

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 11-0678  
**Prime Sponsor(s):** Rep. Waller; Levy

**Date:** March 8, 2011  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Jessika Shipley (303-866-3528)

**TITLE:** CONCERNING THE ESTABLISHMENT OF A THC BLOOD CONTENT THRESHOLD FOR THE PURPOSE OF CHARGING A PERSON WITH THE CRIMINAL OFFENSE OF DUI PER SE.

<b>Fiscal Impact Summary</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
<b>State Revenue</b> Cash Funds Fines Collection Cash Fund Crime Victim Compensation Fund Persistent Drunk Driver Cash Fund Rural Alcohol and Substance Abuse Fund Colorado Traumatic Brain Injury Trust Fund	Minimal increase	
<b>State Expenditures</b> Cash Funds Licensing Services Cash Fund	\$17,760	
<b>FTE Position Change</b>		
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2011-2012:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Local Government Impact section.		

**Summary of Legislation**

Current law prohibits driving a motor vehicle under the influence of alcohol or drugs and defines "DUI per se" as driving with a blood alcohol content of 0.08 or more. This bill expands the definition of DUI per se to include driving with a tetrahydrocannabinol (THC) blood content of five nanograms or more. Under the bill, it is a misdemeanor for a person to drive with a THC blood content of five nanograms or more at the time of driving or within two hours after driving.

**State Revenue**

Individuals convicted of DUI per se offenses are subject to a number of fines and surcharges. The fines range from \$600 to \$1,500 and the amount levied depends on the offender's number of prior convictions and the discretion of the court. Surcharges are mandatory and range from \$1 to \$500. Fine and surcharge revenues are deposited into the following cash funds:

- Fines Collection Cash Fund;
- Crime Victim Compensation Fund;
- Persistent Drunk Driver Cash Fund;
- Rural Alcohol and Substance Abuse Fund; and
- Colorado Traumatic Brain Injury Trust Fund.

Increased revenue as a result of the bill cannot be quantified at this time due to a lack of data regarding the number of individuals driving with a THC blood content of five nanograms or more, but any increase is expected to be minimal.

### **State Expenditures**

***Department of Revenue (DOR).*** In FY 2011-12, the DOR will incur one-time IT programming costs of \$17,760 from the Licensing Services Cash Fund, all of which will be reappropriated to the Governor's Office of Information Technology. The bill creates a new DUI per se misdemeanor offense of operating a vehicle with an excessive THC blood content. Multiple convictions of DUI per se result in driver's license restraints. The Driver License System will require 240 hours of programming at \$74 per hour in order to modify reinstatement requirements for offenders with multiple alcohol and THC convictions.

***Judicial Branch.*** The Office of the State Public Defender and the Office of the Alternate Defense Counsel are both likely to see an increase in workload as a result of the bill. Due to a lack of data regarding the number of individuals who drive under the influence of THC, the increase in costs to these Judicial Branch agencies cannot be quantified and will be handled through the annual budget process.

Additionally, the trial courts and probation departments are both likely to see an increase in cases. However, given that driving a vehicle under the influence of drugs is illegal under current statute, the increase is expected to be minimal and can be absorbed within existing appropriations.

### **Local Government Impact**

The penalty for a DUI per se is 5 days to 1 year imprisonment in a county jail and a fine of \$600 to \$1,500, among other things. Because the courts have the discretion to determine the period of incarceration and the fine amount, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$55 per day in smaller rural jails to \$62 to \$72 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 new misdemeanor will be minimal and will not create the need for additional county jail space.

**State Appropriations**

For FY 2011-12, the Department of Revenue requires an appropriation of \$17,760 from the Licensing Services Cash Fund. The same amount should be reappropriated to the Governor's Office of Information Technology.

**Departments Contacted**

Alternate Defense Counsel  
Public Safety

Judicial  
Revenue

Public Defender