



April 30, 2021

Massachusetts Bay Transportation Authority  
Office of the General Counsel  
10 Park Plaza, Room 3510  
Boston, MA 02116  
[fareregulations@mbta.com](mailto:fareregulations@mbta.com)

**Re: Public Comment on Proposed Fare Evasion Regulations 703 CMR 5.00**

Thank you for inviting public comment on the MBTA's proposed fare evasion regulations. While we applaud the MBTA's efforts to reduce fare evasion fines,<sup>1</sup> we write to express serious concern with the regulations' enforcement mechanism for nonpayment. The proposed regulations penalize nonpayment of two or more citations by barring the violator from renewing their driver's license until their debt is paid in full. *See* proposed 703 CMR 5.04(1)(1). The ACLU of Massachusetts, the Massachusetts Law Reform Institute, the Livable Streets Alliance, the United Way of Massachusetts Bay and the Merrimack Valley, and the Predatory Lending and Consumer Protection Clinic at Harvard Law School strongly oppose this provision and urge the MBTA to eliminate it from the final regulations.

Our organizations are committed to advancing the interests of the Commonwealth's most economically vulnerable residents by addressing systemic forces that entrench wealth disparities and penalize poverty. One of the most insidious ways that the Commonwealth penalizes poverty is through laws that make driving privileges contingent on payment of fines and fees to the government. Each year, tens of thousands of Massachusetts drivers lose their licenses due to unpaid government debt. The downstream effects of losing one's license are serious and ongoing. Many drivers lose employment and childcare, perpetuating the financial instability that, in many cases, was at the root of the suspension. For many, driving is an economic lifeline, and without it they - and those who depend on them - struggle to access basic needs and services.

**The proposed regulations will harm Massachusetts families and increase criminal justice system involvement**

Proposed 703 CMR 5.04(1)(1) will make this problem worse. By requiring full payment of outstanding fare evasion fines in order to renew one's license, the proposed regulation punishes the poor and perpetuates racial and wealth inequalities through a two-tiered system of

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<sup>1</sup> We are aware that Livable Streets has submitted comment asking the MBTA to consider reducing fare evasion fines to match the MBTA's lowest fine for a parking-related ticket (\$15). We strongly support this position.

punishment: higher income people will pay the initial fine, while those who are unable to pay must face the additional penalty of license nonrenewal.

Driver's license suspensions and nonrenewals often trap already vulnerable people in a perpetual cycle of debt – a lost license for being unable to afford a fine results in a lost job because the person cannot drive to work.

Because driving is essential for most families, many people will continue to drive even after their license is suspended for nonpayment, and under current law, driving after a suspension is a crime. According to recent Massachusetts Trial Court data, the act of driving with a suspended or expired license is a key determinant of criminal system contact in Massachusetts.

### **Driver's license suspensions and nonrenewals are not an effective debt collection mechanism**

Nationally, momentum is growing in support of ending the practice of penalizing non-payment of government fines and fees with restrictions on driver's licenses. This movement is motivated not only by the disproportionate burden they impose on the poor, but also *because data demonstrates these penalties are not effective deterrents against nonpayment or mechanisms for collection*. In fact, research suggests eliminating debt-based license restrictions has no negative impact on debt collection. To the contrary, one study of the San Francisco Municipal Court found since ending the practice of debt-based license suspensions that collections on delinquent debt actually *increased*. After California passed similar reforms statewide, the trend held.<sup>2</sup> While no similar data exists in Massachusetts, other states that have piloted these reforms have similarly found that ending the practice of debt-based license restrictions did not reduce associated fines and fees collection.<sup>3</sup> Moreover, eliminating a violator's ability to legally drive will make it more difficult for them to earn money to pay the outstanding fine, and therefore such a policy is intuitively counter-productive to fine collection.

### **Denying eligible drivers license renewals will harm public safety**

Debt-based license suspensions and nonrenewals not only fail as a tool for deterring nonpayment or facilitating debt collection, they also carry negative fiscal and safety related implications that further undermine any supposed benefit of their use. Specifically, data surrounding license

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<sup>2</sup> The Final Justice Project San Francisco, *Driving Toward Justice* (2020), available at <https://sftreasurer.org/sites/default/files/2020-04/DrivingTowardJustice.pdf> (executive summary [here](#)).

<sup>3</sup> See Arizona State Court Task Force on Fair Justice for All, *Justice for All: Report and Recommendations of the Task Force of Fair Justice for All* (2016), available at [https://www.azcourts.gov/Portals/74/TFFAIR/Reports/FINAL%20FairJustice%20Aug%202012-final%20formatted%20versionRED%20\(002\).pdf?ver=2016-08-16-090815-647](https://www.azcourts.gov/Portals/74/TFFAIR/Reports/FINAL%20FairJustice%20Aug%202012-final%20formatted%20versionRED%20(002).pdf?ver=2016-08-16-090815-647); see also U.S. Commission on Civil Rights, Targeted Fines and Fees Against Communities of Color: Civil Rights & Constitutional Implications (September 2017), available at [https://www.usccr.gov/pubs/2017/Statutory\\_Enforcement\\_Report205317.pdf](https://www.usccr.gov/pubs/2017/Statutory_Enforcement_Report205317.pdf).

suspensions suggests that the non-renewal policy will make roads less safe by increasing the number of unlicensed drivers. Unlicensed drivers who have lost their right to legally drive due to debt-based suspensions or nonrenewals are likely to continue driving, which carries collateral consequences such as increasing the number of uninsured drivers on the road, distracting law enforcement officials from tending to legitimate safety concerns, and increasing the likelihood a driver will leave the scene of a traffic crash. The American Association of Motor Vehicle Administrators underscores this point. It found in an independent study that suspensions of driving privileges from non-highway related safety reasons are not only ineffective, but also “create a significant strain on budgets and other resources and detract from highway and public safety priorities.”<sup>4</sup> Thus, proposed 703 CMR 5.04(1)(1) threatens to harm not only the individuals cited for fare evasion, but also the general public.

## **Conclusion**

We thank the MBTA for recognizing the issue of high fare evasion fees and seeking to address it, and we urge you to remove the non-renewal provision in proposed 703 CMR 5.04(1)(1) from the final regulations. This provision will have little, if any, benefit, but enormous costs.

As you consider ways to reform the existing fare system, we urge you to avoid debt-based penalties that punish low-income riders for their inability to pay outstanding fines and fees. We hope that these regulations represent a step towards a more economically just and fundamentally fair approach to administering the public transportation system in the Commonwealth. Thank you for your time and consideration.

Sincerely,

ACLU of Massachusetts

Massachusetts Law Reform Institute

Livable Streets Alliance

United Way of Massachusetts Bay and  
Merrimack Valley

Predatory Lending & Consumer Protection  
Clinic at Harvard Law School

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<sup>4</sup> See American Association of Motor vehicle Administrators, *Best Practices Guide to Reducing Suspended Drivers* (2013), available at <https://www.aamva.org/Suspended-and-Revoked-Drivers-Working-Group/>.