



**Comments to the Massachusetts Bay Transportation Authority**  
Regarding  
Proposed Fare Evasion Regulations 703 CMR 5.00  
April 30, 2021

**National Consumer Law Center**  
**(on behalf of its low-income clients)**

Thank you for inviting public comment regarding the MBTA's proposed fare evasion regulations, 703 CMR 5.00. The National Consumer Law Center submits this comment to highlight the compounding harm that debt-based barriers to driver's license renewals cause to low-income people, and particularly to low-income people of color. Debt-based license restrictions act as a poverty trap and criminalize poverty. On behalf of our low-income clients, we urge the MBTA to omit the proposed regulatory language that would require it to report unresolved citations to the Registry of Motor Vehicles to bar license renewal. We encourage the MBTA to consider ways to deter fare evasion by making fares free or otherwise affordable for low-income people rather than by punishing those struggling to afford access to public transit.

The National Consumer Law Center (NCLC) is a Boston-based nonprofit that engages in research, education, advocacy, and litigation to advance economic justice for low-income and other disadvantaged people, including people of color and older adults. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, protect low-income people from harmful debt collection practices, help financially stressed families build and retain wealth, and advance economic fairness. Through its Criminal Justice Debt Project, NCLC works to address fines and fees policies that trap low-income families in poverty, criminalize poverty, and strip wealth from communities of color.

**Debt-based Driver's License Suspensions and Renewal Bars Are Being Eliminated Across the Country as Harmful and Counterproductive**

Driver's license suspensions and renewal blocks are a harmful and counterproductive practice to try to coerce payment of government fines and fees. Driver's license suspensions make life almost impossible: since [86% of Americans drive to work](#) and many jobs require a driver's license, suspensions cost people their jobs. One study found that [42% of people lost their jobs](#) after their driver's license was suspended. Jobs are not the only issue: without a driver's license, people often can't take their children to the doctor, go to an affordable grocery store, or get to court. And, because most Americans require a car to access basic necessities, many have no choice but to

continue driving. When they do, they risk a criminal charge for driving without a valid license, more fines and fees, and incarceration.

For individuals who engage in dangerous driving, license suspension may be necessary for public safety, and the negative consequences unavoidable. But these harsh consequences are not natural or necessary for people whose infractions have nothing to do with safe driving. And when the government uses license restrictions to punish people for nonpayment of fines or fees, it effectively punishes poverty—punishing those who cannot afford to pay a ticket much more harshly than those who can.

Debt-based license suspensions and renewal blocks are particularly harmful to communities of color. Because communities of color are over-policed and disproportionately targeted for enforcement of minor infractions and crimes, research shows that people in such communities [disproportionately experience debt-based license suspension](#). And because Black drivers are [20% more likely](#) than white drivers to be pulled over, driving on an invalid license puts Black drivers at significantly greater risk of facing criminal penalties.

While governments sometimes attempt to justify these harsh consequences for low-income people and people of color based on fiscal necessity, in fact, driver's license blocks are counterproductive tools for enforcing fines against low-income people. As pressure to pay, they do not work when people simply cannot afford to pay—you cannot draw blood from a stone. And once a license is suspended, people tend to lose financial stability and thus ability to pay, since lost licenses lead to lost wages and higher fines, plunging families deeper into debt. In fact, after California ended its policy of suspending licenses for non-payment of traffic tickets, and instead focused on improving access to reduced payments and other alternatives, its collection rate for tickets [increased](#).

In recognition of how harmful and counterproductive debt-based license limitations are, states across the country—including Maine, New York, Maryland, Virginia, West Virginia, Michigan, California, Texas, Montana, Idaho, Oregon, and Hawaii—[have rolled back such policies and ended license restrictions to coerce payment of fines](#).

### **Eliminating Driver's License Blocks Would Advance the State's Decriminalization Goals**

The Massachusetts legislature recently decriminalized fare evasion, with good reason—the heavy hand of criminal enforcement and punishment should not be used to address societal problems that could be remedied in other ways. Because key drivers of fare evasion [are poverty, difficulty accessing reduced-fare options, and broken or inconvenient payment systems](#), criminalizing evasion criminalizes poverty and unnecessarily punishes poor people instead of improving government systems.

In decriminalizing fare evasion, the legislature delegated authority to the MBTA to "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."<sup>1</sup>

In issuing such regulations, the MBTA should take care not to effectively recriminalize fare evasion for low-income people by creating an automatic driver's license renewal block for nonpayment of fines.<sup>2</sup> People who are unable to afford a \$55 or \$90 transit pass are also unlikely to be able to afford a \$50 ticket (the amount proposed by the MBTA).<sup>3</sup> While a \$50 ticket may not seem like much to someone with a middle-class salary, who might quickly pay the bill, it is a devastating and potentially insurmountable charge to many Massachusetts residents, including the [nearly 10% of state residents living below the poverty line](#) and already struggling to keep their families fed and heat on. Residents who cannot pay the fine and have their driver's license blocked may then face criminal penalties, including heavy fines and jail time,<sup>4</sup> if and when they need to drive—such as to get to work, to the grocery store, or to the doctor.

It does not have to be this way. While the decriminalization statute allows the MBTA to report unresolved citations to the Registry, it does not *require* such reporting. Instead, the statute leaves this and other decisions regarding penalties for failure to pay and alternatives for resolution to the MBTA to consider and address through regulations. We urge the MBTA, in consideration of the decriminalization purposes of the legislation and the public comments regarding driver's licenses blocks, to remove the proposed regulatory language in 703 CMR 5.04 that would require the MBTA to notify the Registry of unpaid citations, triggering license nonrenewal status. We recommend that the MBTA revise the regulations to eliminate license suspension as a penalty for nonpayment.

As you consider ways to revise the regulations and to address fare evasion, we encourage you to avoid penalties that punish low-income riders for their inability to pay and to focus attention instead on reducing fare evasion through policies and systems that make public transit more affordable and accessible to low-income residents. This should include working with low-income communities to understand why evasion occurs, making fare payment easy and accessible, expanding access and affordability of reduced fare programs and connecting those cited for evasion to such programs.

Thank you for your consideration. Please contact Abby Shafroth, [ashafroth@nclc.org](mailto:ashafroth@nclc.org), with any questions.

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<sup>1</sup> [An Act Authorizing and Accelerating Transportation Investment, Section 7\(d\)](#) (Jan. 15, 2021).

<sup>2</sup> We recognize that the proposed regulations provide that the MBTA may “in its sole discretion, waive or reduce a fine . . . or may offer a violator an alternative way to resolve the fine,” if the individual submits a request for waiver based on financial hardship. While including financial hardship waivers is a good idea, it does not adequately address the concerns raised in this comment. The MBTA's proposed financial hardship waiver will fail to provide relief to the most vulnerable residents because most people, and in particular the most vulnerable people (including people experiencing homelessness, immigrants and people with limited English language proficiency, and those with disabilities), do not receive relief they are entitled to when it is dependent on their knowing their rights and successfully navigating government appeal and hearing processes to obtain such relief. And even for those who successfully request waivers, relief is not guaranteed but left entirely to the discretion of the MBTA.

<sup>3</sup> We also urge the MBTA to reduce the fare evasion fine to \$15, the minimum authorized by statute.

<sup>4</sup> Mass. Gen. Laws Chapter 90, §§ 10, 23.