

**FINAL
FISCAL NOTE**

Drafting Number: LLS 13-0810
Prime Sponsor(s): Rep. Fields
 Sen. Hodge

Date: May 21, 2013
Bill Status: Signed into Law
Fiscal Analyst: Kerry White (303-866-3469)

TITLE: CONCERNING PROHIBITING LARGE-CAPACITY AMMUNITION MAGAZINES.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015	FY 2015-16
State Revenue			
Cash Funds			
Fines Collection Cash Fund	<\$5,000	<\$5,000	<\$5,000
State Expenditures			
General Fund			\$19,983
FTE Position Change			
Effective Date: The bill was signed by the Governor on March 20, 2013, and takes effect July 1, 2013.			
Appropriation Summary for FY 2013-2014: See State Appropriations section.			
Local Government Impact: See Local Government Impact section.			

Summary of Legislation

This bill establishes limitations on large-capacity ammunition magazines, which are defined as those that can accept more than 15 rounds of ammunition, 8 shotgun shells when combined with a fixed magazine, or 28 inches of shotgun shells.

Prohibition of the sales, transfer, or possession of large-capacity magazines. Beginning on July 1, 2013, the following actions are subject to criminal penalties:

- sales, transfer, or possession of a large-capacity magazine is a class 2 misdemeanor;
- second and future violations of the prohibition of the sale, transfer, or possession of a large-capacity magazine is a class 1 misdemeanor; and
- use of a large-capacity magazine in the commission of a felony or crime of violence is a class 6 felony.

The prohibition against the transfer or possession of these magazines does not apply to a manufacturer, gun dealer, or employee thereof that sells large-capacity magazines exclusively to:

- a local, state, or federal government employee engaged in his or her official duties;
- a branch of the armed forces;
- the state or its political subdivisions;

- a foreign national government that has been approved for such transfers;
- a firearms retailer for the purposes of sales outside of Colorado;
- an out-of-state transferee who is legally allowed to possess the magazine; or
- a person who possesses the magazine to transport it to an out-of-state entity on behalf of a manufacturer of large-capacity magazines within Colorado.

Those who maintained continuous possession of the magazine prior to the bill's effective date are allowed to retain ownership, and the prosecution has the burden of proof if a person asserts he or she owns the magazine legally.

Manufacturers. As of July 1, 2013, a magazine manufactured in Colorado must have a permanent stamp or marking engraved or cast upon its outer surface to indicate that it was manufactured after this date. Failure to do so is a class 2 misdemeanor. The Department of Public Safety is authorized to promulgate rules to enforce this provision.

State Revenue

Beginning in FY 2013-14, this bill will increase state cash fund revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. By adding two class 2 misdemeanors, one class 1 misdemeanor, and one class 6 felony, individuals convicted of these crimes may be required to pay a fine. Under current law, fine penalties are \$1,000 to \$1,000 for a class 6 felony; \$500 to \$5,000 for a class 1 misdemeanor; and \$250 to \$1,000 for a class 2 misdemeanor. To the extent that this court imposes fines on persons convicted under this bill, state revenue will increase.

State Expenditures

Overall, this bill will increase state expenditures as discussed below.

Judicial Department. This bill creates three new misdemeanors and one new felony charge related to large-capacity ammunition magazines. Because existing owners are grandfathered in and gun owners and dealers will be prohibited from selling or transferring existing magazines in Colorado unless certain conditions are met, this analysis assumes that new case filings will be minimal. Court and probation costs are, therefore, anticipated to be addressed within existing appropriations.

Office of the State Public Defender (OSPD). The OSPD may experience an increase in workload due to new case filings and increases in the time to litigate cases. The number of case filings associated with crimes created under the bill is expected to be low and not require an increase in appropriations.

Department of Public Safety. The Department of Public Safety is authorized to promulgate rules concerning the requirements to engrave or cast a permanent stamp or marking on magazines. This cost can be absorbed within existing appropriations.

Department of Corrections. Under House Bill 13-1224, the use of a large-capacity magazine in the commission of a felony or crime of violence is a class 6 felony. As of this writing, it is unknown how many offenders for these types of crimes have used a large-capacity magazine. This analysis assumes that most offenders sentenced for a felony or crime of violence will already be going to prison and, in most cases, will serve their sentence for the class 6 felony penalty included under the bill concurrent with the sentence for the original crime. However, the fiscal note assumes one offender every five years will be required to serve the sentence for the class 6 felony under this bill consecutively. This results in an increase in costs of \$19,983 every five years. The impact is shown in the third year to account for a one-year delay in prosecution and a minimum of one-year sentence for any other felony. However, it is possible that this impact may not be seen until several years later.

Current law prohibits the General Assembly from passing any bill to increase periods of imprisonment in state correctional facilities without appropriating an amount sufficient to cover the increased capital construction and operating costs of the bill in each of the first five fiscal years. However, current law also allows the DOC to place offenders classified as medium custody and below in private contract prisons, for which no state capital construction costs are incurred.

Offenders sentenced under this bill to DOC may be placed in either a state-run or a private contract prison, depending on several factors. Any offenders that *must* be housed in a state-run prison will likely require a shift of other inmates in that facility to private contract prisons. Therefore, this fiscal note assumes that the impact of this bill will be accommodated through the use of private contract prisons, and that no new capital construction funds are necessary.

Offenders placed in a private contract prison cost the state about \$57.03 per offender per day, including the current daily rate of \$52.69 and an estimated \$4.34 per offender per day for medical care provided by the DOC. Table 1 shows the estimated cost of the bill over the next five fiscal years.

Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2013-14	0.0	\$0	\$0	\$0
FY 2014-15	1.0	0	0	0
FY 2015-16	0.0	0	19,983	19,983
FY 2016-17	0.0	0	0	0
FY 2017-18	0.0	0	0	0
Total		\$0	\$19,983	\$19,983

Local Government Impact

This bill will affect local governments in two ways: it could increase the use of county jails and workload related to investigating and prosecuting the new offenses, as described below.

This bill creates three new crimes: two class 2 misdemeanors and one class 1 misdemeanor. The penalty for a class 2 misdemeanor is 3 to 12 months in a county jail, a fine of \$250 to \$1,000, or both. The penalty for a class 1 misdemeanor is 6 to 18 months in a county jail, a fine of \$500 to \$5,000, or both. 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 at a daily rate of \$50.44 to house state inmates. The bill also impacts local governments (police departments, sheriff offices, and district attorneys) by requiring them to investigate and prosecute offenses under the bill. These costs are anticipated to be minimal.

Comparable Crime

Pursuant to Section 2-2-322 (2.5), C.R.S., 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 the existing crime that creates a new factual basis for the offense. House Bill 13-1224 adds four new crimes. As of this writing, no information about the prevalence of these crimes is available and under current law. However, current law provides penalties for the use of a weapon in the commission of a crime. For example, possession of an illegal weapon is a class 1 misdemeanor, although subsequent offenses within five years or for certain offenders are a class 5 felony. Prohibited use of weapons is a class 2 misdemeanor and an unlawful purchase of firearms is a class 4 felony. In addition, within the City and County of Denver only there is a prohibition against magazines with capacity for more than 21 bullets.

State Appropriations

The Department of Corrections requires the five-year appropriations shown in Table 1.

Departments Contacted

Corrections
Local Affairs
Public Safety

Counties
Municipalities

Judicial
Natural Resources