



**Colorado  
Legislative  
Council  
Staff**

**SB17-229**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0971

**Date:** March 21, 2017

**Prime Sponsor(s):** Sen. Holbert

**Bill Status:** Senate Judiciary

Rep. Mitsch Bush;

**Fiscal Analyst:** Amanda Hayden (303-866-4918)

Lawrence

**BILL TOPIC:** PENALTIES WHEN PASSING STATIONARY VEHICLES

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
<b>State Revenue</b>	<u><b>&lt;\$5,000</b></u>	<u><b>&lt;\$5,000</b></u>
Cash Funds	<5,000	<5,000
<b>State Expenditures</b>	Minimal expenditure increase.	
<b>TABOR Impact</b>	<\$5,000	<\$5,000
<b>Appropriation Required:</b>	None.	
<b>Future Year Impacts:</b>	Ongoing minimal increase in state revenue and expenditures.	

### Summary of Legislation

This bill requires that when a driver approaches or passes a stationary public utility vehicle, he or she must move over one lane, if possible, or reduce and maintain a safe speed. The bill also adds that if the driver fails to drive carefully around a stopped emergency vehicle, towing carrier, or public utility vehicle, and the driver's actions are the proximate cause of injury to another person, the driver commits a class 1 misdemeanor. If the driver's actions result in someone's death, the driver commits a class 6 felony. For failure to exercise due care when approaching a stationary vehicle, the bill assigns a three-point penalty against a driver's license, a six-point penalty if the incident results in serious bodily injury, and an eight-point penalty if the incident results in someone's death.

### Background

Under current law, if a driver commits careless driving around a stopped emergency vehicle or towing carrier, the driver commits a class 2 misdemeanor traffic offense. The penalty for this offense is 10 to 90 days in jail, a \$150 to \$300 fine, or both. If the driver causes serious bodily injury or death to another person, the driver commits a class 1 misdemeanor traffic offense, the penalty for which is 10 days to 12 months in jail, a \$300 to \$1,000 fine, or both.

According to data from the Judicial Department, over the last three years there have been 417 convictions for careless driving of this kind. It is unknown how many of these offenses involved serious bodily injury or death. Of these 417 convictions, 2 resulted in a sentence to county jail.

## **Assumptions**

Under current law, a driver can be charged for careless driving involving serious bodily injury or death. Of the 417 convictions over the last three years for careless driving, only 0.005 percent resulted in a jail sentence. Therefore, this analysis assumes that most cases of careless driving involving serious bodily injury or death are either charged as more serious crimes or treated as accidents and given sentences other than incarceration. As such, the higher penalties under the bill may result in an increase in fine revenue, jail sentences, or possible prison sentences, but this analysis assumes those changes would be minimal. The bill may also increase fine revenue from class 2 misdemeanor traffic convictions for careless driving around public utility vehicles.

## **State Revenue**

This bill is anticipated to increase state cash fund revenue by a minimal amount.

**Criminal fines.** This bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 2 traffic misdemeanor is \$150 to \$300; for a class 1 misdemeanor, \$500 to \$5,000; and for a class 6 felony, \$1,000 to \$100,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of criminal fines imposed in 2016, this analysis assumes that any revenue generated is likely to be less than \$5,000.

**Court and administrative fees.** This bill may also increase state fee revenue by a minimal amount, including \$50 per offender per month for probation supervision. Fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court.

## **TABOR Impact**

This bill increases state cash fund revenue from fees and fines, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

## **State Expenditures**

Beginning in FY 2017-18, this bill will increase workload in the Judicial Department, the Department of Revenue, and the Department of Public Safety by a minimal amount. It may also increase future costs to the Department of Corrections, as discussed below.

**Trial courts.** This bill will increase workload in trial courts by a minimal amount to hear new traffic offenses related to passing a stationary public utility vehicle. It may also increase workload by increasing the complexity of cases that were previously charged as class 1 misdemeanor traffic offenses and which may be charged under the bill as class 1 misdemeanors or class 6 felonies. To the extent that offenders are sentenced to probation, workload for probation services may also increase. This analysis assumes that these changes in workload will be minimal and require no additional appropriations for the Judicial Department.

***Office of the State Public Defender (OSPD) and Alternate Defense Counsel (OADC).***

To the extent that offenders are deemed indigent and appointed counsel by the state, costs and workload for OSPD and OADC may increase. Any increase is assumed to be minimal and does not require an increase in appropriations.

***Department of Revenue (DOR).*** The bill may increase workload by a minimal amount for the DOR to process the assessment of points on the licenses of drivers who commit careless driving around a public utility vehicle and to update the driver manual. No change in appropriations is required.

***Department of Public Safety (DPS).*** This bill increases workload minimally for Colorado State Patrol within DPS to cite drivers for careless driving around stationary public utility vehicles. No additional appropriations for DPS are required.

***Department of Corrections (DOC).*** The penalty for a class 6 felony can include 12 to 18 months in prison. This analysis assumes little to no impact to DOC. Should convictions occur that result in prison sentences, the DOC can request additional appropriations through the annual budget process.

### **Local Government Impact**

This bill will affect local governments in several ways, as discussed below.

***Criminal fine and fee revenue.*** This bill is anticipated to increase revenue by less than \$5,000 per year for the City and County of Denver. The fine penalty for a class 1 misdemeanor is \$500 to \$5,000. Similar to the state, court and administrative fee revenue will increase. In the City and County of Denver, probation fee revenue is anticipated to increase by \$50 per month, per offender. For all jurisdictions, revenue is anticipated to increase minimally as a result of any court and administrative fees shared with the state.

***County jail expenditures.*** To the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Under current law, a court may sentence an offender to jail for a class 1 misdemeanor for 6 to 18 months. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. It is assumed that the impact of this bill will be minimal.

***Denver County expenditures.*** The bill may result in an increase in workload for the Denver County Court, managed and funded by the City and County of Denver, if the court tries additional misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience a minimal increase in workload to supervise persons convicted under the bill.

***District attorneys and local law enforcement.*** The bill may increase workload for district attorneys to prosecute new and more complicated misdemeanor or felony cases under the bill. As discussed in the Assumptions section, however, this analysis assumes that serious traffic incidents are already being charged as more serious offenses. The bill may increase workload for local law enforcement officers to write additional tickets for careless driving around stationary public utility vehicles. Any increase in workload for either district attorneys or law enforcement officers is assumed to be minimal.

**Effective Date**

The bill takes effect September 1, 2017, if no referendum petition is filed, and it applies to offenses committed on or after this date.

**State and Local Government Contacts**

Corrections  
Public Safety

District Attorneys  
Revenue

Judicial  
Sheriffs