



Proposed New Regulation under the Restricting Public Consumption of
Illegal Substances Act, 2025 (RPCISA) to Extend Authorities to Transit
Special Constables

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Canadian Civil Liberties Association (CCLA)

The CCLA is an independent, non-partisan, non-governmental national organization founded in 1964 with a mandate to defend and promote civil liberties, human rights, and democratic freedoms for all people across Canada. Our four main areas of expertise are fundamental freedoms, criminal and penal justice, privacy, and equality rights. We are grateful for this opportunity to submit our comments on a proposed new regulation to expand the powers of officers under the *Restricting Public Consumption of Illegal Substances Act, 2025* (RPCISA), to transit officers.

Overview of Proposed New Regulation

The *Restricting Public Consumption of Illegal Substances Act, 2025* (RPCISA) prohibits the use of illegal substances in public places and authorizes officers to direct individuals to stop using substances or to leave a public space, with the power to charge or arrest for non-compliance.

Under the proposed expansion, to prescribe transit special constables as “officers” under the RPCISA, transit special constables would be empowered to, among other powers, direct individuals to cease consuming illegal substances or leave all or part of a public space, require individuals to identify themselves for the purpose of initiating proceedings under the *Provincial Offences Act*, arrest and charge individuals who fail to promptly comply with directions or identification requirements, and seize, remove, destroy, and submit for analysis illegal substances found in plain view and proximate to a person reasonably believed to have committed an offence under the Act.

Analysis

CCLA strongly [opposed](#) the passage of Bill 6, the *Safer Municipalities Act*, which enacted the RPCISA and amended the *Trespass to Property Act* and now opposes expanding the coercive powers enabled by the RPCISA to transit special constables. The RPCISA already undermines several core civil liberties and extending police-equivalent powers to transit special constables raises additional and significant concerns.

While maintaining safety in public spaces is a pressing government objective, expanding these police-equivalent enforcement powers to transit special constables risks further infringement of *Charter* rights, particularly for unhoused individuals, people who use substances, racialized communities, and individuals with mental health disabilities.

The proposed regulatory expansion engages multiple sections of the *Charter* including life, liberty and security of the person (s 7), unreasonable search and seizure (s 8), arbitrary detention (s 9) and equality rights (s 15). These infringements risk exacerbating existing patterns of discriminatory and disproportionate enforcement targeting vulnerable and marginalized populations in public and transit spaces.

Deprivation of liberty and security of the person:

Granting transit special constables the same powers as police under *RPCISA* would significantly expand the class of state agents who can deprive individuals of liberty. These powers include compelling individuals to stop an activity or leave a space, directing individuals to identify themselves, and arresting individuals for non-compliance.

Extending these powers to transit special constables risks expanding the circumstances in which individuals may be detained or arrested for non-criminal conduct, often arising from health or socio-economic conditions. For unhoused individuals and people with substance use disorders, removal from transit property may substantially interfere with access to shelter, transportation, medical care, or harm-reduction services, resulting in escalating health crises into coercive law enforcement encounters. The proposed expansion of powers also risks seriously undermining security of the person for an already vulnerable community by displacing individuals into less safe environments.

Increased Surveillance and Unreasonable Search and Seizure

RPCISA permits officers to seize illegal substances in plain view, destroy seized substances and submit substances for analysis, among other powers. When exercised by transit special constables, these powers raise concerns about seizure and destruction of property without judicial authorization. Of particular concern is that seizure and destruction may occur without an arrest or charge for the underlying offence.

The *RPCISA* also allows officers to demand identification solely to commence proceedings after non-compliance with a direction. When exercised by transit special constables, this authority raises additional questions about data retention, information sharing, and misuse or over-collection of personal information.

Heightened Risk of Arbitrary Detentions

The *RPCISA* relies on an officer's "reasonable grounds" belief that an individual is consuming illegal substances in a public place. In transit environments, where surveillance is high, this broad discretionary power risks being applied in a subjective and inconsistent manner. Evidence from police enforcement in transit contexts highlights that unhoused individuals are more frequently stopped, questioned, and directed to "move on" and that individuals with mental health disabilities are more likely to experience escalation.¹

In addition, this power to detain or arrest for failure to comply with a direction significantly increases the risk of arbitrary detention contrary to section 9 of the *Charter*.

Impact on Vulnerable Communities

¹ Kouyoumdjian, Fiona G et al. "Interactions between Police and Persons Who Experience Homelessness and Mental Illness in Toronto, Canada: Findings from a Prospective Study." *Canadian journal of psychiatry. Revue canadienne de psychiatrie* vol. 64,10 (2019): 718-725. doi:10.1177/0706743719861386

The *RPCISA* will have disproportionate impacts on many vulnerable and marginalized communities including unhoused individuals (many of whom use public transit as shelter or mode of transportation), Indigenous, Black, and other racialized communities, 2SLGBTQIA+ communities, and people with disabilities, including substance users and individuals with mental health disorders.

Public transit spaces are already well-documented sites where racial profiling and social-status-based enforcement are prevalent.² Expanding enforcement authority risks reinforcing systemic discrimination and criminalization of poverty. In addition, training and experience working with vulnerable populations may vary by transit authority.

Enforcement of *RPCISA*, particularly by transit special constables, risks escalating health crises into criminal encounters and discouraging people from using public transit or seeking help.

Conclusion and Recommendations

Prescribing transit special constables as officers under the *RPCISA* would constitute a significant and unjustified expansion of coercive enforcement powers in essential public spaces. The Act already authorizes intrusive measures that engage core Charter rights. Extending these powers to transit special constables would increase the risk of arbitrary detention, discriminatory enforcement, and the criminalization of non-violent conduct linked to poverty, substance use, and disability, without sufficient justification or safeguards.

Public transit is a vital public service. Expanding arrest and enforcement authority in transit environments risks undermining access to transportation, displacing vulnerable individuals into less safe spaces, and escalating health and social issues into law-enforcement encounters.

The CCLA therefore recommends that:

1. Transit special constables not be prescribed as officers under the *RPCISA*.
2. Public substance use in transit environments be addressed through rights-respecting, evidence-based and trauma-informed healthcare focused responses. Such responses, include expanded harm-reduction services, rapid crisis-response teams, and outreach workers with appropriate training and expertise.
3. Repealing of the *RPCISA*
4. In the absence of repealing of the *RPCISA*, clear limits be placed on the use of arrest, detention, and compulsory identification powers under the *RPCISA*, with an emphasis on de-escalation and voluntary compliance.
5. In the absence of repealing of the *RPCISA*, that any enforcement of the *Act*, include explicit anti-profiling safeguards, mandatory data collection and public reporting, and clear restrictions on the retention and sharing of personal information.

² Johnson, L. T., & Patterson, E. J. (2021). The policing of subway fare evasion in postindustrial Los Angeles. *Punishment & Society*, 24(3), 457-476. <https://doi.org/10.1177/1462474521992115>

Expanding enforcement powers under the *RPCISA* to transit special constables risks deepening the criminalization of vulnerable and marginalized populations while failing to address the underlying conditions that give rise to public substance use. A rights-respecting approach to public intoxication and substance use must be adopted that prioritizes health, dignity, and access to essential public services over criminalization resulting from the further expansion of coercive policing powers.