

703 CMR 5.00: FARE EVASION

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5.01: Purpose, Scope and Effect

(1) Purpose. The MBTA establishes 703 CMR 5.00 to promote revenue collection and address issues related to the fraudulent or illegal evasion of fare payments on vehicles or ferries owned by or operated for the MBTA. 703 CMR 5.00 establishes a process by which violators may be issued a warning or noncriminal citation and assessed a fine proportionate to the nature of the offense.

(2) Scope. 703 CMR 5.00 establishes procedures, requirements, and penalties relating to the issuance of warnings and noncriminal citations for the unlawful evasion of fares on the MBTA. 703 CMR 5.00 regulates the collection of fines, fine amounts, penalties for failure to pay fines, options for alternatives to resolve fines, and appeals of noncriminal citations issued pursuant to M.G.L. c. 159, § 101 and 703 CMR 5.00.

(3) Effect. The headings of 703 CMR 5.00 are provided for ease of reference only and should not be used to construe its provisions. A judicial determination that a provision of 703 CMR 5.00 is unenforceable does not affect another provision of 703 CMR 5.00, unless the provisions are integrally related and cannot be severed.

5.02: Definitions

The following terms and their grammatical counterparts are used in 703 CMR 5.00 as follows: Authority or MBTA refers to the Massachusetts Bay Transportation Authority created by M.G.L. c. 161A.

Fare Evasion means failure or refusal to pay or prepay the required fare, or improper use of any reduced fare card, on any vehicle or ferry owned by or operated for the MBTA.

Fare Inspector means any person designated by the MBTA to verify that a passenger has paid the required fare and to issue a warning or noncriminal citation for failure to pay the required fare.

Fine means the amount assessed to a person for fare evasion.

Hearings Officer means the person or persons designated by the MBTA to hear appeals of noncriminal citations pursuant to 703 CMR 5.05(3).

Noncriminal Citation means a citation issued to a person who evades payment of a fare on any vehicle or ferry owned by or operated for the MBTA.

Warning means a written warning issued for a first offense of fare evasion within a three-year period.

5.03: Warnings and Noncriminal Citations

If a Fare Inspector or Transit Police Officer determines that someone has evaded payment of the required fare or fraudulently misused a reduced fare card, or if, upon request, any person fails or refuses to provide proof of having paid or prepaid the required fare for any vehicle or ferry owned by or operated for the MBTA, the Inspector or Officer may issue such person a written Warning or Noncriminal Citation.

5.03: continued

(1) Warning. Any person who fails or refuses to provide proof of having paid or prepaid the required fare as set forth in 703 CMR 5.03 shall be issued a written Warning for the first offense within a three-year period.

(2) Noncriminal Citation. A Noncriminal Citation includes, but is not limited to: the amount of the fine due pursuant to 703 CMR 5.04(1); a statement that the person receiving the citation must pay or appeal the fine by the payment due date stated on the citation; a description of the means for payment or appeal; and a statement that a hearing may be obtained upon written request of the violator in accordance with the instructions and in the time frame stated on the citation. The citation notice may state such other information as the MBTA may deem appropriate.

5.04: Fines, Lookback Period, Alternative Methods of Resolution

(1) Fines, Lookback Period.

(a) A person shall be issued a written Warning for a first offense of Fare Evasion within a three-year period. A person receiving a written Warning under 703 CMR 5.04 shall not be assessed a fine.

(b) Fines associated with the issuance of a Noncriminal Citation are as follows:

1. First offense in a three-year period – Only a written Warning per 703 CMR 5.04(1)(a) – No fine
2. Second offense - \$50
3. Third offense - \$50
4. Fourth offense - \$50
5. Fifth or subsequent offense incurred within three years from the date of the first offense - \$100

(c) Fraud or Misuse of Reduced Fare Card. Any person who fraudulently misuses a reduced fare card shall forfeit the card to the Fare Inspector or Transit Police Officer issuing the warning or citation and shall be subject to the following:

1. First offense in a three-year period – Only a written Warning per 703 CMR 5.04(1)(a) – No fine
2. Second offense - \$75
3. Third offense - \$75
4. Fourth offense - \$75
5. Fifth or subsequent offense incurred within three years from the date of the first offense - \$150

(d) Three Year Lookback Period. In determining whether an instance of Fare Evasion is a person's first or subsequent offense, the MBTA shall count only those Fare Evasion offenses having occurred within the preceding three years.

(2) Alternative Method to Resolve Fine. The MBTA, in its sole discretion, may waive or reduce a fine, or may offer a violator an alternative way to resolve a fine other than immediate payment in full.

5.05: Hearings and Appeals

Within 60 calendar days of being issued a Noncriminal Citation, the person to whom the Noncriminal Citation is issued must make one of the following responses: pay the fine indicated as provided by 703 CMR 5.05(1); appeal by mail or electronic means as provided for on the citation pursuant to 703 CMR 5.04(2); or request a hearing as provided by 703 CMR 5.05(3).

(1) Payment of Fine. The recipient of a Noncriminal Citation shall pay the assessed fine as specified in the citation. Payment shall be received by the Authority by the due date listed on the Noncriminal Citation and in the manner described on the citation.

## 5.05: continued

(2) Appeal of Noncriminal Citation. A person to whom a Noncriminal Citation is issued may, without waiving the right to a hearing as provided by 703 CMR 5.05(3), and without waiving judicial review as provided by M.G.L. c. 30A, § 14, appeal in writing by mail or by electronic means a Noncriminal Citation and receive a review and disposition of the citation from the MBTA. The appeal must contain a signed statement from the recipient explaining the basis for the appeal. The signed statement may be accompanied by signed statements from witnesses, police officers, government officials or other relevant parties, or photographs, video, diagrams, maps or other relevant documents that the recipient determines to submit. Statements or materials sent to the MBTA for review must have attached to them the name and address of the recipient as well as the number of the Noncriminal Citation and the date of the citation. All information submitted by the recipient will become part of the citation record. Appeals submitted by mail or by electronic means must be received by the MBTA by the due date listed on the Noncriminal Citation to be considered. The MBTA shall, within 60 days of receipt of such material, review the material and dismiss or uphold the citation and notify the recipient of the disposition of the appeal, in writing by mail or email. If the appeal is denied, the MBTA shall provide a written explanation of the reason for the determination. The review and disposition handled by mail or electronic means is informal, the rules of evidence do not apply, and the decision of the MBTA is final, subject to the hearing provisions provided by 703 CMR 5.05(3) and to judicial review as provided by M.G.L. c. 30A, § 14.

(3) Request for Hearing. Consistent with the provisions of M.G.L. c. 30A, a person issued a Noncriminal Citation may make a written request for an appeal hearing before a Hearings Officer designated by the MBTA. Requests for a hearing shall be received by the MBTA by the due date listed on the Noncriminal Citation. The MBTA will notify the recipient in writing of the date, time, and place of the hearing. The hearing may be in person or virtual, *via* videoconference or similar method. The hearing is informal, the rules of evidence do not apply, and the decision of the Hearings Officer is final, subject to judicial review as provided by M.G.L. c. 30A, § 14. Parties will be notified by mail, email or in person, of the decision following the hearing. Each written appeal decision will contain a statement of reasons for the decision, including a determination of each issue of fact necessary to the decision. Appeal decisions shall inform the appellant that judicial review is available as provided by M.G.L. c. 30A, § 14. Failure to appear at the date, time, and place specified on the hearing notice automatically will result in the denial of the appeal.

5.06 Annual Report

The MBTA shall publish an annual report as directed in M.G.L. c. 159, § 101(f) that includes data relative to warnings and noncriminal citations issued in the 12 months preceding the report.

## REGULATORY AUTHORITY

703 CMR 5.00: M.G.L. c. 161A, § 3(e); M.G.L. c. 159, § 101 as amended by St. 2020, c. 383, § 7