

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0377
Prime Sponsor(s): Rep. Salazar

Date: February 19, 2015
Bill Status: House Judiciary
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: DRIVER MAY CHALLENGE INITIAL POLICE CONTACT

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
State Expenditures	\$388,570	Potential increase
General Fund	37,425	See State Expenditures section.
Cash Funds	290,614	
Centrally Appropriated Costs**	60,531	
FTE Position Change	4.9 FTE	Potential increase
Appropriation Required: \$328,039 - Department of Revenue (FY 2015-16).		

* This summary shows changes from current law under the bill for each fiscal year.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

Under current law, a driver may challenge the validity of contact with a law enforcement officer and a subsequent arrest for a DUI offense during an administrative hearing with the Department of Revenue (DOR). This bill allows this provision to be applied retroactively to administrative hearings in the DOR that predated that provision of law.

Background

The consequences for a DUI offense are separated into two distinct categories: restraints on driving privileges (handled administratively by the DOR in a revocation hearing) and any criminal sanctions (generally heard in county courts unless the DUI causes injuries to a person). In 2013, the General Assembly enacted House Bill 13-1077, which allows a driver to challenge the validity of contact with a law enforcement officer and his or her subsequent arrest for a DUI offense for the purposes of a revocation hearing.

Revocation for DUI offenses. Generally, decisions to revoke a license depend on the number of prior offenses and consist of one month of suspended driving privileges followed by required use of an interlock device for the remainder of the revocation period. For a first DUI offense and when a chemical test is administered, revocation is at least 9 months. For second offenses or a first refusal to be tested, revocation is at least one year. For a third DUI or second testing refusal, the revocation is a minimum of two years. For a third or subsequent testing refusal, the revocation period is three years.

Over the prior four fiscal years (FY 2010-11 through FY 2013-14), the DOR processed 99,525 express consent filings and requests for a hearing upon notice from law enforcement agencies for DUI related offenses. About 49 percent of these offenses requested an additional hearing from the DOR.

Habitual traffic offender. Under current law, habitual traffic offenders are those with three or more major violations within seven years, or persons who accumulate certain amounts of points for minor infractions. Habitual traffic offenders are subject to a mandatory revocation of at least five years.

State Expenditures

For FY 2015-16, the bill will increase state expenditures by \$388,570 and 4.9 FTE in the Department of Revenue. Depending on the number of requests for administrative hearings, costs may also increase beginning in FY 2016-17. Table 1 and the discussion that follows describe the costs under HB15-1073.

Cost Components	FY 2015-16	FY 2016-17
Personal Services	\$272,869	Potential increase
FTE	4.9	Potential increase
Operating Expenses and Capital Outlay Costs	28,170	Potential increase
Temporary Leased	27,000	Potential increase
Centrally Appropriated Costs*	60,531	Potential increase
TOTAL	\$388,570	Potential increase

* Centrally appropriated costs are not included in the bill's appropriation.

Assumptions. The costs presented in the fiscal note are based on the following assumptions:

- most persons who will request an additional hearing as a result of the bill will have been subject to revocation in the past five years (and may be still penalized for insurance or employment purposes and are ineligible for relief under HB13-1077) or are currently classified as habitual traffic offenders;
- about 4,500 drivers will request an additional hearing; and
- the majority of hearing requests will be processed in FY 2015-16.

Department of Revenue. To accomplish the expected increase in hearings, the DOR requires 4.9 FTE to process requests and conduct administrative hearings. This includes 1.4 FTE administrative staff (at a salary of \$2,644 per month) and 3.5 FTE hearings officers (at a salary of \$4,764 per month). Based on existing cash fund resources, the fiscal note assumes a portion of the administrative staff will be paid with General Fund moneys. Salary costs and FTE have been prorated to reflect the effective date of the bill and, for a portion of administrative staff, the General Fund pay date shift. Standard operating and capital outlay expenses are included.

Additionally, because of space requirements, this analysis assumes that a temporary leased space will be required at a cost of \$27,000. As shown above, the fiscal note assumes that the bulk of the hearings will occur in FY 2015-16, and that any spill over to future fiscal years will be minimal. Should the department require additional resources beyond FY 2015-16, it can request additional appropriations through the annual budget process.

Judicial Department. Under current law, appeals for administrative revocation hearings are heard by a district court. As this bill increases the number of administrative hearings, it is possible that some persons will choose to request a review by a district court. Based on the low number of existing reviews, this analysis assumes any increase in workload will be minimal and that no increase in appropriations is required for the Judicial Department.

Centrally appropriated costs. 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 estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under HB15-1073*		
Cost Components	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$39,381	Potential Increase.
Supplemental Employee Retirement Payments	21,150	
TOTAL	\$60,531	

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

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2015-16, the bill requires an appropriation of \$328,039, including \$37,425 General Fund and \$290,614 from the Licensing Services Cash Fund, and an allocation of 4.9 FTE to the Department of Revenue.

State and Local Government Contacts

Counties
Municipalities

District Attorneys
Revenue

Judicial
Sheriffs