

HOUSE No. 04109

The committee on Transportation, reports, in part, on House, No. 4011, a Bill relative to certain reforms relative to the Massachusetts Department of Transportation (House, No. 4109). May 21, 2012. William M. Straus, for the committee.

The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve
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An Act relative to certain reforms relative to the Massachusetts Department of Transportation.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for an accelerated transportation development and improvement program for the commonwealth, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

□

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Chapter 159 of the General Laws, as appearing in the 2010 Official Edition, is
- 2 hereby amended by striking out section 101 and inserting in place thereof the following section:-
- 3 Section 101. Whoever fraudulently evades or attempts to evade the payment of a fare lawfully
- 4 established by a railroad corporation or railway company, either by giving a false answer to the
- 5 collector of the fare, or by traveling beyond the point to which he has paid the same, or by
- 6 leaving the station, train, trolley, car, motor bus, or trackless trolley vehicle without having paid

7 the fare established for the distance traveled, or otherwise, shall forfeit not less than fifty nor
8 more than five hundred dollars. Whoever passes beyond the point where a fare is collected and
9 does not first pay such fare shall not be entitled to be transported for any distance, and may be
10 removed from a railway car, train, trolley, motor bus or trackless trolley vehicle; but no person
11 shall be removed from a car of a railroad corporation except as provided in section ninety-three,
12 nor from a train except at a regular passenger station.

13 Passengers who fail to pay or prepay the required fare on any vehicle or ferry owned by or
14 operated for the Massachusetts Bay Transportation Authority in violation of this section shall be
15 subject to a noncriminal citation, and may be requested to provide identification to
16 Massachusetts Bay Transportation Authority police or employees within the instructor, chief
17 inspector, or inspector classifications for the purpose of issuing a noncriminal citation. Upon
18 request by a Massachusetts Bay Transportation Authority police officer, a passenger shall make
19 themselves known to police by personal identification or any other means for the purpose of
20 issuing a non-criminal citation. Whoever fails or refuses to make himself known by personal
21 identification or any other means upon demand by a Massachusetts Bay Transportation Authority
22 police officer for the purposes of issuing a non-criminal citation shall be subject to arrest for fare
23 evasion pursuant to section 93. This paragraph does not confer any power of arrest or any other
24 power, other than to inquire as to personal identification and to issue noncriminal citations to fare
25 evaders, on Massachusetts Bay Transportation Authority employees classified as an instructor,
26 chief inspector, or inspector.

27 A person who is issued a noncriminal citation shall be assessed a fine as follows: \$75 for a first
28 offense; \$200 for a second offense; or \$350 for a third or subsequent offense. If the person fails
29 to pay the fine within 21 days of the date of the issuance of a noncriminal citation under this

30 section, or the violator fails to request a hearing within 21 days of the date of the issuance of a
31 noncriminal citation under this section, the authority shall provide notice of nonpayment of a fine
32 indicating that the person's license or right to operate a motor vehicle will be suspended until the
33 fine is paid. The authority shall provide reasonable opportunity for a hearing and may waive or
34 reduce a fine imposed under this section within its discretion. If the fine is not waived under this
35 section, the violator shall have 21 days from the date of the hearing to pay the fine.

36 Upon the report of the authority of nonpayment of a fine under this section, the registrar shall not
37 renew that person's license or right to operate a motor vehicle under Chapter 90 until the
38 registrar receives a report from the authority indicating that the fine has been satisfied. Fines
39 imposed under this section shall be paid to the general fund of the Massachusetts Bay
40 Transportation Authority.

41 If the records of the registrar indicate that the violator has no current information on file and the
42 violator is under 17 years of age, the record shall be retained until such time the violator is
43 eligible for a license to operate a motor vehicle under Chapter 90. The violator must first pay the
44 fine before being issued said license.

45 If the records of the registrar indicate that the violator has no current information on file and the
46 violator is 17 years of age or older and the violator fails to pay the fine or request a hearing, a
47 surcharge of \$100 will be assessed to each violation and an application for a criminal complaint
48 will be made in accordance with paragraph one of this section.

49 Each citation shall state: "This noncriminal citation may be returned by mail, personally or by an
50 authorized person. A hearing may be obtained upon the written request of the violator. Failure to

51 obey this notice within twenty-one days after the date of violation may result in the non-renewal
52 of the license to operate a motor vehicle.”

53 SECTION 2. Notwithstanding any general or special law or regulation to the contrary, the
54 registrar of motor vehicles is hereby authorized to transfer \$51 million from the Motor Vehicle
55 Inspection Trust Fund to the Massachusetts Transportation Trust Fund, such authorization
56 limited to fiscal year 2013 only and expiring on June 30, 2013. Not later than 30 days following
57 said transfer, the secretary of transportation shall transfer: (a) \$46 million from the
58 Massachusetts Transportation Trust Fund to the Massachusetts Bay Transportation Authority or
59 any fund controlled by that authority; and (b) subject to the following conditions, \$5 million, in
60 the aggregate, from the Massachusetts Transportation Trust Fund to the regional transit
61 authorities organized under chapter 161B of the General Laws, provided, however, that (i)
62 notwithstanding the provisions of section 23 of Chapter 161B, said five million dollars shall be
63 distributed to each regional transit authority pro rata based upon the percentage of funds received
64 by each regional transit authority from the total amount of state contract assistance distributed to
65 the regional transit authorities in state fiscal year 2012; (ii) such funds shall only be used to
66 reimburse the authorities for the prior fiscal year’s “preventative maintenance expenses” of the
67 vehicle fleet, as that term is defined within the federal national transit database definitions, and
68 (iii) any regional transit authorities not required to file with the national transit database shall file
69 with the department of transportation the same information required by the national transit
70 database with respect to preventative maintenance expenses.

71 SECTION 3. (a) Notwithstanding any general or special law or regulation to the contrary, within
72 60 days following the effective date of this act, the right, title, and interest of the Massachusetts
73 Bay Transportation Authority (MBTA) in the properties located at 703 Washington Street in

74 Quincy, Massachusetts (Fore River Shipyard Ferry Terminal lot) and 349 Lincoln Street in
75 Hingham, Massachusetts (Hewitts Cove Ferry Terminal lot) shall be transferred from the MBTA
76 to the Massachusetts Port Authority, and the Massachusetts Port Authority shall transfer \$18
77 million to the Massachusetts Transportation Trust Fund. Not later than 30 days following said
78 transfer of \$18 million, the secretary of transportation shall transfer \$18 million from the
79 Massachusetts Transportation Trust Fund to the MBTA or any fund controlled by that authority,
80 \$10 million of which shall be held in reserve. The \$10 million reserve is subject to appropriation
81 for the purpose of implementing a financing plan or plans of the MBTA for fiscal year 2014.

82 (b) Notwithstanding any general or special law or regulation to the contrary, within 60
83 days following the effective date of this act, the right, title, and interest of the Massachusetts Bay
84 Transportation Authority (MBTA) in the Commuter Boat Service piers and the Fore River
85 Terminal shall be transferred from the MBTA to the Massachusetts Port Authority, and the
86 Massachusetts Port Authority shall transfer \$500,000 to the Massachusetts Transportation Trust
87 Fund. Not later than 30 days following said transfer of \$500,000.00, the secretary of
88 transportation shall transfer \$500,000 from the Massachusetts Transportation Trust Fund to the
89 MBTA or any fund controlled by that authority.

90 (c) Notwithstanding any general or special law or regulation to the contrary, within 180 days
91 following the effective date of this act, the right, title, and interest of the Massachusetts Bay
92 Transportation Authority (MBTA) in the commuter boats commonly known as Lightning and
93 Flying Cloud shall be transferred from the MBTA to the Massachusetts Port Authority, and the
94 Massachusetts Port Authority shall transfer to the Massachusetts Transportation Trust Fund
95 funds equal to the full and fair market value of the MBTA's right, title, and interest in said
96 commuter boats. Not later than 30 days following said transfer of funds, the secretary of

97 transportation shall transfer the funds from the Massachusetts Transportation Trust Fund to the
98 MBTA or any fund controlled by that authority. For the purposes of this paragraph (c), the full
99 and fair market value of the MBTA's right, title, and interest in said commuter boats shall be the
100 average of separate appraisals obtained by Massport and the MBTA. The inspector general shall
101 review and approve each of the appraisals. The inspector general shall prepare a report of his
102 review of the methodology used in the appraisals and shall file the report with the commissioner
103 for submission to the house and senate committees on ways and means and the chairmen of the
104 joint committee on bonding, capital expenditures and state assets.

105 (d) Effective July 1, 2012, the Massachusetts Port Authority shall be responsible for the
106 ownership, operation and maintenance of the Commuter Boat Service, and the Massachusetts
107 Bay Transportation Authority shall cease to be responsible for such ownership, operation and
108 maintenance. All warranties and all contract and indemnification rights and obligations arising
109 out of the operation and maintenance of said property and the Commuter Boat Service shall
110 remain in full force and effect following such transfer of responsibility. The provisions of this
111 section shall not limit or in any way impair the rights, remedies or defenses of the Massachusetts
112 Bay Transportation Authority or the Massachusetts Port Authority in or to any such action.

113 SECTION 4. (a) Line item 1598-6368 in section 2E of chapter 68 of the Acts of 2011 is hereby
114 amended by adding at the end thereof the following:-

115 ;provided further, that the Secretary of Transportation shall transfer the remaining snow and ice
116 budget funded from this line item, in an amount not to exceed one million five hundred thousand
117 dollars, to the regional transit authorities organized under chapter 161B of the General Laws.

118 (b) Any transfer of funds made pursuant to this section shall be subject to and made in
119 compliance with the conditions set forth in paragraph (b) of section 2 of this Act.

120 SECTION 5. Notwithstanding chapter 66A of the General Laws or any other general or special
121 law or regulation to the contrary, the Massachusetts Bay Transportation Authority (MBTA) is
122 hereby authorized to provide the Executive Office of Health and Human Services personal data
123 relative to customers utilizing the MBTA's paratransit services for the purpose of securing
124 federal reimbursement and administration of the MassHealth program.