

**Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 12-0319.01 Michael Dohr x4347

**SENATE BILL 12-044**

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**SENATE SPONSORSHIP**

**Guzman,**

**HOUSE SPONSORSHIP**

**Pabon,**

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**Senate Committees**

Transportation  
Appropriations

**House Committees**

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**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.**

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**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  
Amended 2nd Reading  
March 26, 2012

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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.

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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 PETITION THE COURT IN WHICH THE CONVICTION WAS ENTERED FOR AN  
14 ORDER SEALING THE RECORD OF THE CONVICTION. THE PERSON SHALL  
15 PROVIDE ALL INFORMATION AS REQUIRED BY THE COURT IN THE PETITION.  
16 UPON RECEIPT OF THE PETITION THE COURT SHALL VERIFY THAT THE  
17 PERSON HAS COMPLETED HIS OR HER SENTENCE, INCLUDING PAYMENT OF  
18 THE FINE AND SURCHARGE, AND IF THE SENTENCE HAS BEEN COMPLETED,  
19 THE COURT SHALL ENTER AN ORDER SEALING THE CONVICTION.

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

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

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



1 A QUESTION CONCERNING SEALED CONVICTION RECORDS THAT HAVE COME  
2 TO THE ATTENTION OF THE BAR COMMITTEE THROUGH OTHER MEANS.

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

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

19 (3) In addition to any other appropriation, there is hereby  
20 appropriated, to the department of revenue, for the fiscal year beginning  
21 July 1, 2011, the sum of \$2,324 cash funds, or so much thereof as may be  
22 necessary, related to the implementation of this act. Of said sum, \$2,302  
23 is from the penalty assessments collected and retained for administrative  
24 purposes pursuant to section 42-1-217 (2), Colorado Revised Statutes,  
25 and \$22 is from administrative processing fees associated with  
26 outstanding judgments and warrants collected pursuant to section  
27 42-2-118 (3) (c), Colorado Revised Statutes.

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

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