



**Massachusetts Bay  
Transportation Authority**

# Fare Evasion Regulation

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**Board of Directors Subcommittee on Audit & Finance**

November 3, 2022



# Background



# Current State: Why Do We Need a Regulation?

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- Prior to January 2021, fine levels were set by statute:
  - **\$100 for a first offense, \$200 for a second offense, and \$600 dollars thereafter**
  - There were no warnings and fines remained outstanding indefinitely
  - One unpaid citation was grounds to mark an individual's license for non-renewal with RMV
- At the MBTA's request, the law was amended in 2020 (effective Jan. '21) to:
  - **Require the MBTA to enact regulations** setting fine levels, addressing penalties for failure to pay fines, providing for alternative methods of resolution, and establishing an appeal process
  - **Reduce the range of possible fines to \$10-\$250**
  - **Remove the possibility of arrest for fare evasion**
- MBTA is currently **not issuing any citations for fare evasion** in the absence of regulatory authority or set fine levels
- Staff conducted public engagement & presented regulation to the FMCB for a vote in Spring 2021, however the FMCB did not vote on the regulation during its term
- Staff conducted additional public engagement in June 2022 and has affirmed the fine level analysis in preparation for seeking a Board vote this month to adopt the final regulation



# Current Need to Support Fare Compliance

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- **Fulfill legal obligations to enact regulations and to maximize fare revenue collection** *MGL c. 159, § 101(d); c. 161A, §5(q)*
- **MBTA is taking steps in multiple areas to support fare payment compliance**
  - New Commuter Rail fare gates at North Station went live on October 1 and have led to an observable increase in mTicket activations
  - This improvement is part of the Commuter Rail's fare gate program that will ultimately add gates at South Station and Back Bay Station
- **But without establishing penalties for non-payment, we cannot enforce fare policies**
  - Keolis has no remedy for CR riders who refuse to comply with fare gates
  - Recent operational changes due to GLX also highlight the need for these tools
- **Fare enforcement will prevent erosion of fare payment norms over time**
  - Peer agencies across the country are seeing increasing fare evasion. Some estimates include:
    - **DC:** 14% 2019, 29% 2022; **NY:** 18% 2019, 34% 2022
  - We have engaged researchers at UMASS to study existing non-payment and to develop methodologies for ongoing analysis.



# Future of Fare Compliance

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- All door boarding is a key goal of our future fare collection system due to significant benefits to riders & the MBTA
  - Decreased dwell times will yield **faster, more reliable trips** for riders & **reduce operating expenses** for the Authority
  - Opening rear doors on bus & green line introduces risk of increased fare non-payment
- All door boarding will require a new strategy to ensure continued fare compliance
  - MBTA is currently developing the technology, policy & operational components to shift to a **proof of payment system**
    - Non-police fare engagement team
    - Prioritize fairness, safety & rider assistance
    - Designing anti-bias policies & procedures into all components of the system including routing, verification procedures, technology, appeals processes, data & reporting
- These Regulations are designed to facilitate and enhance this approach to fare compliance







# Proposed Regulation

# Regulatory Process & Timeline

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- ✓ MBTA has filed draft regulation with the Secretary of State's office
  - ✓ MBTA held a public hearing and accepted public comment in April 2021
  - ✓ MBTA again accepted public comment and held a second hearing in June 2022
  - ✓ MBTA has incorporated public feedback into final draft of proposed regulation
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- MBTA will present proposed final regulation to the board for consideration and approval later this month
  - Once approved by the board, the final regulation is filed with the Secretary of State and will take effect after publication in the *Massachusetts Register*
  - With Board approval, the MBTA staff can update these regulations at any time



# Citation Fine Levels

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- We are proposing to cut fare evasion citation levels by more than half previous levels
  - ***Formal written warning prior to a citation\****
  - First, second, and third citation would be \$50
  - Fourth and subsequent citation would be \$100
  - ***3 year reset period (rolling from date of warning/citation)\****
- Fraudulent misuse of a reduced fare credential is a separate citation
  - ***Formal written warning prior to a citation\****
  - First, second, and third citation would be ***\$75\****
  - Fourth and subsequent citation would be ***\$150\****
  - ***3 year reset period (rolling from date of warning/citation)\****

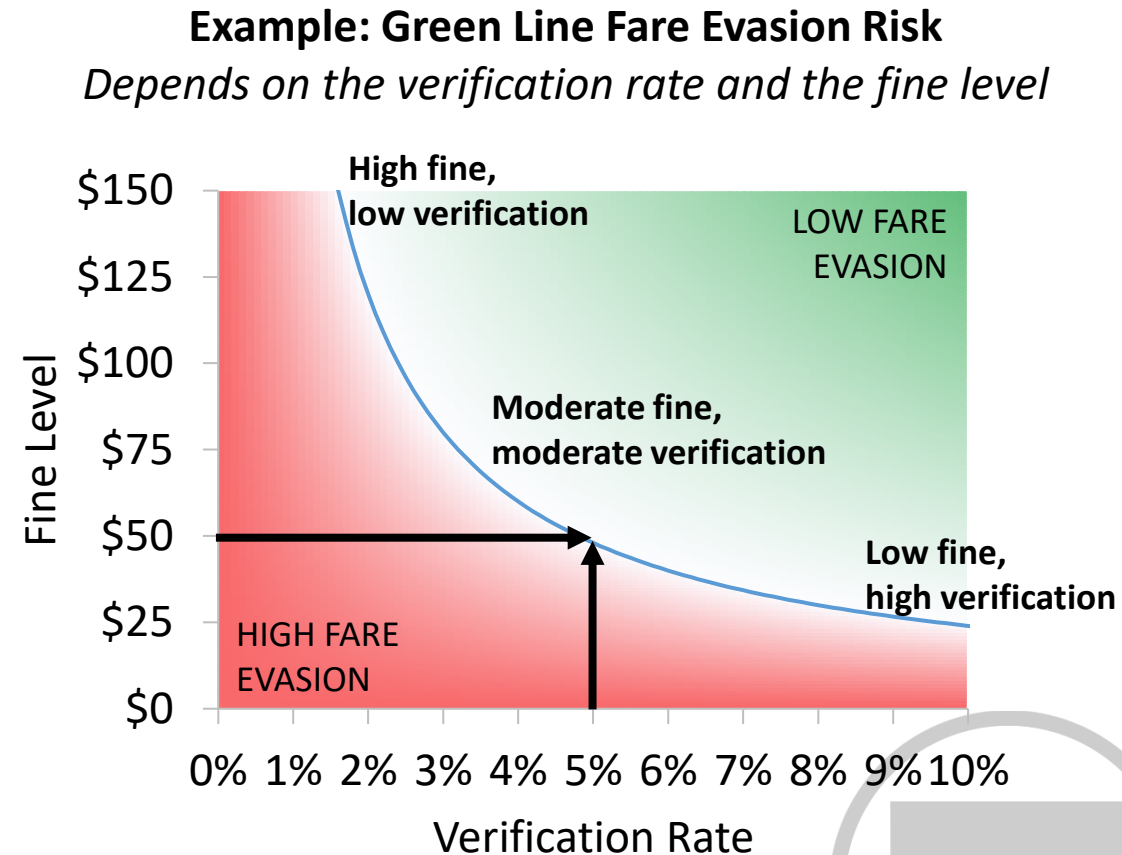
***\*Updated from regulations submitted to FMCB in 2021***





# Considerations in Setting Fine Levels

- Two variables can be adjusted to limit expected fare evasion:
  - **Fine Level:** Higher fines lower expected fare evasion, but also risk being **overly punitive**
  - **Verification Rate:** More frequent verification lowers expected fare evasion, but is also **costly**
- Expected fare evasion can be adjusted by changing the **balance** of these variables
  - High Fine + Low Verification
  - Moderate Fine + Moderate Verification
  - Low Fine + High Verification



# Considerations in Setting Fine Levels

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- Purpose of fare inspection and verification is to **support fare compliance**. The goal is to **preserve farebox revenue**, not to generate revenue from citations.
- MBTA wants to encourage fare compliance in a cost-effective manner without being overly punitive:
  - **High fine level with low cost of verification staff**: Most cost-effective way to limit fare evasion but this risks being overly punitive
  - **Low fine level with high cost of verification staff**: Requires a large verification team, which could cost more than the money saved in preserved fare revenue
  - **Proposal to strike a balance**: Fines between \$50-\$150 and a verification team with around 32 field staff
- Ultimately, these fines are among the lowest of our peer transit agencies whose fines range from \$50-\$300



# Appeals and Hearings

- Person has **60 days** to:
  - **Pay the fine** as indicated, or
  - **Appeal the fine**
    - Riders may submit a **written appeal** or request a **hearing**
    - Requests may be made by mail or electronic means
    - MBTA has 60 days to respond to appeals, with explanations for denials
    - If a written appeal is denied, rider may then request a hearing
    - Hearings are informal & may be in-person or virtual
    - Decision of the Hearing Officer is final, but subject to judicial review
- MBTA Potential Dispositions:
  - MBTA may **fully grant, deny, or partially grant** an appeal
  - MBTA will create adjudication procedures; options for partially granted appeals will include **lowering the fine** level and/or providing **additional time to pay**
  - Appeal and waiver of fine may be requested on grounds of financial hardship





# Annual Citation Report

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- MBTA must issue an annual report concerning warnings and citations issues in the prior 12 months per statute
- MBTA will work with the Office of Performance Management and Innovation (OPMI) to develop content of the report



# Public Comment & MBTA Response

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## ***Support for MBTA's removal of provision marking a driver's licenses for non-renewal***

Riders emphasized the importance of the MBTA's decision to remove this provision from regulation.

## ***A \$50 fare evasion fine is better than the previous \$100 fine but is still too high***

We maintain that a \$50 fine is the best balance between reducing fine levels and maintaining an effective incentive for fare compliance. However, we have added a formal warning prior to any citation/fine, as well as a 3-year reset period for warnings and citations.

## ***The MBTA should pursue low-income or free fares***

The MBTA is exploring ways to enhance fare affordability, including options to implement a means-tested fare, should funding become available.

## ***The MBTA should allow additional time for riders to resolve citations & alternative methods for resolution***

The MBTA has increased the time to pay or appeal a citation from 30 days to 60.

## ***The MBTA should aggressively control fare evasion***

We believe our planned strategy will appropriately manage fare evasion without creating an unwelcoming environment or overly punitive set of policies.



# Summary of Changes

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Based on public feedback received in April 2021 and June 2022, the MBTA revised the regulation:

- Added a written warning prior to the issuance of any fine
- Added 3 year, rolling, lookback period to determine warning/fine level
- Increased time to pay or appeal from 30 days to 60
- Removed possibility of referral to RMV for unresolved citations





# Proposed Subcommittee Recommendation

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## VOTED:

To recommend that the Board of Directors approve the fare evasion regulations as presented to the Audit and Finance Subcommittee in the document “703 CMR 5.00 MBTA Fare Evasion Regulations,” attached hereto as Appendix A, and further, that the General Manager, or his designee may take any action, and execute any necessary or ancillary documents to finalize the promulgation of these regulations.



# Appendix



# Fare Evasion Citation Amounts at Peer Agencies

<b>Agency</b>	<b>Citation Amounts</b>
King County Metro	\$50
BART	\$75-\$250
LA Metro	\$75
MTA	\$100
SFMTA	\$100
TriMet	\$75 - \$175
CTA	\$300





# Statutory Obligations

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**Mass. Gen. Laws ch. 159, § 101(d):** For the implementation of this section, the Massachusetts Bay Transportation Authority shall issue regulations regarding: (i) the nature and issuance of noncriminal warnings and citations; (ii) the collection of fines; (iii) fine amounts; (iv) penalties for failure to pay fines; (v) options for alternatives to resolve fines other than immediate payment in full; and (vi) the administration of appeal processes and hearings.

**Mass. Gen. Laws ch. 161A, §5(q):** [The Authority shall be obligated] [t]o promote, in consultation with the advisory board, maximization of fare revenue and nontransportation revenue, described herein, through reasonable and equitable fares, ridership growth, and transit-oriented development of land and air rights controlled by the authority.

