

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated January 15, 2009)

Drafting Number: LLS 09-0496

Date: February 6, 2009

Prime Sponsor(s): Sen. Gibbs

Bill Status: Senate Second Reading

Fiscal Analyst: Marc Carey (303-866-4102)

TITLE: CONCERNING THEFT OF SOUND RECORDINGS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue		
Cash Funds - Fines Collection Cash Fund	< \$5,000	< \$5,000
State Expenditures	\$0	\$0
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: 90 days after adjournment (August 4th, 2009 if adjournment is May 6, 2009) unless a referendum petition is filed.		
Appropriation Summary for FY 2009-2010: None required.		
Local Government Impact: See Local Government section.		

Summary of Legislation

Under current law, it is a Class 1 misdemeanor to sell illegally packaged recorded materials. This bill, *as amended by the Senate Judiciary Committee*, expands the definition of the crime of selling illegally packaged recordings. The amended bill specifies that any person who knowingly and for commercial advantage or private financial gain *transports* recorded articles that do not clearly display the name of the manufacturer on the cover commits dealing in unlawfully packaged recorded articles. Current law applies only to those that advertise, sell or possess such articles.

In addition, the amended bill specifies that if the offense involves 100 or fewer articles, the fine must be at least \$100. For more than 100 articles, the minimum fine is \$1,000. The bill also requires law enforcement to confiscate all illegally labeled, transferred or recorded articles recordings as well as any equipment used to produce or manufacture those recordings. These items will be delivered to the local district attorney who may request a court order to destroy the recordings and a court order to distribute the equipment to a charitable or educational organization.

Finally, the amended bill requires a convicted offender to make restitution to the owner or lawful producer of the recorded article. Such restitution is to be based on the aggregate, wholesale value of the number of articles involved in the offense if they had been lawfully manufactured.

State Revenue

Fine Revenue. The bill may increase state revenue from fines, although less than \$5,000 in new state revenue is expected per year. According to Section 18-1.3-501, C.R.S., the penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. Fine revenue that is not otherwise appropriated is deposited into the Fines Collection Cash Fund. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

Local Government Impact

The penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails a daily rate of \$50.44 to house state inmates. It is assumed that the impact of this expanded misdemeanor will be minimal and will not create the need for additional county jail space.

In addition, local district attorneys may incur additional costs if they choose to pursue a court order to destroy the recorded materials or distribute the confiscated equipment to a charitable or educational organization.

Departments Contacted

Corrections

Judicial

Law