


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 10-1087
Prime Sponsor(s): Rep. Peniston
 Sen. Morse

Date: April 26, 2010
Bill Status: House Transportation and Energy
Fiscal Analyst: David Porter (303-866-4375)

TITLE: CONCERNING COLLECTION OF THE PENALTY SURCHARGE IMPOSED ON PERSONS REFERRED TO A DRIVER IMPROVEMENT SCHOOL BY A COURT FOR A TRAFFIC VIOLATION.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue		
Cash Funds		
Defensive Driving School Fund	< \$ 5,000	< \$ 5,000
State Expenditures		
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2010-2011: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill requires the Department of Revenue (DOR) to place a penalty on driver improvement schools that fail to collect or remit fees from students sentenced to attend its classes. The schools will be required to pay the following total amount: the original amount due plus \$15 plus 10 percent of the original amount due. Each month after the due date, the DOR can charge 0.5 percent of the total amount due. Interest may be charged as well.

The bill describes the procedure for notifying the driver improvement school of penalties due, the appeals process, and the ability of the DOR to place a lien on a driver improvement school's property. The DOR may file a civil action for debt to the state. The bill also provides DOR an additional 6 months, until December 30, 2010, to select a private entity to monitor driver improvement schools.

Background

HB09-1246 established a program, requiring the DOR to contract with a private entity to monitor and report on driver improvement schools. The contracted entity shall report its findings to the DOR annually. The entity will also provide reports to the courts that sentence drivers to driver

improvement classes within 3 months of an evaluation. Since January 1, 2010, driver improvement class providers are required to collect a \$25 fee from drivers sentenced to attend classes to pay for contract costs. For February through March 2010, the DOR has collected \$4,600.

State Revenue

The DOR may see an increase in revenue, although less than \$5,000 is expected each year. The increase may result from either (1) a higher level of compliance submitting existing fees, or (2) the collection of penalty revenue from schools that do not comply, as described below.

Fees. Fiscal notes generally assume that professional organizations will comply with existing law. However, it is possible that some driver improvement schools have not collected or remitted mandatory fees. Imposing penalties on these schools may increase compliance with existing fee requirements, although the impact of this provision on state revenue is expected to be minimal.

Penalties. The DOR may collect more revenue from driver improvement schools due to increased penalties. However, for the DOR to assess and collect the penalty and fee revenue, it needs to know which driver improvement schools receive people with court-ordered class requirements. Currently, there is no method for the DOR to determine which students have been referred to a class, which have chosen to attend a class, and which driver improvement class they attended. Due to the difficulty in identifying which driver improvement schools may not remit sufficient fees, this fiscal note assumes that revenue from penalties charged of the driver improvement schools will be minimal. See the State Expenditures section for more details about the penalty collection process.

State Expenditures

No state expenditures are anticipated under the bill. However, some workload in the DOR and the Judicial Branch are possible.

Department of Revenue. Should the DOR learn of a driver improvement school that is not remitting proper fee revenue, it may pursue the penalties established in this bill. The process to collect on fees requires the department to estimate the proper penalty amount and contact the driver improvement school. Determining the proper amount of the fee may require assistance from the DOR Tax and Compliance Unit, which prioritizes its work based on the amount of revenue at stake. It is not clear if the penalty amounts generated by this bill will be prioritized.

The fiscal note assumes that the DOR will not require additional personnel to either monitor court sentencing procedures or driver improvement classes to determine if appropriate fees are being assessed.

Judicial Branch. Since driver improvement schools may appeal the DOR's decision with the district court, and civil action is authorized to collect delinquency and penalties, the Judicial Branch may have increased civil filings due to provisions of this bill. However, this fiscal note assumes that any increase in filings will be minimal and absorbed within existing resources.

Departments Contacted

Revenue Judicial Branch Law