

HB19-1204

“Prohibit Camping (in) Environmentally Sensitive Areas”

Economic Analysis

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This bill states that its purpose is to protect clean water supplies as well as public health and safety. The bill prohibits a person from camping within one hundred feet of an urban environmentally sensitive area unless a state or local governmental agency has approved the area for camping. An environmentally sensitive areas is defined in Colorado as lands that contain physical environmental characteristics including but not limited to: wetlands, streams and riparian areas, floodplains, slopes 30 percent or greater, avalanche hazard areas and other geologic hazards, critical fish and wildlife habitat, and alpine tundra. These areas typically either present a constraint to development or are extremely susceptible to development impacts.

A county or district public health agency that has one or more environmentally sensitive areas within the agency's jurisdiction shall conduct and periodically update an environmental impact study of all environmentally sensitive areas within the agency's jurisdiction. These studies will evaluate the public health risks associated with unauthorized camping in the environmentally sensitive areas. Upon conclusion of the study or update, each agency shall adopt or update and implement an environmental mitigation plan to avoid, minimize, and remediate the risks. An agency may apply to the applicable local government to use Great Outdoors Colorado money to conduct and update an environmental impact study or to implement a mitigation plan.

The bill states that an urban camping prohibition in environmentally sensitive areas is necessary due to the fact that unauthorized camping occurs more frequently in urban areas. Many of the environmentally sensitive areas lack any infrastructure, including public restrooms to support human habitation. The bill claims that these areas with little to no infrastructure are at an elevated risk to flash floods and diseases. The bill asserts that unauthorized camping in urban environmentally sensitive areas has polluted public water supplies and caused public health and environmental complications.

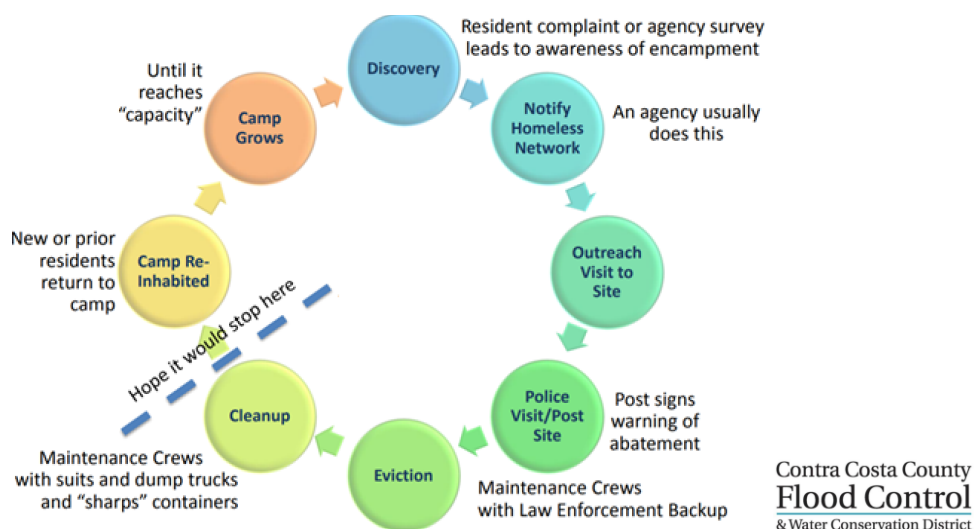
This bill addresses the protection of the common goods of water supply, soil, and public health by attempting to remediate the negative externalities caused by camping in environmentally sensitive areas. By prohibiting camping in urban areas which are environmentally sensitive, the bill makes that land excludable in order to protect the environment. This turns what was once a common resource into a private good, which is rivalrous and excludable.

Although not saying explicitly, this bill will force people who are homeless to leave areas that are designated as “environmentally sensitive”. There must be enough ecological damage to warrant the prohibition. Not only does the government have a legitimate purpose in protecting the common goods within the urban environment, it also has a purpose in protecting the public good of Colorado citizens’ health. Research done by Foster, et al, in the Epidemic Intelligence Service has shown that close living quarters of homeless encampments increases the amount and probability of contraction of diseases between people. Loftus-Farren stated that residents of encampments have, in most cases, developed their own sewage systems, a practice that has resulted in untreated human waste and ultimately the contamination of ground water. As a result, when the ground water interacts with surface water, individuals frequently develop health problems from drinking the water, or even simply from bathing in it. The irresponsible disposal of trash and close quarters of urban camping increases the probability that disease can spread. It is therefore a health concern that the government has legitimate purpose in addressing.

Although these externalities warrant a solution, research shows that a bill such as this may not be the best solution. Societal problems that involve common goods are sometimes referred to as “wicked problems”. Horst defined these problems, “Unlike some of the problems posed in science or engineering, the societal problems that planners face are inherently ill-

defined and do not have clear solutions.” By decreasing the amount of camping in the sensitive areas, it will lead to restoration and protection of said areas, but this bill will not keep homeless encampments from forming in the same place after the clean-up has occurred or in other unprotected areas due to their nature.

The following analysis will explain why this bill will neither solve the ecological problem at hand nor decrease the number of encampments which lead to pollution in the future. Research done by Contra Costa County Flood Control and Water Conservation District has found that encampments are cyclical. The flowchart (originally from the FCWC District) below is an explanation of its’ cyclicality. Note the dashed line titled, “Hope it would stop here.”



The reason why these laws like this bill do not work is because economics has been shown to trump the law. There are many theories on why people break the law, but what it boils down to is that people make decisions based on their perceived best interest. Although homelessness is not a choice for most, the choice of where to sleep is a choice that must be made every day. This paper analysis uses the Hirschi’s Social Bond Theory and Rational Choice Theory (Hollier) to explain why homeless people chose to break the current urban camping laws, and why this new prohibition will have little to no effect. Other theories include traits regarding

to the person specifically whether it be genetic, neurological or psychodynamic (etc); all of these traits could be factors in why people are homeless in the first place.

Under the Rational Choice Theory, law-violating behavior occurs when an offender decides to risk breaking the law after considering both personal factors (i.e., the need for money, revenge, thrills, and entertainment) and situational factors (i.e., how well a target is protected and the efficiency of the local police force). People who believe that the risks of crime outweigh the rewards may decide to break the law. In this case the homeless perform a cost-benefit analysis of where to set up camp. There has been an anti-camping ordinance in Denver since 2012 that is very similar to this bill, and it has had little effect on the amount of homeless people camping in the city. This is because after the homeless consider the costs of going to jail or getting kicked out of the area they are currently living in, they feel that it is more beneficial to live in places that are illegal for them to live in.

The next theory to be addressed is Hirschi's Social Bond Theory (Hollier). Hirschi assumes that all individuals are potential law violators, but they are kept under control because they fear that illegal behavior will damage their relationships with friends, parents, neighbors, teachers, and employers. Without these social ties or bonds, and in the absence of sensitivity to and interest in others, a person is free to commit criminal acts. Studies have shown that homeless people lack social ties. Corinth and Rossi-de-Vries found that lifetime incidence of homelessness is reduced by 64 percent for individuals with strong ties to relatives, friends and religious community.

Since it has been established that homeless people's cost benefit analysis leads to them living in public areas that are illegal to camp in. A bill such as this will have little effect in decreasing the externalities created by camping in environmentally sensitive areas, since it fails

to efficiently stop homeless encampments from forming. The bill increases the workload for the Department of Public Health and Environment by requiring them to provide technical support to local public health agencies in order to meet all requirements of the bill. These added requirements could lead to inefficiency due to the fact that their workload could be focused in another way that will be more effective in protecting the water, soil, and public health through projects that decrease the amount of homeless people in Denver directly.

According to the most recent annual survey by the U.S. Conference of Mayors (National Law Center on Homelessness and Poverty), major cities across the country report that top causes of homelessness among families were: lack of affordable housing, unemployment, poverty, and low wages, in that order. The same report found that the top four causes of homelessness among unaccompanied individuals were: lack of affordable housing, unemployment, poverty, mental illness and the lack of needed services, and substance abuse and the lack of needed services, in that order.

I would suggest that efforts for decreasing the negative externalities associated with urban camping are focused towards a more permanent solution which helps homeless people get back on their feet and into a stable and legal living condition, considering the factors of why people are homeless in the first place. So plans should be made by the government to solve to most common factors of affordable housing and unemployment.

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