

703 CMR 6.00: ISSUANCE AND ENFORCEMENT OF AUTOMATED BUS LANE AND BUS STOP VIOLATIONS

Sections

- 6.01: Purpose, Scope and Effect
- 6.02: Definitions
- 6.03: Unauthorized Use of Bus Lanes and Bus Stops
- 6.04: Camera Violation Enforcement
- 6.05: Payment or Appeal of Violation Notice
- 6.06: Leased or Rented Vehicles
- 6.07: Failure to Respond to a Violation Notice
- 6.08: Reporting
- 6.09: Privacy and Confidentiality

6.01: Purpose, Scope and Effect

(1) Purpose. The Massachusetts Bay Transportation Authority (MBTA) establishes 703 CMR 6.00 to implement St. 2024, c. 363, promote efficient and reliable use of bus service, and to address public safety and other related issues associated with the unauthorized use of Bus Lanes and Bus Stops of the MBTA, Regional Transit Authorities, and any city or town of the Commonwealth served by the MBTA or a Regional Transit Authority through the use of Bus Mounted Camera Systems or Bus Stop Camera Systems. All provisions and requirements of M.G.L. c. 90K are hereby incorporated by reference.

(2) Scope. 703 CMR 6.00 regulates the activity and establishes procedures, requirements, and penalties relating to issuing Camera Enforceable Violations and fines concerning unauthorized use of Bus Lanes and Bus Stops. The provisions of 703 CMR 6.00 apply to all Bus Lanes and Bus Stops, as defined in 703 CMR 6.02, whether the provision refers explicitly to a given Bus Lane or Bus Stop, unless the provision states otherwise. 703 CMR 6.00 supersedes all previous rules and regulations with respect to the issuance and enforcement of Camera Enforceable Violations.

(3) Effect. The headings of 703 CMR 6.00 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 6.00 is unenforceable does not affect another provision of 703 CMR 6.00 unless the provisions are integrally related and cannot be severed.

6.02: Definitions

The following terms and their grammatical counterparts are used in 703 CMR 6.00 as described as follows:

Authority or MBTA refers to the Massachusetts Bay Transportation Authority created by M.G.L. c. 161A.

Bus Lane refers to any lane of vehicular traffic designated and marked or designated and posted by an Enforcing Authority for exclusive use of MBTA or RTA buses or school buses.

Bus Lane Violation refers to parking, standing or causing a motor vehicle to stand in a lane designated for the exclusive use of buses, or school buses, unless otherwise regulated or posted by an official traffic signal, sign or marking or at the direction of an authorized police officer in violation of M.G.L. c. 89, § 4E.

Bus Mounted Camera System refers to a motor vehicle sensor device, which produces digital photographs or video recordings of a motor vehicle that commits a Camera Enforceable Violation, installed on a bus owned or operated by the Authority or by a Regional Transit Authority, and meets the standards established by the MBTA; provided, however, that the device may be automated or operated manually.

6.02: continued

Bus Stop refers to any place designated and marked or designated and posted by an Enforcing Authority as a bus stop or bus terminal area used for loading and unloading bus passengers.

Bus Stop Camera System refers to a motor vehicle sensor device, which produces digital photographs or video recordings of a motor vehicle that commits a Bus Stop Violation, installed in proximity to a Bus Stop by an Enforcing Authority and meets the standards established by the MBTA.

Bus Stop Violation refers to Parking in a Bus Stop.

Camera Enforceable Violation or Violation refers to:

- (a) a Bus Stop Violation; or
- (b) a Bus Lane Violation; provided, however, that for the purpose of the Enforcing Authority determining the due date of the payment or appeal of a Camera Enforceable Violation, for inclusion in the Violation Notice, the Violation shall be deemed to have occurred on the date that the Enforcing Authority issues the Violation Notice.

Enforcing Authority refers to the MBTA or a Regional Transit Authority or their designee with respect to Bus Lane Violations. Enforcing Authority refers to the MBTA, a Regional Transit Authority or the city or town served by the Authority or the Regional Transit Authority or their designee with respect to Bus Stop Violations.

Non-renewal Notice refers to a notice by an Enforcing Authority to the Registrar, in a form and manner determined by the Registrar, that a registered owner of a motor vehicle has accrued sufficient unresolved Camera Enforceable Violations to result in non-renewal of the motor vehicle registration in accordance with 703 CMR 6.07.

Park or Parking refers to the complete stop or standing of a vehicle, whether occupied or not, including a commercial vehicle loading or unloading, except in a posted loading or unloading zone.

Regional Transit Authority or RTA refers to a transit authority established pursuant to M.G.L. c. 161B that adopts M.G.L. c. 90K provided that RTAs that adopt M.G.L. c. 90K shall provide notice to the MBTA at least 60 days before issuing a Violation Notice pursuant to 703 CMR 6.00, in a manner and form determined by the MBTA.

Registrar refers to the Massachusetts registrar of motor vehicles established under M.G.L. c. 6C, § 56.

Stand or Standing refers to the complete or near complete stop of an occupied motor vehicle for any amount of time for any purpose, including braking for traffic, traffic signals, or pedestrians, or picking up or dropping off passengers.

Violation Clerks refers to the individual(s) or vendor(s) designated by an Enforcing Authority to issue Camera Enforceable Violations and review appeals, conduct hearings, and make decisions with respect to Camera Enforceable Violations issued on behalf of the Enforcing Authority.

Violation Notice refers to a written notice issued with respect to a Camera Enforceable Violation and certified by a Violation Clerk.

6.03: Unauthorized Use of Bus Lanes and Bus Stops

(1) Use of Bus Lanes. It shall be unlawful for a motor vehicle operator to Park or to cause a motor vehicle to Stand in a Bus Lane, except as provided in 703 CMR 6.00 or required by law. Liability for violation of 703 CMR 6.03(1) shall attach to the registered owner of the motor vehicle, except as provided in 703 CMR 6.00.

6.03: continued

- (2) Use of Bus Stops. It shall be unlawful to Park in a designated Bus Stop. Liability for violation of 703 CMR 6.03(2) shall attach to the registered owner of the motor vehicle, except as provided in 703 CMR 6.00.
- (3) Exceptions. Liability for violation of 703 CMR 6.03(1) or (2) shall not attach if:
- (a) The violation was necessary to allow the passage of an emergency vehicle;
 - (b) The violation occurred while participating in a funeral procession;
 - (c) The violation occurred during a period of time in which the motor vehicle was reported to the police department of any state, city or town as having been stolen and had not been recovered before the time the violation occurred;
 - (d) The operator of the motor vehicle was issued a citation for the violation in accordance with M.G.L. c. 90C, § 2;
 - (e) The Violation Notice was issued in relation to a violation for which the registered owner of the vehicle already received a Violation Notice from another Enforcing Authority, provided that such other notice is resolved pursuant to 703 CMR 6.05.
 - (f) The violation was necessary for the safety of passengers or pedestrians;
 - (g) The operator of the motor vehicle was complying with an officially-posted traffic signal, sign or marking;
 - (h) The operator of the motor vehicle was complying with the direction of an authorized police officer;
 - (i) The motor vehicle was an ambulance or other emergency medical vehicle while in performance of a public duty or while transporting a sick or injured person to a hospital or other destination where professional medical services are available;
 - (j) The motor vehicle was a firefighting vehicle or apparatus while going to a fire or responding to an alarm;
 - (k) The motor vehicle was being operated by a police officer or recognized protective or law enforcement officer while in performance of a public duty;
 - (l) The motor vehicle was a utility or service vehicle actively responding to a service call or emergency and there is no reasonable alternative place to park or stand the vehicle during the active response;
 - (m) The motor vehicle has been specially authorized by an Enforcing Authority to park or stand in a designated Bus Lane or Bus Stop, whether or not in a specified location and/or during a specified time period, and is in compliance therewith; or
 - (n) The violation was necessary to comply with any other law or regulation governing the operation of a motor vehicle.

6.04: Camera Enforceable Violations

- (1) Enforcement. An Enforcing Authority or its designee shall issue Camera Enforceable Violations in accordance with the provisions of 703 CMR 6.04.
- (2) Designation of Violation Clerks. An Enforcing Authority shall designate Violation Clerks to perform the functions specified in 703 CMR 6.04, including reviewing Camera Enforceable Violations, issuing notices, and hearing appeals. An Enforcing Authority may hire or designate such personnel and organize such divisions as the Enforcing Authority may deem necessary, or may contract for some or all of such services, in order to carry out the provisions of 703 CMR 6.00.
- (3) Functions of Violation Clerks. A Violation Clerk will review and verify data captured by a Bus Mounted Camera System or Bus Stop Camera System to identify a violating vehicle, identify whether any exceptions were applicable at the time of the Violation, and certify that a Violation occurred. A Violation Notice will then be mailed to the address of the registered owner of the vehicle. A Violation Clerk processes Violation Notices in accordance with 703 CMR 6.00, including reviewing appeals, conducting hearings, logging entries into a system of record and making decisions with respect to Camera Enforceable Violations.

6.04: continued

(4) Notice of Bus-mounted and Bus Stop Camera System.

- (a) Each Enforcing Authority shall post on any vehicle equipped with a Bus Mounted Camera System and in the location of any Bus Stop Camera System an unobstructed sign notifying the public that such camera system is in use.
- (b) Each Enforcing Authority shall make a public announcement and conduct a public awareness campaign of its use of Bus Mounted and Bus Stop Camera Systems beginning not less than 60 days before the Enforcing Authority issues a Violation Notice for any Camera Enforceable Violation pursuant to 703 CMR 6.00.

(5) Issuing Violation Notices.

- (a) An Enforcing Authority shall issue a Violation Notice to the registered owner of the motor vehicle upon determination of a Camera Enforceable Violation.
- (b) An Enforcing Authority shall issue a Violation Notice with a written warning in *lieu* of a fine for a first offense with that Enforcing Authority, with a lifetime lookback, provided that the Camera Enforceable Violation did not cause a danger to public health, security or safety, consistent with guidance from the MBTA.
- (c) An Enforcing Authority may otherwise issue a Violation Notice with a written warning in *lieu* of a fine to the registered owner of a motor vehicle; provided, however, that a written warning in *lieu* of a fine shall only be issued pursuant to objective and consistent criteria in a written policy established by the Enforcing Authority and a determination that a warning is appropriate under the circumstances for reasons of fairness, provided however that a Violation Notice with a warning in *lieu* of a fine is issued to all motor vehicles similarly situated.
- (d) In the case of a Violation involving a motor vehicle registered in the commonwealth, the Violation Notice shall be mailed within 14 business days of the Violation to the address of the registered owner of the motor vehicle as listed in the records of the registrar.
- (e) If a motor vehicle is registered under the laws of another state or country, the Violation Notice shall be mailed within 21 business days of the Violation to the address of the registered owner as listed in the records of the official in the state or country that has charge of the registration of the motor vehicle. If the address is unavailable, it shall be sufficient for the Enforcing Authority to mail a Violation Notice to the official in the state or country that has charge of the registration of the motor vehicle.
- (f) The Violation Notice shall be sent by first class mail. A certificate, or other written attestation, based upon inspection of photographs and data produced by a bus mounted or bus stop camera system and sworn to or affirmed by a Violation Clerk shall be *prima facie* evidence of the facts contained therein and shall be admitted as evidence in any judicial or administrative proceeding as to the facts contained therein.

(6) Content of Violation Notice.

- (a) Information Regarding the Specific Offense. A Violation Notice shall include, but not be limited to, the following information:
 1. A copy of the photographs produced by the camera system showing the vehicle in the process of a Camera Enforceable Violation;
 2. The registration number and state of issuance of the registration number of the vehicle involved;
 3. The date, time and location of the alleged Camera Enforceable Violation;
 4. The date the Violation Notice is issued and the due date of the payment or appeal of the Violation.
 5. The specific Camera Enforceable Violation charged;
 6. The fee specified in 703 CMR 6.04: *Table 1* or *Table 2*, as applicable, or a written warning in accordance with 703 CMR 6.04(4)(b);
 7. An identifier for the Violation Clerk certifying that the Violation occurred;
 8. Instructions for payment of the fine imposed;
 9. Instructions on how to appeal the Camera Enforceable Violation in writing and to obtain a hearing;
 10. An affidavit form approved by the MBTA for the purposes of making a written appeal pursuant to 703 CMR 6.05; and
 11. Such other information as the Enforcing Authority may deem appropriate.

6.04: continued

Table 1

Fines will be imposed for violation of 703 CMR 6.03 by passenger vehicles as follows:

Camera Enforceable Violations	Fine
First Bus Lane Violation after warning issued pursuant to 703 CMR 6.04(5)(b)	\$25
Second Bus Lane Violation in a 180-calendar day lookback period	\$50
Third Bus Lane Violation in a 180-calendar day lookback period	\$100
Fourth or subsequent Bus Lane Violation in a 180-calendar day lookback Period	\$125
Any Bus Stop Violation	\$100

Table 2

Fines will be imposed for violation of 703 CMR 6.03 by commercial motor vehicles as follows:

Camera Enforceable Violations	Fine
First Bus Lane Violation after warning issued pursuant to 703 CMR 6.04(5)(b)	\$50
Second Bus Lane Violation in a 12-month lookback period	\$75
Third Bus Lane Violation in a 12-month lookback period	\$100
Fourth or subsequent Bus Lane Violation in a 12-month lookback Period	\$125
Any Bus Stop Violation	\$100

(b) Notice of Requirement to Respond. A Violation Notice will state that the registered owner must pay the fine stated in the Violation Notice, if applicable, or appeal the Violation within 60 calendar days after the date of the issuance of the Violation Notice. The notice will describe the means and content of the response for payment or appeal. Payments or appeals shall be received by the Enforcing Authority by the due date listed on the Violation Notice.

- (7) A Camera Enforceable Violation issued pursuant to 703 CMR 6.00 shall not be:
- (a) made part of the driving record of the person upon whom such liability is imposed; or
 - (b) a conviction of a moving violation of the motor vehicle laws for the purpose of determining a surcharge on a motor vehicle premium pursuant to M.G.L. c.175, § 113B.

6.05: Payment or Appeal of Violation Notice

Within 60 calendar days after the date of the issuance of the Violation Notice, the registered owner to whom the Violation Notice is issued must make one of the following responses:

- (1) Payment of Fine. The registered owner shall pay the fine specified in the Violation Notice to the Enforcing Authority. Payment shall be received by the Authority by the due date listed on the Violation Notice and in the manner described on the notice. Payment of the established fine shall operate as the final disposition of a Camera Enforceable Violation; provided, however, that payment by a registered owner of a motor vehicle shall operate as the final disposition of the violation as to any other registered owner of the same motor vehicle for the same violation.

6.05: continued

(2) Appeal of Camera Enforceable Violation. Not more than 60 calendar days after the date of the issuance of the Violation Notice, a registered owner of a motor vehicle may contest responsibility for the violation in writing by mail or online. The registered owner shall provide the Enforcing Authority with a signed affidavit, in a form approved by the Enforcing Authority, stating the:

- (a) Reason for disputing the violation;
- (b) Full legal name and address of the registered owner of the motor vehicle; and
- (c) Full legal name and address of the operator of the motor vehicle at the time the violation occurred.
- (d) The registered owner may:
 - 1. include signed statements from witnesses, including the names and addresses of witnesses, supporting the registered owner's defense; and
 - 2. Provide evidence that the violation did not occur or is excepted pursuant to 703 CMR 6.03(3).

(3) Request for Hearing. In *lieu* of contesting responsibility for a Violation in writing or online pursuant to 703 CMR 6.05(2) and not more than 60 calendar days after the issuance of a Violation Notice, under 703 CMR 6.00, a registered owner of the motor vehicle may request a hearing to contest responsibility for a Camera Enforceable Violation. A hearing request shall be made in writing by mail or online. Upon receipt of a hearing request, the Enforcing Authority shall schedule the matter before a hearing officer. The hearing officer may be an employee of the Enforcing Authority or such other person as the Enforcing Authority may designate, including a Violation Clerk. Written notice of the date, time and place of the hearing shall be sent by first class mail to each registered owner of the motor vehicle. The hearing shall be informal, the rules of evidence shall not apply and the decision of the hearing officer shall be final subject to judicial review in the district court department.

(4) Not more than 21 days after receipt of a written appeal or an appeal hearing, the Enforcing Authority or the hearing officer shall send the decision of the hearing officer, including the reason for the outcome, by first class mail to the registered owner. If the registered owner is found to be responsible for the Camera Enforceable Violation, the registered owner shall pay the fine in the manner described in 703 CMR 6.05(1) not more than 14 days after the issuance of the decision or request further judicial review in the district court department.

6.06: Leased or Rented Vehicles

(1) Notwithstanding the foregoing, if the registered owner of a motor vehicle is a person or entity engaged in the business of leasing or renting motor vehicles, and the motor vehicle was operated under a rental or lease agreement at the time of the Camera Enforceable Violation, the registered owner shall not be liable for any unpaid fines, only if the registered owner has complied with the requirements of 703 CMR 6.06.

(2) Not more than 45 days after the date of the issuance of the Violation Notice provided by 700 CMR 6.06(2), the registered owner shall furnish to the Enforcing Authority, in writing in a form and manner determined by the Enforcing Authority, the name and address of the lessee or rentee of the motor vehicle at the time of the Camera Enforceable Violation, the lessee's or rentee's driver's license number, the state that issued such license and the lessee's or rentee's date of birth. If the notice under 703 CMR 6.06(2) is not completed by the due date, the registered owner of the vehicle shall be liable for the violation.

(3) Upon receipt of the information required under 703 CMR 6.06(2), the Enforcing Authority shall issue a notice of a Camera Enforceable Violation to the lessee or rentee in the form prescribed by 703 CMR 6.06(2), and the lessee or rentee shall be liable for the Violation.

6.07: Failure to Respond to a Violation Notice

(1) When a registered owner of a motor vehicle, except a lessee or a rentee, consistent with the provisions of 703 CMR 6.06, accrues not less than three Violation Notices by an Enforcing Authority for which said owner fails to pay the fine contained in a Violation Notice or fails to appeal the Violation Notice in accordance with 703 CMR 6.05(2), such Enforcing Authority may enter into a payment plan with the registered owner, allow for a financial-hardship waiver of the fines, or submit a Non-renewal Notice to the Registrar. Any payment plan or hardship waiver shall be permitted only pursuant to objective and consistent criteria in a written policy established by the Enforcing Authority. Upon receipt of a Non-renewal Notice, the Registrar shall not issue or renew the registered owner's motor vehicle registration until after notification from the Enforcing Authority from whom the Registrar received the Non-renewal Notice that all fines owed pursuant to 703 CMR 6.00 have been paid.

(2) An Enforcing Authority shall notify the Registrar if a lessee or rentee has accrued not less than five unresolved Violation Notices with an Enforcing Authorities pursuant to 703 CMR 6.06. Upon receipt by the Registrar of such notice under 703 CMR 6.07, the Registrar shall:

- (a) suspend and not renew the license of the lessee or rentee to operate a motor vehicle in the commonwealth in a form and manner determined by the Registrar until the Registrar receives notification from the applicable Enforcing Authorities that all fines owed by the lessee or rentee pursuant to 703 CMR 6.00 have been paid; or
- (b) suspend the right to operate of a lessee or rentee not licensed in the commonwealth in a form and manner determined by the Registrar until the Registrar receives notification from the applicable Enforcing Authorities that all fines owed by the lessee or rentee pursuant to 703 CMR 6.00 have been paid.

(3) An additional \$20.00 charge payable to the Registrar shall be assessed and collected by the Enforcing Authority to be transferred to the registry of motor vehicles as part of the non-renewal process.

(4) The Enforcing Authority shall notify the Registrar immediately when the relevant fines and charges that are the basis for a notice to the Registrar under 703 CMR 6.06(4) have been paid; provided, however, that a certified receipt of full and final payment from the Enforcing Authority issuing a violation shall also serve as legal notice to the Registrar that a violation has been disposed of in accordance with 700 CMR 6.06. The certified receipt shall be printed in such form as the Registrar may approve.

6.08: Reporting

(1) Annually, not later than March 1st, each Enforcing Authority that adopts M.G.L. c. 90K shall publish and submit a report to the clerks of the house of representatives and senate, the house and senate committees on ways and means and the joint committee on transportation.

(2) The report shall include, but not be limited to, data on the number and location of fines issued for Camera Enforceable Violations for the previous calendar year. Such report shall also include consideration of the social and racial equity impacts of the implementation of M.G.L. c. 90K over the preceding year.

6.09: Privacy and Confidentiality

(1) A photograph or other recorded evidence taken pursuant to M.G.L. c. 90K or 703 CMR 6.00 shall not be discoverable in any judicial or administrative proceeding, other than a proceeding held pursuant M.G.L. c. 90K or 703 CMR 6.00, without a court order.

(2) A photograph or other recorded evidence taken pursuant to M.G.L. c. 90K or 703 CMR 6.00 shall not be admissible in any judicial or administrative proceeding, other than in a proceeding to adjudicate liability for a Camera Enforceable Violation, without a court order.

6.09: continued

(3) A court shall not order a release of a photograph or other recorded evidence taken pursuant to M.G.L. c. 90K or 703 CMR 6.00 unless the photograph or other recorded evidence establishes or undermines a finding of a Camera Enforceable Violation and the Camera Enforceable Violation is material as to a finding of civil or criminal liability.

(4) Photographs and other recorded data collected by an Enforcing Authority pursuant to M.G.L. c. 90K or 703 CMR 6.00 shall not be a public record under M.G.L. c. 4, § 7, clause Twenty-sixth or M.G.L. c. 66.

(5) Photographs produced by a Bus Mounted or Bus Stop Camera System shall not be used by an Enforcing Authority to identify the vehicle operator, a passenger, or the contents of the vehicle. If a photograph taken pursuant to M.G.L. c. 90K and 703 CMR 6.00 captures the vehicle operator, the passengers, or the contents of the vehicle, the Enforcing Authority shall redact the photograph to remove or obscure the vehicle operator, passengers or contents of the vehicle before issuing a notice of violation under 703 CMR 6.00. An un-redacted photograph that includes the vehicle operator, passengers or contents of a motor vehicle committing a Camera Enforceable Violation taken by a Bus Mounted or Bus Stop Camera System shall not be discoverable or admissible in any judicial or administrative proceeding except by the registered owner of the vehicle and shall not be used as the basis for a Camera Enforceable Violation under 73 CMR 6.00.

(6) Photographs and other video recordings collected by a Bus Mounted Camera System or a Bus Stop Camera System shall be kept for no more than 120 days, unless otherwise required by law or to fulfill a permissible use under 703 CMR 6.00.

(7) Except to comply with reporting requirements under 703 CMR 6.08, an Enforcing Authority, Violation Clerk or a manufacturer, servicer or vendor of a Bus Mounted or Bus Stop Camera System shall maintain the confidentiality of and may not use, disclose, sell or permit access to data collected by such camera system except as such use, disclosure or access may be necessary to process Camera Enforceable Violations in accordance with 703 CMR 6.00.

REGULATORY AUTHORITY

703 CMR 4.00: M.G.L. c. 90K.