SB10-048

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 10-0508	**Date:**	January 25, 2010
Prime Sponsor(s):	Sen. Heath Rep. Levy	**Bill Status:**	Senate Business, Labor, and Technology
		Fiscal Analyst:	Josh Abram (303-866-3561)

TITLE: CONCERNING THE REGULATION OF THE PURCHASE OF COMMODITY SCRAP METALS.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue Cash Funds Fines Collection Cash Fund	< $7,000	< $7,000
State Expenditures		
FTE Position Change		
Effective Date: August 11, 2010, assuming the General Assembly adjourns May 12, 2010, as scheduled and no referendum petition is filed.		
Appropriation Summary for FY 2010-2011: None required.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

This bill modifies current law to require the buyer of commodity scrap metal to take a photograph of the seller. The photograph must remain with records of the sale and be kept on file for 3 years. Further, the bill requires that the buyer of the metal wait 5 days after delivery before paying for the purchase, and then must pay by check mailed to the seller's address. The bill repeals the current provision that a commodity scrap metal purchase under 25 pounds is exempt from regulation. The bill is applicable to sales made on or after the effective date.

State Revenue

The bill may increase state revenue from fines, although ***less than $7,000*** in new state revenue is expected per year. A secondhand dealer who violates the provisions of the bill commits a class 1 misdemeanor. Upon second or subsequent conviction within three years of a prior conviction, the dealer commits a class 5 felony.

The penalty for a class 1 misdemeanor is 6 to 18 months imprisonment, a fine of $500 to $5,000, or both. The penalty for a class 5 felony is 1 to 4 years imprisonment, a fine of $1,000 to $100,000, 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 cannot be determined, but is anticipated to be less than $7,000 in any fiscal year.

State Expenditures

Senate Bill 10-048 is assessed as having no fiscal impact on state expenditures in FY 2010-11 or FY 2011-12. Under current law, buyers are required to keep a register detailing all transactions involving commodity metals. Sellers must verify their identity using valid identification and buyers must record this information in the register. Additionally, sellers must provide a signed affidavit that he or she owns the metal, or is otherwise entitled to sell the metal. Finally, buyers must record the license plate number and description of the vehicle the seller used to convey the metal. This bill requires that buyers also take a photograph of the seller and wait 5 days to pay.

Although the bill provides another investigative tool for law enforcement and another constraint on scrap metal transactions, any increase in filings with the Judicial branch are expected to be minimal and can be handled with existing appropriations.

Local Government Impact

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 a daily rate of $50.44 to house state inmates. It is assumed that the impact of new misdemeanor filings will be minimal and will not create the need for additional county jail space.

Departmental Differences

This bill increases requirements for buyers of scrap metal. Failing to follow these provisions on a second or subsequent violation may be charged at a felony level. The Department of Corrections (DOC) anticipates a fiscal impact of ***$170,441 General Fund over the next five years*** for one felony conviction during that period. According to Section 2-2-703, C.R.S., no bill may be passed by the General Assembly which would result in a net increase in periods of imprisonment in state correctional facilities unless the bill includes an appropriation sufficient to cover capital construction and operating costs in each of the first 5 fiscal years following passage.

Section 2-3-304 (5), C.R.S., stipulates that Legislative Council Staff shall be responsible for reviewing any bill that the General Assembly introduces which affects criminal sentencing ***which may result*** in a net increase or decrease in periods of imprisonment in state correctional facilities for the purpose of providing information to the General Assembly on the long-term fiscal impact of the bill, including the increased capital construction and operating costs for the first 5 fiscal years following passage. ***This fiscal analysis assumes no net increase in periods of imprisonment in state correctional facilities resulting from the bill.***

This determination is based on the following information from the Judicial Branch's database on charges filed:

- there have been 30 misdemeanor 1 charges against secondhand dealers over the last 5 years; and
- there have been no second offenses resulting in felony charges for secondhand dealers over the last 5 years.

Should a second offense be filed, it is further assumed that any person charged at this level would most likely be sentenced to probation in the Judicial Branch, and not to the Department of Corrections. No increase in either the courts' workload or probation are anticipated.

Departments Contacted

Judicial Branch   District Attorneys   Local Government   Corrections