



*Colorado Legislative Council Staff Fiscal Note*  
**STATE and LOCAL  
 FISCAL IMPACT**

**Drafting Number:** LLS 12-0863  
**Prime Sponsor(s):** Rep. Summers  
 Sen. Nicholson

**Date:** March 26, 2012  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Jessika Shipley (303-866-3528)

**TITLE:** CONCERNING TRACKING TRANSACTIONS RELATED TO METHAMPHETAMINE PRECURSOR DRUGS.

<b>Fiscal Impact Summary</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>
<b>State Revenue</b> Fines Collection Cash Fund	less than \$5,000	less than \$5,000
<b>State Expenditures</b> General Fund	\$23,426	\$22,947
<b>FTE Position Change</b>	0.5 FTE	0.5 FTE
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2012-2013:</b> For FY 2012-13, the Department of Public Safety requires a General Fund appropriation of \$23,426 and an allocation of 0.5 FTE.		
<b>Local Government Impact:</b> Possible increase. See Local Government Impact section.		

**Summary of Legislation**

Current law prohibits stores from selling and individuals from purchasing more than 3.6 grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs in a 24-hour period. This bill changes the relevant sale period from 24 hours to one calendar day. It also adds a prohibition against the sale or purchase of more than 9 grams of methamphetamine precursor drugs within a 30-day period.

Store employees are required to check the photo identification of individuals buying nonprescription methamphetamine precursor drugs and log each sale. Beginning January 1, 2013, stores will be required to submit the information in the log to the online National Precursor Log Exchange (NPLEx) prior to making a sale of methamphetamine precursor drugs, assuming the online system is available without a charge. The NPLEx will generate a stop sale alert if the sale would result in the store or purchaser violating the quantity limits. Store employees may not complete a sale if a stop sale alert is generated unless stopping the sale puts the employee in fear of imminent bodily injury. Stores are required to keep a manual log in the event of mechanical failure and submit the information in the manual log to the NPLEx as soon as possible.

The National Association of Drug Diversion Investigators (NADDI), which administers the NPLEx, is required to send a weekly report of state transaction records to the Colorado Bureau of Investigation (CBI). The NADDI is also required to provide real-time access to Colorado law enforcement officials through the NPLEx Internet portal site as authorized by the CBI.

The bill limits liability for stores using the NPLEx to those acts that are negligent, reckless, or deliberate misconduct. Stores that do not have more than ten methamphetamine precursor drug transactions in a seven-day period are exempt from the requirement to use the NPLEx and may, instead, use a handwritten log. Local laws or ordinances regulating the sales of methamphetamine precursor drugs are preempted by the bill.

### **State Revenue**

Unauthorized retail sale of a methamphetamine precursor drug is a class 2 misdemeanor. Limiting the amount that can be sold within a 30-day period could increase convictions for this offense. As such, 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 2 misdemeanor is 3 to 12 months imprisonment in a county jail, a fine of \$250 to \$1,000, 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 is expected to be minimal.

### **State Expenditures**

***Department of Public Safety. The bill will increase General Fund expenditures in the Department of Public Safety by \$23,426 and 0.5 FTE in FY 2012-13 and by \$22,947 and 0.5 FTE each year thereafter.*** The bill requires the CBI to authorize law enforcement officials to use the NPLEx and to receive a weekly state transaction report. The fiscal note assumes that a 0.5 FTE customer support position will be required to coordinate with the NADDI and to provide authentication of law enforcement officials. The costs associated with this position are shown in Table 1.

<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Personal Services	\$20,599	\$22,472
FTE	0.5	0.5
Operating Expenses	475	475
Capital Outlay	2,352	0
<b>TOTAL</b>	<b>\$23,426</b>	<b>\$22,947</b>

**Judicial Branch.** The bill could lead to increased case filings due to the expansion of the limitations on retail sales of methamphetamine precursor drugs. However, only three cases have been filed under current law in the last two years. Any increase in workload is expected to be minimal and will be absorbed within existing resources.

### **Expenditures Not Included**

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 2.

<b>Table 2. Expenditures Not Included Under HB 12-1325*</b>		
<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$3,058	\$3,061
Supplemental Employee Retirement Payments	1,098	1,379
<b>TOTAL</b>	<b>\$4,156</b>	<b>\$4,440</b>

*\*More information is available at: <http://colorado.gov/fiscalnotes>*

### **Departmental Differences**

The Department of Public Safety requested \$168,409 and 1.0 FTE in FY 2012-13 and \$56,209 and 1.0 FTE each year thereafter in order to implement the bill. The CBI indicated that they would provide access to the NPLeX for Colorado law enforcement officials through a portal in the existing Colorado Crime Information Center (CCIC). Significant programming changes at a one-time cost of \$120,000 would be required in order to accomplish such an interface. Additional annual maintenance in the amount of \$8,000 would be required in order to maintain the system. Also, the CBI requested a full-time customer support coordinator to serve as the point-of-contact for the system, facilitate future changes to the memorandum of understanding between Colorado and the NADDI, create and promulgate rules on the use of NPLeX for CCIC users, and provide customer support for Colorado NPLeX users.

The fiscal note does not include all of these costs and FTE because NPLeX has an existing web-based system that may be used by Colorado law enforcement officials. The NPLeX vendor provides the service at no cost to pharmacies and law enforcement officials. The service includes training and customer support. As such, the fiscal note assumes that the existing system will be used with CBI providing authentication of law enforcement officials, rather than creating a new portal in CCIC.

### **Local Government Impact**

The penalty for a class 2 misdemeanor is 3 to 12 months imprisonment in a county jail, a fine of \$250 to \$1,000, 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 at a daily rate of \$50.44 to house state inmates. It is assumed that the impact of any new misdemeanor convictions will be minimal and will not create the need for additional county jail space.

### **State Appropriations**

For FY 2012-13, the Department of Public Safety requires a General Fund appropriation of \$23,426 and an allocation of 0.5 FTE.

### **Departments Contacted**

Colorado Counties, Inc.  
Colorado Municipal League  
District Attorneys  
Judicial  
Law  
Public Safety  
Sheriffs