



**Colorado
Legislative
Council
Staff**

Bill 4

FISCAL NOTE

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

Drafting Number: LLS 16-366
Prime Sponsor(s):

Date: October 29, 2015
Bill Status: Transportation Legislation Review
Committee Bill Request
Fiscal Analyst: Clare Pramuk

BILL TOPIC: PRIVATE AGENT MOTOR VEHICLE REGULATION

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue Cash Funds		Potential increase in revenue. See State Revenue section.
State Expenditures General Fund	\$200,000	Potential increase in expenditures. See State Expenditures section.
TABOR Impact		Potential increase.
FTE Position Change		Potential increase.
Appropriation Required: \$200,000 - Department of Revenue (FY 2016-17)		
Future Year Impacts: Potential revenue and expenditure increases.		

Summary of Legislation

This bill, **requested by the Transportation Legislation Review Committee**, allows the director of the Department of Revenue (DOR) to certify private agents to perform certain functions related to driver's licenses, and the registration, taxation, licencing, and titling of motor vehicles (DMV services). Further, the director may contract with private entities to operate one or more locations where certified private agents will offer the delegated functions. The private agent may collect and retain a fee above the taxes and fees required by the state, and must post a sign explaining those fees and how to lodge a complaint with the DOR. The director is required to promulgate rules establishing quality control procedures and requirements for private agents and may establish and charge a fee to cover the DOR's costs to administer the certification process.

Applicants for certification must submit to a fingerprint-based criminal background check and the director may deny an application if the criminal history record shows:

- that the application contains a material omission, misrepresentation, or misstatement of fact; or
- that the applicant has been convicted or served a sentence in the past 10 years for a crime of theft or fraud of more than \$250, or forgery, bribery, or perjury.

An applicant that has been denied certification can request an explanation of the basis of the decision and may request a hearing on the application within 30 days of the denial.

A private agent who receives certification must obtain and maintain a minimum performance bond of \$50,000. The director may conduct investigations and audits of private agents and the businesses that employ them. The director is authorized to take enforcement actions on violations by private agents that include suspension or cancellation of a certification, or issuance of a remedial order. Processing a function covered by the bill without certification is a class 1 misdemeanor.

Background

At least 22 states allow third-party vendors to provide some motor vehicle-related services. Unless the vendor is providing the service as a benefit to its members, consumers are generally charged a transaction fee. Third-party vendors are able to maintain business hours beyond those of the state or local department of motor vehicles. Third-party vendors currently provide regular and commercial driver training and testing, and emissions testing in Colorado.

The DOR has a capital project currently underway to replace both the state's Driver's License System (DLS) and the Colorado State Titling and Registration System (CSTARS) with an updated system known as the Driver License, Record, Identification and Vehicle Enterprise Solution (DRIVES). The DRIVES system is expected to be fully operational in August 2018, with the driver's license portion that replaces the DLS functionality scheduled for late February 2017, followed by the portion that replaces the CSTARS functionality.

State Revenue

If the director of the DOR chooses to delegate one or more DMV functions to private agents, there will be a revenue increase beginning in the first year of implementation. The fiscal note assumes the earliest that delegation may occur is FY 2017-18. Cash fund revenue will be from fees charged to private agents for certification to provide DMV services and are expected to correspond to the DOR's expenditures to operate the program.

If the director of DOR begins certifying private agents to provide DMV services beginning in FY 2017-18, this bill is anticipated to increase state revenue from penalties by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 1 misdemeanor is \$500 to \$5,000 or 6 to 8 months in county jail. 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 fines imposed in 2015, the fiscal note assumes that any revenue generated is likely to be less than \$5,000 and only if private agents are certified to provide DMV services.

TABOR Impact

This bill may increase state revenue from fees and fines, which will increase the amount required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

State Expenditures

This bill is expected to increase General Fund expenditures for the DOR by \$200,000 in FY 2016-17 to contract for a feasibility study that will evaluate options, determine market demand, and recommend a course of action. The study is expected to:

- survey other states that delegate DMV services to private agents;
- identify the number of individuals and businesses interested in becoming certified to provide DMV services given the certification requirements in the bill and the potential costs of certification;
- assess the amount consumers are willing to pay a private agent for DMV services;
- consider different options for delegation of DMV services;
- recommend DMV services for delegation to private agents;
- coordinate with ongoing technology upgrades;
- determine staffing and oversight requirements; and
- develop time lines for implementation.

Depending on the outcome of the study, if the director of the DOR determines that the delegation of one or more DMV functions to private agents is feasible and will improve the delivery of DMV services, the fiscal note assumes that the DOR will work through the annual budget process to fund this new regulatory program. Cost components will include:

- personal services;
- operating expenses;
- lease space;
- vehicle payments;
- legal services from the Department of Law for rulemaking, and handling of application denials and appeals;
- driver license office equipment and/or title and registration office equipment for private agents;
- license plate inventory;
- programming costs; and
- finger-print based background checks through the Department of Public Safety.

Judicial Department. If the director of the DOR delegates one or more DMV services to private agents, there may be a minimal increase in trial court workload. This is not expected to require additional appropriations.

Local Government Impact

If the director of the DOR delegates one or more DMV services to private agents, counties may see a reduction in revenue from the Clerk Hire Fee which counties receive for performing registration transactions. Depending on the number of DMV services provided by private agents in a county, the county may be able to reduce its labor costs to match decreased demand for its services.

The new misdemeanor created by the bill will affect local governments as discussed below.

Misdemeanor offenses in county courts. The bill may increase workload for district attorneys to prosecute any new offenses under the bill and to the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. 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. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. It is assumed that the impact on county courts will be minimal.

Denver County Court. The bill results in an increase in workload for the Denver County Court, managed and funded by the City and County of Denver. The court will try misdemeanor cases under the bill where a class 1 misdemeanor is charged for violating applicable DMV statutes or rules. Probation services in the Denver County Courts may also experience a minimal increase in workload and revenue to supervise persons convicted under the bill.

Comparable Crime

Colorado law requires Legislative Council Staff 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 the existing crime that creates a new factual basis for the offense. This bill creates a class 1 misdemeanor for providing DMV services without being certified to do so, authorizing a person who is not certified to provide DMV services, or uses the authority of the certification to violate or aid another person in violating applicable DMV statutes or rules. At this time, no comparable crime has been identified.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State Appropriations

The Department of Revenue requires a General Fund appropriation of \$200,000 for FY 2016-17.

State and Local Government Contacts

Clerks
Law

Counties
Public Safety

Judicial
Revenue