



**Legislative Council Staff**

*Nonpartisan Services for Colorado's Legislature*

**Fiscal Note**

<b>Drafting Number:</b>	LLS 24-0837	<b>Date:</b>	February 7, 2024
<b>Prime Sponsors:</b>	Sen. Hansen; Fields Rep. Froelich; Ortiz	<b>Bill Status:</b>	Senate Transportation & Energy
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**Bill Topic:** **MOBILE ELECTRONIC DEVICES & MOTOR VEHICLE DRIVING**

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill prohibits adults from using a mobile electronic device while driving, with certain exceptions, and adjusts the classification, fine amounts, and license points for this offense. The bill increases state and local revenue and expenditures on an ongoing basis.

**Appropriation Summary:** For FY 2024-25, the bill requires an appropriation of \$6,600 to the Department of Revenue.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

**Table 1**  
**State Fiscal Impacts Under SB 24-065**

		<b>Budget Year FY 2024-25</b>	<b>Out Year FY 2025-26</b>
<b>Revenue</b>		-	-
<b>Expenditures</b>	Cash Funds	\$6,600	\$7,040
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>		-	-

## **Summary of Legislation**

Current law prohibits individuals under 18 years of age (minors) from using a wireless telephone while driving, and prohibits adults from using a wireless telephone for the purpose of text messaging or engaging in data entry while driving. The bill repeals and reenacts this section of law to prohibit everyone from using a mobile electronic device while driving, with exceptions for hands-free accessories, handheld radios, contacting a public safety entity, emergencies, and certain job requirements.

The bill also updates penalties. Under current law, minors using a wireless telephone while driving commit a class A traffic infraction, subject to 1 license suspension point and a \$50 penalty for the first violation and a \$100 penalty for subsequent violations. Adults using a wireless telephone for texting or data entry commit a class 2 misdemeanor traffic offense, subject to 4 license suspension points and a \$300 penalty. Under the bill, the offense is classified as a class A traffic infraction for everyone, and the penalties are:

- for a first offense, \$75 fine and 2 license suspension points;
- for a second offense within 24 months, \$150 fine and 3 license suspension points; and,
- for a third/subsequent offense within 24 months, \$250 fine and 4 license suspension points.

A first-time violation will be dismissed if the individual produces a hands-free accessory or proof of purchase of a hands-free accessory, and affirms under penalty of perjury that the individual has not previously had a mobile electronic device charge dismissed. The bill does not authorize the seizure and forfeiture of a mobile electronic device.

The bill also repeals two existing class 1 misdemeanor traffic offenses for adult texting results in injury or death to another.

By October 1, 2024, the bill requires the executive director of the Department of Transportation (CDOT), in consultation with the Colorado State Patrol (CSP), to create a campaign to raise awareness of the bill requirements and the dangers of using mobile electronic devices when driving

## **Comparable Crime Analysis**

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

**Prior conviction data.** The bill modifies two offenses, as discussed below.

- **Use of wireless devices under 18.** This bill increases the penalties for individuals under 18 using a wireless telephone while driving, for both first and subsequent offenses. From FY 2020-21 to FY 2022-23, 49 minors were sentenced for using a wireless phone while

driving, including 1 second offense. This amounts to about 16 sentences per year. Of the minors convicted, 35 were male and 14 were female. Demographically, 40 were White, 4 were Black/African American, 3 were Hispanic, 1 was Asian, and 1 was classified as "Other."

- **Adult texting and driving.** This bill reclassifies the existing violation of using a wireless telephone for the purpose of text messaging or engaging in data entry while driving from a class 2 misdemeanor traffic offense to a class A traffic infraction and expands the offense to include using a mobile electronic device while driving. From FY 2020-21 to FY 2022-23, 50 adults were sentenced for texting and driving. This amounts to about 17 sentences per year. Of those convicted, 28 were male and 22 were female. Demographically, 44 were White, 1 was Black/African American, 1 was Hispanic, 2 were Asian, and 2 were classified as "Other."

**Assumptions.** According to a 2022 [CDOT Driving Behavior Survey](#), selecting entertainment on a device (21 percent) and talking on a hands-free cellphone (15 percent) were the second and third most common driving distractions after eating and drinking (36 percent). Only 7 percent of recipients reported reading a message on a phone within the last 7 days, 4 percent sent a message on their phone, and 2 percent talked with a cell phone in their hands. Based on this information, the bill's allowance for violation dismissals for first-time offenders, and the relatively low occurrence of existing mobile device-related offenses, this analysis assumes that there will be minimal additional case filings or convictions for the new offense under the bill. Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## **State Revenue**

Starting in FY 2024-25, the bill will minimally increase state revenue in the Highway Users Tax Fund (HUTF) and cash funds in the Judicial Department, as described below.

**Highway Users Tax Fund.** The bill may increase fine revenue to the HUTF. As discussed in the Comparable Crime Analysis, it is assumed that any revenue from traffic fines related to this offense will be minimal. Revenue to the HUTF is distributed to CDOT (65 percent), counties (26 percent), and municipalities (9 percent). Revenue to the HUTF is subject to the state's TABOR limit.

**Judicial surcharges and cash funds.** The bill will minimally increase state revenue to various judicial cash funds from court fines and fees for the additional traffic offenses of adults using an electronic device that does not include texting and driving. Similar to the HUTF revenue, the fiscal note assumes that this increase will be minimal. Court fines and fees are subject to the state's TABOR limit.

## **State Expenditures**

In FY 2024-25 only, state cash fund expenditures will increase by \$6,900, and the bill may minimally increase Judicial Department workload.

**Department of Revenue.** The bill increases state expenditures in the Department of Revenue (DOR) by \$6,900 in FY 2024-25 for the first round of DRIVES programming and \$7,040 in FY 2025-26 for the second round of programming, paid from the DRIVES Cash Fund. The DOR requires programming to update citations, fines, and license suspension points.

- **DRIVES programming background.** The Division of Motor Vehicles in DOR uses its Driver License, Record, Identification and Vehicle Enterprise Solution (DRIVES) information technology system for all driver license and motor vehicle transactions. The DRIVES system requires an extensive 18-month upgrade which is scheduled to take place from July 1, 2024, through March 31, 2026. As a result, the DOR has requested that any new legislation requiring DRIVES programming have an effective date of April 1, 2026, with roll-forward spending authority through FY 2026-27, noting that each programming requirement during the system upgrade period may increase the overall project timeline. Based on the current effective date in the bill, the fiscal note includes costs for the DRIVES programming to take place twice—in the existing and new system.

**Judicial Department.** Workload in the Judicial Department may minimally increase beginning in FY 2024-25 to hear any additional cases as a result of the bill and to process first-time violations being dropped due to a purchase of a hands-free device. No change in appropriations is required.

**Departments of Transportation and Public Safety.** Starting in FY 2024-25, workload in CDOT and CSP will increase to conduct a public awareness campaign on changes to permissible mobile device use under the bill. CDOT already conducts a public awareness campaign on distracted driving and the fiscal note assumes that the new requirement can be incorporated into the current campaign. No change in appropriation is required.

## **Local Government**

Beginning in FY 2024-25, this bill will increase local government revenues and expenditures, as discussed below.

**HUTF fine revenue.** Similar to the state, the bill will minimally impact local government HUTF revenue generated by traffic fines for transportation needs. Under current law, 26 percent of HUTF revenue goes to counties and 9 percent goes to municipalities.

**District and city attorneys.** District attorneys may see an increase in workloads to prosecute more traffic infractions. It is assumed that these violations will be in conjunction with other traffic offenses, therefore, the expected increase in workload is assumed to be minimal. Traffic offenses prosecuted in a municipal court will increase revenue and workload to that municipality.

**Denver County Court.** Similar to state-funded courts, the bill will impact revenue, expenditures and workload for the Denver County Court, which is managed and funded by the City and County of Denver.

### **Effective Date**

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

### **State Appropriations**

For FY 2024-25, the bill requires a \$6,600 appropriation from the DRIVES Cash Fund to the Department of Revenue.

### **State and Local Government Contacts**

Corrections  
Public Safety

District Attorneys  
Revenue

Judicial  
Transportation

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).