

HB 4097:

What the bill does:

- Prohibits police officer from conducting or participating in activities intended to determine whether person has paid certain user charges, fees or tolls imposed by mass transit district.

What it does not do:

- “Nothing in this section prohibits a police officer from enforcing laws that are not related to payment of user charges, fees or tolls imposed by a mass transit district under ORS 267.320.”

Will fare enforcers still be able to do their jobs and issue citations if this bill passes?

- YES, fare enforcers, who are not police, will still be able to lawfully ask for proof of fare payment.

Will this bill prevent law enforcement from providing public safety in mass transit districts?

- Law enforcement will still be able to provide public safety and have a PRESENCE. Police can be present and would still enforce laws on transit vehicles and platforms. For example, an unruly passenger could be arrested for disorderly conduct. The intent is to focus public safety resources on public safety.
- To be clear, under this bill, law enforcement can be present on platforms for any reasons, even if fare enforcers are doing a sweep, for public safety reasons and not fare enforcement reasons.

Why HB 4097:

- To protect the constitutional rights of riders
 - Public safety and civil liberties can go hand and hand
- Prevent racial profiling
- Prevent the over-criminalization and policing on low-income communities
 - From TriMet's website: "Fare evasion only, is not a crime"
- Make sure public safety resources are used for public safety.

NEWS

AUG 29, 2018

Are TriMet's Fare Enforcement Tactics Constitutional?

Transit and Civil Rights Advocates Don't Think So.
by [Alex Zielinski](#)



Commuting

Latina school board member's arrest on TriMet was unconstitutional, judge says

Updated Jan 29, 2019; Posted Sep 21, 2018



A TriMet MAX train in a file photo (Oregonian File Photo)

Why this bill and how did we get here:



Judge: TriMet arrest of school board member unconstitutional

The judge's opinion appears to throw TriMet's fare-enforcement strategy, particularly stings where all passengers are indiscriminately stopped and asked for proof of fare, into doubt.

Author: Associated Press

Published: 12:35 PM PDT September 22, 2018

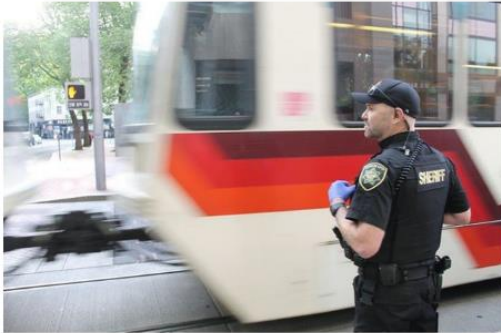
Updated: 12:35 PM PDT September 22, 2018

What happened after the ruling?

Commuting/Traffic

Police officers still going out on TriMet fare enforcement missions, commander says

Updated Jan 29, 2019; Posted Sep 28, 2018



"Until we are absolutely told that we cannot engage in fare inspections one way or another," he said, "we're going to keep doing them."

A Transit Police officer in downtown Portland in 2018. (Everton Bailey Jr./Staff)

What was TriMet's response to the ruling?

- TriMet disagreed with the Judge's ruling and said the ruling just created “confusion.”
- Therefore they just clarified, through [Ordinance 351](#), that they have the authority to do what they did to my constituent.



Memo

Date: November 14, 2018

To: Board of Directors

From: Doug Kelsey

Subject: **ORDINANCE 351 OF THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET) AMENDING TRIMET CODE CHAPTER 29 AND UPDATING PROCEDURES FOR REQUESTS FOR PROOF OF PAYMENT (SECOND READING)**

1. Purpose of Item

Ordinance 351 requests that the TriMet Board of Directors (Board) adopt changes and update procedures for fare inspections contained in TriMet Code Chapter 29.

TriMet clarifies fare enforcement authority

Jim Redden Wednesday, November 14, 2018

Board of Directors passes ordinance that failed to receive unanimous support at previous meeting.



PAMPLIN MEDIA GROUP FILE PHOTO - TriMet passengers purchase tickets before boarding a MAX train.

The ordinance changes just reinforced what they were already doing before and didn't address the root concern of the community.



TriMet clarifies fare enforcement rules as some board members call for more education

Updated Nov 14, 2018; Posted Nov 14, 2018



Legal counsel said the action was more about giving TriMet's front-line fare enforcement staffers solid footing to approach passengers and ask for valid fare. They said the ruling from Judge John Wittmayer that the random March fare stop was unconstitutional had caused "confusion" on the system. TriMet leaders say the legal steps merely clarify that TriMet has the authority to stop riders and that the violation for not paying a fare amounts to a citation and not a criminal act. Civil rights

ACLU's response to TriMet's ordinance change is exactly why we need this legislation:



TriMet clarifies fare enforcement rules as some board members call for more education

Updated Nov 14, 2018, Posted Nov 14, 2018

But the ACLU of Oregon said while TriMet was taking steps to making fare enforcement “more equitable” it believes the “unconstitutional practices highlighted by Judge Wittmayer” are still unaddressed. The ACLU said as long as [police continue to participate in fare sweeps](#), it will continue to impact the poor, people with mental health issues and communities of color.

During last year's hearing:

“Erik Van Hagen, TriMet’s legal services director, told the House Judiciary Committee on Monday that transit police rarely, if ever, write citations themselves. TriMet does not consider fare evasion to be a criminal offense, Van Hagen said, and there are multiple ways for offenders to resolve citations without going to court.” **by: Mark Miller/Oregon Capital Bureau**
Posted: Mar 30, 2019 / 11:20 AM PDT / Updated: Mar 30, 2019 / 11:20 AM

So then why does TriMet want police to continue to participate in fare sweeps?

TriMet is using fare enforcement to troll low-income communities, communities with mental health issues, houseless/homeless communities and black and communities of color for warrants.

How do we know this?

From: Deas, Aaron <DeasA@trimet.org>
Sent: Wednesday, April 3, 2019 9:30 AM
To: Rep.ChrisGorsek@state.or.us
Subject: HB 3337 in today's H Judiciary
Importance: High

Hello Representative Gorsek and Jason,

I am not exactly sure where we are on HB 3337, so I thought I would give you some information that I have been sharing with Chair Williamson and Representative Bynum.

Below is what I sent to the Majority Leader:

I've been discussing with my team the Majority Leader's idea of continuing to allow TriMet's Transit Police Department (TPD) to fare inspect, but disallowing them from running warrant checks if the sole reason for the check is to write a citation for fare evasion. While allowing our TPD to continue fare checking is important (we only have 3 full time fare inspectors and 70 Supervisors (who occasionally perform fare inspection but whose primary functions are not related to fare inspection), and supported by 42 TPD officers), we cannot support this concept for a few key reasons:

- The May 2017 incident at the Hollywood Transit Center where two people were murdered and a third was stabbed has left our community asking TriMet to provide more security, and be more proactive in stopping bad people from being on our system in the first place.
- We asked TPD to compile a list of warrants over the past year. There are over 900, including sex offenders, homicide suspects, and felony assault suspects who have had outstanding warrants and the fare evasion was the likely precipitating event (these are records from transit police officers, but it is possible that some of these arrests originated from something other than fare evasion). But we know of specific cases where a fare evasion check led to arrests of a man wanted in Ohio for 5 counts of rape, one wanted in California for sex offenses, and one wanted in Virginia for multiple offenses including Grand Larceny. There are many, many others.
- TriMet does not want to be responsible for a scenario where a wanted criminal who was recently fare inspected by a Transit Police officer and was cited and let go because our police officer was disallowed from running a warrant check, only to have that person return a few days later and commit a terrible violent crime. Being able to catch and remove wanted criminals off our system makes EVERYONE safer.

I understand that there is some concern about allowing TPD officers to "troll" for warrants, but it is important to understand that in order for a police officer to run a warrant check, the rider must have first violated TriMet code. If the rider has a fare, the warrant check is never run. This is similar to a traffic mission to identify speeding violations for car drivers, where an officer checks a driver's speed on a road or highway. If the person is speeding, the officer pulls them over and runs a warrant check. If there are no warrants then the driver is given a citation for speeding. If the driver is not speeding, they are not pulled over, and a warrant check is never run.

If there is a concern that TriMet's TPD officers are abusing their authority or behaving inappropriately to our riders, we would be happy to address this concern either by providing to you a breakdown of the number of warrants, types, and circumstances or bring this concern to our Transit Equity Advisory Committee (TEAC), where they can review our TPD fare inspection practices. TEAC represents a diverse cross-section of community leaders including Central City Concern, IRCO, Urban League, OPAL and Hacienda.

Representative Bynum's staff had concerns that most fare evaders were likely low income and that warrant checking fare evaders would disproportionately affect this population. While we don't ask income questions, we did a survey in 2018

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- Aaron C Deas

TriMet's Office of Government Affairs

This issue is about civil rights and civil liberties. There is a reason why Judge Wittmayer found my constituent's case unconstitutional.

- Deploying law enforcement to conduct fare inspection stops without individualized reasonable suspicion raises serious constitutional concerns and diverts law enforcement resources away from legitimate public safety needs.
- Help bring justice to my constituent and countless others who have had similar fates. Protect our communities from racial profiling. I urge your support on HB 4097