

# STATE and LOCAL FISCAL IMPACT

**Drafting Number:** LLS 14-0820**Date:** March 27, 2014**Prime Sponsor(s):** Rep. Ginal; Gardner  
Sen. King; Johnston**Bill Status:** House Judiciary**Fiscal Analyst:** Kristen Koehler (303-866-4918)**SHORT TITLE:** FUNDING BREATHALYZERS FOR LAW ENFORCEMENT

Fiscal Impact Summary	FY 2014-2015	FY 2015-2016
State Revenue	See State Revenue section.	
State Expenditures	Workload increase. See State Expenditures section.	
FTE Position Change		
Appropriation Required: None		

## Summary of Legislation

This bill creates the Evidential Breath Testing Cash Fund (fund) for the collection of moneys to purchase breath-testing devices for law enforcement agencies and requires the Colorado Department of Public Health and Environment (CDPHE) to administer the fund. The State Board of Health (SBH) is authorized to create rules for the administration of the fund. The fund consists of any moneys appropriated by the General Assembly and any gifts, grants, or donations received by the CDPHE for the purposes of the bill. The bill caps the fund balance at \$2 million and requires that any money over that amount remaining in the fund at the end of a fiscal year be credited to the General Fund. The fund is repealed September 1, 2024, after a review of the fund is performed by the Department of Regulatory Agencies (DORA).

## Background

Colorado law enforcement agencies currently use two types of breath-testing devices: handheld breathalyzers and evidential intoxilyzer instruments.

Handheld breathalyzers are provided to officers by local law enforcement agencies for use during roadside stops. Handheld breathalyzers cost about \$400 each. The Colorado State Patrol also issues handheld breathalyzers to troopers at an annual average cost of about \$12,000.

Evidential intoxilyzer instruments are issued to law enforcement agencies by the CDPHE. The department purchases, maintains, and calibrates the instruments, and certifies law enforcement personnel as trainers and operators of the instruments. There are 200 evidential intoxilyzer instruments distributed throughout the state. Once an individual tests positive at a road side stop using a handheld breathalyzer, the intoxilyzer is used to collect an official reading that is used as evidence in a driving under the influence (DUI) case. In 2012, the CDPHE replaced all 200 of its instruments at a total cost of approximately \$1.8 million. The department expects that these instruments will need to be replaced again in about ten years.

## **State Revenue**

This bill authorizes the CDPHE to accept gifts, grants, and donations for the purposes of purchasing breath-testing devices for law enforcement agencies. At the time of this writing, no sources of gifts, grants, or donations have been identified.

**State transfers.** If any monies in excess of \$2.0 million remain in the fund at the end of a fiscal year, the excess monies must be credited to the General Fund. No estimate of this amount has been calculated.

## **State Expenditures**

Overall, this bill is expected to increase the workload of state agencies, beginning in FY 2014-15.

**CDPHE.** The bill requires the CDPHE to administer the fund and the SBH to create rules for the administration of the fund. These activities are expected to increase workload in the CDPHE; however, they will not require new appropriations.

Subject to annual appropriation, the CDPHE is authorized to expend monies in the fund for the purposes of the bill. The fiscal note assumes that monies in the fund may be used by the CDPHE to purchase either type of breath-testing device on behalf of the state's law enforcement agencies. The fiscal note assumes that the CDPHE will request an appropriation through the annual budget process when it is determined that breath-testing equipment must be replaced.

**Law.** The Department of Law will experience an increase in workload as result of rulemaking activities associated with the bill. This increase is expected to be one-time and minimal, and does not require new appropriations.

**Regulatory Agencies.** Prior to the repeal of the fund on September 1, 2024, the Department of Regulatory Agencies (DORA) is required to conduct a sunset review of the use of the fund by the CDPHE. This is expected to increase staff workload in the DORA; however, no adjustments in appropriations are required.

## **Local Government Impact**

Local governments with law enforcement agencies may receive increased support for the purchase of breath-testing devices. The amount of money distributed to local governments will depend on the rules created by the SBH for the administration of the fund and the amount of money appropriated by the General Assembly from state funds or received from other sources. A handheld breathalyzer costs about \$400 per unit. Data on the frequency with which local law enforcement agencies purchase these units is not currently available.

## **Effective Date**

The bill takes effect August 6, 2014, if the General Assembly adjourns on May 7, 2014, as scheduled, and no referendum petition is filed.

**State and Local Government Contacts**

Cities and Counties  
Local Affairs  
Public Safety  
Sheriffs

Judicial  
Public Health and Environment  
Regulatory Agencies  
Law