

**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

A BILL FOR AN ACT

101 **CONCERNING FAILURE TO PRESENT VALID EVIDENCE OF MASS TRANSIT**
102 **FARE PAYMENT.**

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.

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
27 TO ENFORCE THE PROVISIONS OF THIS SECTION. THE EMPLOYING PUBLIC

1 TRANSPORTATION ENTITY SHALL DETERMINE THE REQUIREMENTS FOR
2 EMPLOYMENT AS A FARE INSPECTOR.

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

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

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

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

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

27 (III) A PREPAID TICKET OR SERIES OF TICKETS SHOWING

1 CANCELLATION BY A PUBLIC TRANSPORTATION ENTITY USED WITHIN THE
2 DAY AND TIME SPECIFIED IN THE TICKET.

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

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

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

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

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

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

9	Section Violated	Penalty	Surcharge
10	(N) Other offenses:		
11	42-4-1301 (2)(a.5)	\$ 100.00	\$ 16.00
12	42-4-1305	50.00	16.00
13	42-4-1402	150.00	16.00
14	42-4-1403	30.00	6.00
15	42-4-1404	15.00	6.00
16	42-4-1406	35.00	10.00
17	42-4-1407 (3)(a)	35.00	10.00
18	42-4-1407 (3)(b)	100.00	30.00
19	42-4-1407 (3)(c)	500.00	200.00
20	42-4-314	35.00	10.00
21	42-4-1408	15.00	6.00
22	42-4-1414 (2)(a)	500.00	156.00
23	42-4-1414 (2)(b)	1,000.00	312.00
24	42-4-1414 (2)(c)	5,000.00	1,560.00
25	42-4-1416 (3)	75.00	4.00
26	42-20-109 (2)	250.00	66.00

27 **SECTION 3.** In Colorado Revised Statutes, 42-4-1709, **amend**

1 (7) (a) introductory portion; and **add** (7) (a) (VIII) as follows:

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

8 (VIII) AN OUTSTANDING JUDGMENT ENTERED AGAINST SUCH
9 PERSON BY A COUNTY OR MUNICIPAL COURT FOR A VIOLATION OF SECTION
10 42-4-1416.

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

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

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

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

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

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

1 PAYMENT OF THE FINE AND SURCHARGE, FOR THE CONVICTION. THE
2 PERSON SHALL PROVIDE ALL INFORMATION AS REQUIRED BY THE COURT IN
3 THE PETITION. UPON RECEIPT OF THE PETITION, THE COURT SHALL VERIFY
4 THAT THE PERSON HAS COMPLETED HIS OR HER SENTENCE AND IF THE
5 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 **SECTION 7. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.