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SENATE BILL 12-044

BY SENATOR(S) Guzman, Aguilar, Boyd, Giron, King S., Newell, Schwartz, Steadman;
also REPRESENTATIVE(S) Pabon, Bradford, Court, Duran, Fields, Fischer, Hullinghorst, Jones, Kagan, Labuda, Looper, Miklosi, Pace, Schafer S., Todd, Tyler, Vigil, Waller, Williams A., Wilson, Young.

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

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

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

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

(2) A PERSON SHALL NOT OCCUPY, RIDE IN, OR USE A PUBLIC

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

TRANSPORTATION VEHICLE WITHOUT POSSESSION OF PROOF OF PRIOR FARE PAYMENT. A PERSON SHALL PRESENT PROOF OF PRIOR FARE PAYMENT UPON DEMAND OF A FARE INSPECTOR APPOINTED OR EMPLOYED PURSUANT TO SUBSECTION (4) OF THIS SECTION, A PEACE OFFICER, OR ANY OTHER EMPLOYEE OR AGENT OF A PUBLIC TRANSPORTATION ENTITY.

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

(4) (a) PUBLIC TRANSPORTATION ENTITIES MAY APPOINT OR EMPLOY, WITH THE POWER OF REMOVAL, FARE INSPECTORS AS NECESSARY TO ENFORCE THE PROVISIONS OF THIS SECTION. THE EMPLOYING PUBLIC TRANSPORTATION ENTITY SHALL DETERMINE THE REQUIREMENTS FOR EMPLOYMENT AS A FARE INSPECTOR.

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

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

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

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

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

(III) A PREPAID TICKET OR SERIES OF TICKETS SHOWING CANCELLATION BY A PUBLIC TRANSPORTATION ENTITY USED WITHIN THE DAY AND TIME SPECIFIED IN THE TICKET.

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

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

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

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

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

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

| Section Violated | Penalty | Surcharge |
|----------------------------|-----------|-----------|
| (N) Other offenses: | | |
| 42-4-1301 (2) (a.5) | \$ 100.00 | \$ 16.00 |
| 42-4-1305 | 50.00 | 16.00 |
| 42-4-1402 | 150.00 | 16.00 |
| 42-4-1403 | 30.00 | 6.00 |
| 42-4-1404 | 15.00 | 6.00 |
| 42-4-1406 | 35.00 | 10.00 |
| 42-4-1407 (3) (a) | 35.00 | 10.00 |
| 42-4-1407 (3) (b) | 100.00 | 30.00 |
| 42-4-1407 (3) (c) | 500.00 | 200.00 |
| 42-4-314 | 35.00 | 10.00 |
| 42-4-1408 | 15.00 | 6.00 |
| 42-4-1414 (2) (a) | 500.00 | 156.00 |
| 42-4-1414 (2) (b) | 1,000.00 | 312.00 |
| 42-4-1414 (2) (c) | 5,000.00 | 1,560.00 |
| 42-4-1416 (3) | 75.00 | 4.00 |
| 42-20-109 (2) | 250.00 | 66.00 |

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

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

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

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

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

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

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

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

(2) A PERSON DESCRIBED IN SUBSECTION (1) OF THIS SECTION THAT WANTS HIS OR HER CONVICTION SEALED PRIOR TO JANUARY 1, 2013, MAY MOTION THE COURT IN THE CASE IN WHICH THE CONVICTION WAS ENTERED FOR AN ORDER SEALING THE RECORD OF THE CONVICTION. THE PERSON SHALL PROVIDE ALL INFORMATION AS REQUIRED BY THE COURT IN THE MOTION. UPON RECEIPT OF THE MOTION, THE COURT SHALL VERIFY THAT THE PERSON HAS COMPLETED HIS OR HER SENTENCE, INCLUDING PAYMENT OF THE

FINE AND SURCHARGE, AND, IF THE SENTENCE HAS BEEN COMPLETED, THE COURT SHALL ENTER AN ORDER SEALING THE CONVICTION.

(3) A PERSON CONVICTED OF THEFT OF PUBLIC TRANSPORTATION SERVICES BY FARE EVASION AS DESCRIBED IN SECTION 18-4-802, C.R.S., AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, WHO DID NOT COMPLETE THE SENTENCE FOR THE CONVICTION PRIOR TO THE EFFECTIVE DATE OF THIS SECTION MAY MOTION THE COURT IN THE CASE IN WHICH THE CONVICTION WAS ENTERED FOR AN ORDER SEALING THE RECORD OF THE CONVICTION AFTER HE OR SHE COMPLETES THE SENTENCE, INCLUDING PAYMENT OF THE FINE AND SURCHARGE, FOR THE CONVICTION. THE PERSON SHALL PROVIDE ALL INFORMATION AS REQUIRED BY THE COURT IN THE MOTION. UPON RECEIPT OF THE MOTION, THE COURT SHALL VERIFY THAT THE PERSON HAS COMPLETED HIS OR HER SENTENCE, AND, IF THE SENTENCE HAS BEEN COMPLETED, THE COURT SHALL ENTER AN ORDER SEALING THE CONVICTION.

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

ATTENTION OF THE BAR COMMITTEE THROUGH OTHER MEANS.

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

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

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

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

SECTION 8. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the department of revenue,

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

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

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO