

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0319.01 Michael Dohr x4347

SENATE BILL 12-044

SENATE SPONSORSHIP

Guzman,

HOUSE SPONSORSHIP

Pabon,

Senate Committees

Transportation
Appropriations

House Committees

Transportation
Finance

A BILL FOR AN ACT

101 **CONCERNING FAILURE TO PRESENT VALID EVIDENCE OF MASS TRANSIT**
102 **FARE PAYMENT, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill repeals the crime of theft of transit and creates a class B traffic infraction failure to present a valid transit pass or coupon that covers the same prohibited conduct as the former crime of theft of transit.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
March 27, 2012

SENATE
Amended 2nd Reading
March 26, 2012

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 42-4-1416 as
3 follows:

4 **42-4-1416. Failure to present a valid transit pass or coupon -**
5 **fare inspector authorization - definitions.** (1) A PERSON COMMITS
6 FAILURE TO PRESENT A VALID TRANSIT PASS OR COUPON IF THE PERSON
7 OCCUPIES, RIDES IN, OR USES A PUBLIC TRANSPORTATION VEHICLE
8 WITHOUT PAYING THE APPLICABLE FARE OR PROVIDING A VALID TRANSIT
9 PASS OR COUPON.

10 (2) A PERSON SHALL NOT OCCUPY, RIDE IN, OR USE A PUBLIC
11 TRANSPORTATION VEHICLE WITHOUT POSSESSION OF PROOF OF PRIOR FARE
12 PAYMENT. A PERSON SHALL PRESENT PROOF OF PRIOR FARE PAYMENT
13 UPON DEMAND OF A FARE INSPECTOR APPOINTED OR EMPLOYED PURSUANT
14 TO SUBSECTION (4) OF THIS SECTION, A PEACE OFFICER, OR ANY OTHER
15 EMPLOYEE OR AGENT OF A PUBLIC TRANSPORTATION ENTITY.

16 (3) A VIOLATION OF THIS SECTION IS A CLASS B TRAFFIC
17 INFRACTION AND IS PUNISHABLE BY A FINE OF SEVENTY-FIVE DOLLARS.
18 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FINES FOR A
19 VIOLATION OF SUBSECTION (1) OF THIS SECTION SHALL BE RETAINED BY
20 THE CLERK OF THE COURT IN THE CITY AND COUNTY OF DENVER UPON
21 RECEIPT BY THE CLERK FOR A VIOLATION OCCURRING WITHIN THAT
22 JURISDICTION, OR TRANSMITTED TO THE STATE JUDICIAL DEPARTMENT IF
23 THE FINE IS RECEIPTED BY THE CLERK OF THE COURT OF ANY OTHER
24 COUNTY.

25 (4) (a) PUBLIC TRANSPORTATION ENTITIES MAY APPOINT OR
26 EMPLOY, WITH THE POWER OF REMOVAL, FARE INSPECTORS AS NECESSARY

1 TO ENFORCE THE PROVISIONS OF THIS SECTION. THE EMPLOYING PUBLIC
2 TRANSPORTATION ENTITY SHALL DETERMINE THE REQUIREMENTS FOR
3 EMPLOYMENT AS A FARE INSPECTOR.

4 == ==
5 (b) A FARE INSPECTOR APPOINTED OR EMPLOYED PURSUANT TO
6 THIS SECTION IS AUTHORIZED TO ENFORCE THE PROVISIONS OF THIS
7 SECTION WHILE ACTING WITHIN THE SCOPE OF HIS OR HER AUTHORITY AND
8 IN THE PERFORMANCE OF HIS OR HER DUTIES. A FARE INSPECTOR IS
9 AUTHORIZED TO ISSUE A CITATION TO A PERSON WHO COMMITS FAILURE TO
10 PROVIDE A VALID TRANSIT PASS OR COUPON IN VIOLATION OF THIS
11 SECTION. THE FARE INSPECTOR SHALL ISSUE A CITATION ON BEHALF OF
12 THE COUNTY IN WHICH THE PERSON OCCUPYING, RIDING IN, OR USING A
13 PUBLIC TRANSPORTATION VEHICLE WITHOUT PAYING THE APPLICABLE
14 FARE IS LOCATED AT THE TIME THE VIOLATION IS DISCOVERED. THE PUBLIC
15 TRANSPORTATION ENTITY WHOSE FARE INSPECTOR ISSUED THE CITATION
16 SHALL TIMELY DELIVER THE CITATION TO THE CLERK OF THE COUNTY
17 COURT FOR THE JURISDICTION IN WHICH THE ACCUSED PERSON IS LOCATED
18 AT THE TIME THE VIOLATION IS DISCOVERED. == ==

19 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES:

21 (a) "PROOF OF PRIOR FARE PAYMENT" MEANS:

22 (I) A TRANSIT PASS VALID FOR THE DAY AND TIME OF USE;

23 (II) A RECEIPT SHOWING PAYMENT OF THE APPLICABLE FARE FOR
24 USE OF A PUBLIC TRANSPORTATION VEHICLE DURING THE DAY AND TIME
25 SPECIFIED IN THE RECEIPT; OR

26 (III) A PREPAID TICKET OR SERIES OF TICKETS SHOWING
27 CANCELLATION BY A PUBLIC TRANSPORTATION ENTITY USED WITHIN THE

1 DAY AND TIME SPECIFIED IN THE TICKET.

2 (b) "PUBLIC TRANSPORTATION ENTITY" MEANS A MASS TRANSIT
3 DISTRICT, A MASS TRANSIT AUTHORITY, OR ANY OTHER PUBLIC ENTITY
4 AUTHORIZED UNDER THE LAWS OF THIS STATE TO PROVIDE MASS
5 TRANSPORTATION SERVICES TO THE GENERAL PUBLIC.

6 (c) "PUBLIC TRANSPORTATION VEHICLE" MEANS A BUS, A TRAIN,
7 A LIGHT RAIL VEHICLE, OR ANY OTHER MODE OF TRANSPORTATION USED
8 BY A PUBLIC TRANSPORTATION ENTITY TO PROVIDE TRANSPORTATION
9 SERVICES TO THE GENERAL PUBLIC.

10 (d) "TRANSIT PASS" MEANS ANY PASS, COUPON, TRANSFER, CARD,
11 IDENTIFICATION, TOKEN, TICKET, OR OTHER DOCUMENT, WHETHER ISSUED
12 BY A PUBLIC TRANSPORTATION ENTITY OR ISSUED BY AN EMPLOYER TO
13 EMPLOYEES PURSUANT TO AN AGREEMENT WITH A PUBLIC
14 TRANSPORTATION ENTITY, USED TO OBTAIN PUBLIC TRANSIT.

15 **SECTION 2.** In Colorado Revised Statutes, 42-4-1701, **amend**
16 (4) (a) (I) (N) as follows:

17 **42-4-1701. Traffic offenses and infractions classified -**
18 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except
19 as provided in paragraph (c) of subsection (5) of this section, every
20 person who is convicted of, who admits liability for, or against whom a
21 judgment is entered for a violation of any provision of this title to which
22 paragraph (a) or (b) of subsection (5) of this section apply shall be fined
23 or penalized, and have a surcharge levied thereon pursuant to sections
24 24-4.1-119 (1) (f) and 24-4.2-104 (1) (b) (I), C.R.S., in accordance with
25 the penalty and surcharge schedule set forth in sub-subparagraphs (A) to
26 (P) of this subparagraph (I); or, if no penalty or surcharge is specified in
27 the schedule, the penalty for class A and class B traffic infractions shall

1 be fifteen dollars, and the surcharge shall be four dollars. These penalties
 2 and surcharges shall apply whether the defendant acknowledges the
 3 defendant's guilt or liability in accordance with the procedure set forth by
 4 paragraph (a) of subsection (5) of this section or is found guilty by a court
 5 of competent jurisdiction or has judgment entered against the defendant
 6 by a county court magistrate. Penalties and surcharges for violating
 7 specific sections shall be as follows:

8	Section Violated	Penalty	Surcharge
9	(N) Other offenses:		
10	42-4-1301 (2)(a.5)	\$ 100.00	\$ 16.00
11	42-4-1305	50.00	16.00
12	42-4-1402	150.00	16.00
13	42-4-1403	30.00	6.00
14	42-4-1404	15.00	6.00
15	42-4-1406	35.00	10.00
16	42-4-1407 (3)(a)	35.00	10.00
17	42-4-1407 (3)(b)	100.00	30.00
18	42-4-1407 (3)(c)	500.00	200.00
19	42-4-314	35.00	10.00
20	42-4-1408	15.00	6.00
21	42-4-1414 (2)(a)	500.00	156.00
22	42-4-1414 (2)(b)	1,000.00	312.00
23	42-4-1414 (2)(c)	5,000.00	1,560.00
24	42-4-1416 (3)	75.00	4.00
25	42-20-109 (2)	250.00	66.00

26 **SECTION 3.** In Colorado Revised Statutes, 42-4-1709, **amend**
 27 (7) (a) introductory portion; and **add** (7) (a) (VIII) as follows:

1 **42-4-1709. Penalty assessment notice for traffic infractions -**
2 **violations of provisions by officer - driver's license.** (7) (a) ~~No~~ A
3 person shall NOT be allowed or permitted to obtain or renew a permanent
4 driver's, minor driver's, or probationary license if such person has, at the
5 time of making application for obtaining or renewing such driver's
6 license:

7 (VIII) AN OUTSTANDING JUDGMENT ENTERED AGAINST SUCH
8 PERSON BY A COUNTY OR MUNICIPAL COURT FOR A VIOLATION OF SECTION
9 42-4-1416.

10 **SECTION 4.** In Colorado Revised Statutes, **repeal** part 8 of
11 article 4 of title 18.

12 **SECTION 5.** In Colorado Revised Statutes, 16-2.5-146, **amend**
13 (1) as follows:

14 **16-2.5-146. Public transit officer - definitions.** (1) A public
15 transit officer who is employed by a public transportation entity, as
16 defined in section ~~18-4-801 (2)~~, C.R.S. 42-4-1416 (5) (b), C.R.S., and is
17 specifically designated a peace officer by the public transportation entity
18 is a peace officer while engaged in the performance of his or her duties.
19 A public transit officer's authority shall be limited to the enforcement of
20 all laws of the state of Colorado and the provision of security for
21 passengers, employees, and property of the public transportation entity on
22 public transportation vehicles, as defined in section ~~18-4-801 (3)~~, C.R.S.
23 42-4-1416 (5) (c), C.R.S., and at public transportation facilities. A public
24 transit officer's authority shall include the power of arrest based upon
25 probable cause while engaged in the performance of his or her duties. A
26 public transit officer shall be certified by the P.O.S.T. board.

27 **SECTION 6.** In Colorado Revised Statutes, **add** 24-72-308.8 as

1 follows:

2 24-72-308.8. Sealing of criminal conviction records
3 information for offenses involving theft of public transportation
4 services. (1) IF A PERSON WAS CONVICTED OF THEFT OF PUBLIC
5 TRANSPORTATION SERVICES BY FARE EVASION AS DESCRIBED IN SECTION
6 18-4-802, C.R.S., AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS
7 SECTION, AND THE PERSON HAS COMPLETED THE SENTENCE, INCLUDING
8 PAYMENT OF THE FINE AND SURCHARGE, FOR THE CONVICTION AS OF THE
9 EFFECTIVE DATE OF THIS SECTION, THE COURT THAT ENTERED THE
10 CONVICTION SHALL SEAL THE CONVICTION BY JANUARY 1, 2013.

11 (2) A PERSON DESCRIBED IN SUBSECTION (1) OF THIS SECTION THAT
12 WANTS HIS OR HER CONVICTION SEALED PRIOR TO JANUARY 1, 2013, MAY
13 MOTION THE COURT IN THE CASE IN WHICH THE CONVICTION WAS ENTERED
14 FOR AN ORDER SEALING THE RECORD OF THE CONVICTION. THE PERSON
15 SHALL PROVIDE ALL INFORMATION AS REQUIRED BY THE COURT IN THE
16 MOTION. UPON RECEIPT OF THE MOTION THE COURT SHALL VERIFY THAT
17 THE PERSON HAS COMPLETED HIS OR HER SENTENCE, INCLUDING PAYMENT
18 OF THE FINE AND SURCHARGE, AND IF THE SENTENCE HAS BEEN
19 COMPLETED, THE COURT SHALL ENTER AN ORDER SEALING THE
20 CONVICTION.

21 (3) A PERSON CONVICTED OF THEFT OF PUBLIC TRANSPORTATION
22 SERVICES BY FARE EVASION AS DESCRIBED IN SECTION 18-4-802, C.R.S.,
23 AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, WHO DID
24 NOT COMPLETE THE SENTENCE FOR THE CONVICTION PRIOR TO THE
25 EFFECTIVE DATE OF THIS SECTION MAY MOTION THE COURT IN THE CASE
26 IN WHICH THE CONVICTION WAS ENTERED FOR AN ORDER SEALING THE
27 RECORD OF THE CONVICTION AFTER HE OR SHE COMPLETES THE SENTENCE.

1 INCLUDING PAYMENT OF THE FINE AND SURCHARGE, FOR THE CONVICTION.
2 THE PERSON SHALL PROVIDE ALL INFORMATION AS REQUIRED BY THE
3 COURT IN THE MOTION. UPON RECEIPT OF THE MOTION, THE COURT SHALL
4 VERIFY THAT THE PERSON HAS COMPLETED HIS OR HER SENTENCE AND IF
5 THE SENTENCE HAS BEEN COMPLETED, THE COURT SHALL ENTER AN ORDER
6 SEALING THE CONVICTION.

7 (4) UPON THE ENTRY OF AN ORDER TO SEAL CONVICTION RECORDS
8 PURSUANT TO THIS SECTION, THE DEFENDANT AND ALL CRIMINAL JUSTICE
9 AGENCIES MAY PROPERLY REPLY, UPON AN INQUIRY IN THE MATTER, THAT
10 PUBLIC CONVICTION RECORDS DO NOT EXIST WITH RESPECT TO THE
11 DEFENDANT. INSPECTION OF THE RECORDS INCLUDED IN AN ORDER
12 SEALING CONVICTION RECORDS MAY THEREAFTER BE PERMITTED BY THE
13 COURT ONLY UPON PETITION BY THE DEFENDANT. EMPLOYERS, STATE AND
14 LOCAL GOVERNMENT AGENCIES, OFFICIALS, LANDLORDS, AND EMPLOYEES
15 SHALL NOT, IN ANY APPLICATION OR INTERVIEW OR IN ANY OTHER WAY,
16 REQUIRE AN APPLICANT TO DISCLOSE ANY INFORMATION CONTAINED IN
17 SEALED CONVICTION RECORDS. AN APPLICANT NEED NOT, IN ANSWER TO
18 ANY QUESTION CONCERNING CONVICTION RECORDS THAT HAVE BEEN
19 SEALED, INCLUDE A REFERENCE TO OR INFORMATION CONCERNING THE
20 SEALED CONVICTION RECORDS AND MAY STATE THAT THE APPLICANT HAS
21 NOT BEEN CRIMINALLY CONVICTED. NOTWITHSTANDING THE PROVISIONS
22 OF THIS SECTION, THE COLORADO STATE BOARD OF LAW EXAMINERS MAY
23 MAKE FURTHER INQUIRIES INTO THE FACT OF A CONVICTION THAT COMES
24 TO THE ATTENTION OF THE BAR COMMITTEE THROUGH OTHER MEANS. THE
25 BAR COMMITTEE OF THE COLORADO STATE BOARD OF LAW EXAMINERS
26 HAS A RIGHT TO INQUIRE INTO THE MORAL AND ETHICAL QUALIFICATIONS
27 OF AN APPLICANT, AND THE APPLICANT DOES NOT HAVE A RIGHT TO

1 PRIVACY OR PRIVILEGE THAT JUSTIFIES HIS OR HER REFUSAL TO ANSWER
2 A QUESTION CONCERNING SEALED CONVICTION RECORDS THAT HAVE COME
3 TO THE ATTENTION OF THE BAR COMMITTEE THROUGH OTHER MEANS.

4 (5) THE OFFICE OF THE STATE COURT ADMINISTRATOR SHALL POST
5 ON ITS WEB SITE NO LATER THAN JULY 1, 2012, A STATEMENT THAT ALL
6 RECORDS FOR CONVICTIONS OF THEFT OF PUBLIC TRANSPORTATION
7 SERVICES BY FARE EVASION FOR ALL PERSONS WHO HAVE COMPLETED
8 THEIR SENTENCES SHALL BE SEALED NO LATER THAN JANUARY 1, 2013.
9 THE OFFICE OF THE STATE COURT ADMINISTRATOR SHALL REMOVE THE
10 POST FROM ITS WEB SITE THIRTY DAYS AFTER THE DATE OF THE INITIAL
11 POSTING.

12 **SECTION 7. Appropriation.** (1) In addition to any other
13 appropriation, there is hereby appropriated, out of any moneys in the
14 driver's license administrative revocation account in the highway users tax
15 fund created in section 42-2-132 (4) (b) (I) (A), Colorado Revised
16 Statutes, not otherwise appropriated, to the department of revenue, for the
17 fiscal year beginning July 1, 2011, the sum of \$14,800 cash funds, or so
18 much thereof as may be necessary, to be allocated for the purchase of
19 computer center services.

20 (2) In addition to any other appropriation, there is hereby
21 appropriated to the governor - lieutenant governor - state planning and
22 budgeting, for the fiscal year beginning July 1, 2011, the sum of \$14,800,
23 or so much thereof as may be necessary, for allocation to the office of
24 information technology, for the provision of computer center services for
25 the department of revenue related to the implementation of this act. Said
26 sum is from reappropriated funds received from the department of
27 revenue out of the appropriation made in subsection (1) of this section.

1 (3) In addition to any other appropriation, there is hereby
2 appropriated, to the department of revenue, for the fiscal year beginning
3 July 1, 2011, the sum of \$2,324 cash funds, or so much thereof as may be
4 necessary, related to the implementation of this act. Of said sum, \$2,302
5 is from the penalty assessments collected and retained for administrative
6 purposes pursuant to section 42-1-217 (2), Colorado Revised Statutes,
7 and \$22 is from administrative processing fees associated with
8 outstanding judgments and warrants collected pursuant to section
9 42-2-118 (3) (c), Colorado Revised Statutes.

10 **SECTION 8. Appropriation.** In addition to any other
11 appropriation, there is hereby appropriated, to the department of revenue,
12 for the fiscal year beginning July 1, 2012, the sum of \$28,639 cash funds
13 and 0.8 FTE, or so much thereof as may be necessary, related to the
14 implementation of this act. Of said sum, \$22,224 is from the driver's
15 license administrative revocation account of the highway users tax fund
16 created in section 42-2-132 (4) (b) (I) (A), Colorado Revised Statutes,
17 \$6,355 is from the penalty assessments collected and retained for
18 administrative purposes pursuant to section 42-1-217 (2), Colorado
19 Revised Statutes, and \$60 is from administrative processing fees
20 associated with outstanding judgments and warrants collected pursuant
21 to section 42-2-118 (3) (c), Colorado Revised Statutes.

22 **SECTION 9. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.