



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 19-0489 Date: January 28, 2019
Prime Sponsors: Rep. Michaelson Jenet; Larson Sen. Priola; Donovan Bill Status: House Health & Insurance Fiscal Analyst: Clare Pramuk | 303-866-2677 clare.pramuk@state.co.us

Bill Topic: CLEAN INDOOR AIR ACT ADD E-CIGS AND REMOVE EXCEPTIONS

Summary of Fiscal Impact: State Revenue (minimal), State Expenditure (minimal), State Transfer, TABOR Refund (minimal), Local Government, Statutory Public Entity

This bill modifies the Colorado Clean Indoor Air Act to add electronic smoking devices and repeal certain exceptions. It will increase state revenue and expenditures beginning in FY 2019-20.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

This bill makes changes to the Colorado Clean Indoor Act. These changes include:

- making electronic smoking devices subject to the act;
clarifying the definition of smoking to include plant products and synthetic marijuana;
increasing the smoke-free radius from a building entryway from 15 feet to 25 feet;
repealing the ability of a local jurisdiction from specifying a smoke-free radius less than 15 feet from an entryway;
reducing the number of exceptions to the act; and
repealing the option of property owners and managers to designate smoking and non-smoking areas.

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 changes an element of an existing crime. The following section addresses prior violations of the act. As these offenses occur rarely, the fiscal note assumes the bill will result in a negligible increase in violations.

Prior conviction data. This bill changes an element of the existing offense of smoking in an area where smoking is prohibited which is a class 2 petty offense. From January 1, 2018, to December 31, 2018, four people were fined for this offense. Of the persons fined, three were male, one was female. Demographically, all were White.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

Criminal fines and court fees. By modifying an existing petty offense to cover electronic smoking devices and larger smoke-free areas, the bill may increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2019-20. Fines are distributed 75 percent to the local jurisdiction and 25 percent to the General Fund. The fine penalty for a class 2 petty offense is up to \$200 for a first violation within a calendar year; up to \$300 for a second violation within a calendar year; and up to \$500 for each additional violation in a calendar year. Each day of a continuing violation is deemed a separate violation. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs. Because the courts have the discretion in the amount of a fine, a precise state revenue impact cannot be determined but based on prior violation history of four cases in 2018, is expected to be minimal. Criminal fine and court fee revenue is subject to TABOR.

State Expenditures

This bill will increase workload for the Department of Public Health and Environment (CDPHE), the Department of Personnel and Administration (DPA), and Judicial Department as explained below.

CDPHE. The Tobacco Education, Prevention and Cessation Program within the Prevention Services Division provides education and resources to businesses and local governments on smoke-free policies. This bill will increase the workload of the program to provide updated educational information, but this increase can be accomplished within existing appropriations.

DPA. The DPA will have an increase in workload and expenditures to update state building smoking policies and signage. This increase can be accomplished within existing appropriations.

Judicial Department. This bill may increase costs and workload for the trial courts in the Judicial Department to process additional criminal case filings. This increase can be accomplished within existing appropriations.

TABOR refunds. The bill is expected to increase state General Fund obligations for TABOR refunds by a minimal amount in FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Local Government

Beginning in FY 2019-20, this bill is expected to increase local government revenue, costs, and workload as described below.

Under the bill, local governments are prohibited from having smoking regulations less restrictive than the provisions in the Colorado Clean Indoor Air Act. Local governments with less restrictive regulations than those in this bill will need to update those regulations and signage. The amount of workload and expenditures associated with these changes will depend on the policies currently in force in each jurisdiction.

Local jurisdictions that fine violators of the Clean Indoor Air Act will see an increase in revenue. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

Effective Date

The bill takes effect July 1, 2019.

State and Local Government Contacts

Counties	Information Technology	Law
Local Affairs	Municipalities	Personnel
Public Health and Environment		