bluetooth headsets to 600 engineers and 30 senior managers at a cost of \$70 per person. These costs will be paid from the State Highway Fund. The headsets for the engineers (\$42,000) are from a Long Bill line item that is continuously appropriated. Headsets for senior managers (\$2,100) are paid from a Long Bill line that requires an appropriation.

Local Government Impact

This bill may increase HUTF fine revenue distributions to local governments. Counties and municipalities receive 35 percent of HUTF fine revenue for highway purposes.

State Appropriations

For FY 2009-10, HB09-1094 requires the following appropriations:

- ▶ \$ 38,653 and 0.9 FTE General Fund to the Department of Revenue;
- ▶ \$ 42,000 General Fund to the Department of Corrections; and
- ▶ \$ 2,100 State Highway Fund to the Department of Transportation.

Departments Contacted

Judicial
Regulatory Affairs
District Attorneys
Corrections

Local Affairs
Revenue
Military and Veterans
Natural Resources

Education
Public Safety
Labor
Transportation