

By Mr. Flaherty of Cambridge, petition of the Board of Directors of the Massachusetts Bay Transportation Authority and Charles F. Flaherty that provision be made for the imposition of penalties for certain improper conduct on public transportation facilities. Transportation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT ESTABLISHING CERTAIN PENALTIES FOR CERTAIN TYPES OF CONDUCT ON PUBLIC TRANSPORTATION FACILITIES.

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. Section 104 of Chapter 159 of the General Laws
2 as appearing in the 1984 Official Edition is hereby amended in
3 lines 1 through 8 by striking the first sentence and inserting in
4 place thereof the following: —

5 Section 104. Whoever wilfully throws or shoots a missile at a
6 locomotive engine, or a railroad or railway car or train, or at a
7 person on such engine, car, train, motor bus or trackless trolley
8 vehicle, or school bus, or in any way assaults or interferes with
9 a conductor, engineer, brakeman, motorman, operator, gate
10 keeper, collector, guard, starter or inspector while in the
11 performance of his duty on or near such engine, car, train, motor
12 bus or trackless trolley vehicle, or school bus, shall be punished
13 by imprisonment for not less than ninety days nor more than two
14 and one-half years in the house of correction or by a fine of not
15 less than five hundred nor more than five thousand dollars, or
16 by both such fine or imprisonment.

1 SECTION 2. Section 101 of Chapter 159 of the General Laws
2 as appearing is hereby amended by striking said section and
3 inserting in place thereof the following section: —

4 Section 101. Whoever fraudulently evades or attempts to

5 evade the payment of a toll or fare lawfully established by a
6 railroad corporation or railway company or by the Massachusetts
7 Bay Transportation Authority, either by giving a false answer to
8 the collector of the toll or fare, or by traveling beyond the point
9 to which he has paid the same, or by passing through the proper
10 fare collection point or by entering or leaving the train, car,
11 streetcar, motor bus or trackless trolley vehicle without having
12 paid such proper toll or fare, or otherwise, shall be punished by
13 imprisonment for not more than ten days in a house of correction
14 or by a fine of not less than fifty dollars nor more than five hundred
15 dollars, or by both such fine and imprisonment.

16 Whoever does not upon demand first pay such toll or fare may
17 be ejected from a railway car, motor bus, trackless trolley vehicle
18 or station or facility by any operator, guard, collector, gatekeeper,
19 or other employee of the corporation or authority operating the
20 railroad, railway or public conveyance; but no person shall be
21 removed from a car of a railroad corporation except as provided
22 in section ninety-three, nor from a train except at a regular
23 passenger station. A person so offending may be arrested without
24 a warrant by an officer authorized to serve criminal process, or
25 by any railroad, railway or railway express police officer and kept
26 in custody in jail or other convenient place not more than twenty-
27 four hours, Sundays and legal holidays excepted, at or before the
28 expiration of which he shall be taken before a proper court or
29 magistrate and proceeded against according to law.

1 SECTION 3. Section 94A of Chapter 161 as so appearing is
2 amended in line 4 by inserting after the word "facility" the
3 following: —

4 or within a steamboat or public conveyance, and in line 8 by
5 striking the words "twenty-five" and inserting in place thereof the
6 word: — fifty.

1 SECTION 4. Said Chapter 161 is hereby further amended by
2 inserting after Section 94A the following new section: —

3 Section 94B. Whoever writes, draws or paints any inscription
4 or figure or otherwise defaces any public transportation facility
5 or steamboat or public conveyance, after having been forbidden
6 to do so either by notice posted thereon or by any police officer

7 shall be punished by a fine of not more than one hundred dollars,
8 and may be arrested without a warrant by such officer.

1 SECTION 5. Said Chapter 161 as so appearing is hereby
2 further amended by inserting after Section 113A the following
3 sections: —

4 Section 113B. Whoever without authorization sells, attempts to
5 sell or possess with intent to sell Massachusetts Bay Transpor-
6 tation Authority fare tokens or counterfeit tokens shall be
7 punished, if the value of said tokens does not exceed one hundred
8 dollars nor more than one thousand dollars or by imprisonment
9 in a house of correction for not more than one year, or both such
10 fine or imprisonment, or if the value of said tokens exceeds one
11 hundred dollars, by a fine of not less than five hundred dollars
12 nor more than one thousand dollars or by imprisonment in a
13 house of correction for not less than thirty days nor more than
14 one year, or both such fine and imprisonment.

1 SECTION 6. Subsection 5(d) of Chapter 161A of the General
2 Laws, as appearing in the 1984 Official Edition, is hereby amended
3 by inserting at the end thereof the following sentence: —

4 A law enforcement officer of the Authority may arrest without
5 a warrant.

1 SECTION 7. Chapter 161A of the General Laws as so
2 appearing is hereby amended by adding after section six the
3 following new section: —

4 Section 6A. The directors may promulgate rules and regula-
5 tions pertaining to the parking of motor vehicles on or in any
6 terminals, stations, garages, yards, shops, parking lots, or parking
7 garages owned or operated by the Authority, but specifically
8 excluding any streets, ways, highways, roads and parkways. The
9 Authority may, by a vote of the directors, adopt the provisions
10 of Section twenty A and one-half of Chapter ninety of the General
11 Laws, provided that the directors establish rules and regulations
12 creating regional districts throughout the Authority consisting of
13 contiguous cities or towns within which the parking clerk shall
14 regularly conduct hearings.

1 SECTION 8. Said Chapter 161A as so appearing is hereby
2 further amended by inserting the following new section: —

3 Section 30. Any officer empowered to enforce Section ninety-
4 four A of Chapter one hundred and sixty-one, Section 94B of said
5 Chapter one hundred and sixty-one as inserted by section four
6 of this Act, Section one hundred and twenty-six of Chapter two
7 hundred and sixty-six, and Sections forty-three and forty-three
8 A of Chapter two hundred and seventy-two, taking cognizance
9 of a violation thereof may request the offender to state his name
10 and address and may, at the officer's discretion and as an
11 alternative to instituting criminal proceedings, forthwith give to
12 the offender a written notice to appear before the clerk of the
13 district court having jurisdiction at any time during office hours,
14 not later than twenty-one days after the date of such violation.
15 Such notice shall be signed by the officer, and shall be signed by
16 the offender in acknowledgement that the notice has been
17 received. The officer shall deliver to the offender at the time and
18 place of the violation, a copy of said notice. Whenever it is not
19 possible to deliver a copy of said notice to the offender at the time
20 and place of the violation, said copy shall be mailed or delivered
21 by the officer, or by his commanding officer, or any person
22 authorized by said commanding officer, or any person authorized
23 by said commanding officer, to the offender's last known address
24 within five days of the offense, exclusive of Sundays and holidays.
25 Such notice mailed by the officer, his commanding officer, or the
26 person so authorized, to the last address of said offender, shall
27 be deemed a sufficient notice, and a certificate of the officer or
28 person so mailing such notice, that it has been mailed in
29 accordance with this section, shall be deemed prima facie evidence
30 thereof and shall be admissible in any court of the Commonwealth
31 as to the facts contained therein. At or before the completion of
32 each tour of duty the officer shall give his commanding officer
33 those copies of each notice of such a violation he has taken
34 cognizance of during such tour which have not already been
35 delivered or mailed by him as foresaid. Said commanding officer
36 shall retain and safely preserve one of such copies, and shall, at
37 a time not later than the next court day after said delivery or
38 mailing, deliver another of such copies to the clerk of the court
39 before whom the offender has been notified to appear. The clerk

40 of each district court shall maintain a separate docket of all such
41 notices to appear.

42 Any person notified to appear before the clerk of a district court
43 as herein before provided may appear before such clerk and
44 confess the offense charged, either personally or through an agent
45 duly authorized in writing, or by mailing to such clerk, with the
46 notice, the sum provided therein, such payment to be made only
47 by postal note, money order or check. If it is the first, second or
48 third offense subject to this section committed by such person
49 within the jurisdiction of the court in the calendar year, payment
50 to such clerk of the sum of twenty dollars, shall operate as a final
51 disposition of the case. Proceedings under this paragraph shall
52 not be deemed criminal; and no person notified to appear before
53 the clerk of a district court as provided herein shall be required
54 to report to any probation officer, and no record of the case shall
55 be entered in the probation records.

56 If any person notified to appear before the clerk of the district
57 court fails to appear and pay the fine provided hereunder, or,
58 having appeared, desires not to avail himself of the procedure
59 hereinbefore provided for the non-criminal disposition of the case,
60 the clerk shall, as soon as may be, notify the officer concerned,
61 who shall forthwith make a complaint and follow the procedure
62 established for criminal cases. If any person fails to appear in
63 accordance with the summons issued upon such complaint the
64 clerk shall send such person, by certified mail, return receipt
65 requested, a notice that the complaint is pending and that if the
66 person fails to appear within twenty-one days from the sending
67 of such notice a warrant for his arrest will be issued. If any person
68 fails to appear within twenty-one days from the sending of such
69 notice, the court shall issue a warrant for his arrest.

1 SECTION 9. Section 16 of Chapter 266 of the General Laws
2 as appearing as most recently amended by Chapter 312 of the Acts
3 of 1985 in the 1984 Official Edition is hereby amended in line 3
4 by inserting after the word "vault", the following: — farebox
5 contained in a public conveyance or vehicle owned, leased or
6 operated by a railroad corporation, railway company or
7 transportation authority.

1 SECTION 10. Section 19 of said Chapter 266 of the Official
2 Edition is hereby amended in line 2 by inserting after the word
3 “car”, the following words: — or public conveyance or vehicle
4 owned, leased, or operated by a railroad corporation, railway
5 company or transportation authority.

1 SECTION 11. Section 43 of Chapter 272 of the General Laws
2 as so appearing is hereby amended by striking said section and
3 inserting in place thereof the following: —

4 Section 43. Whoever, in a station, waiting room, or terminal
5 of a public transportation facility or upon a railroad carriage,
6 steamboat or other public conveyance is disorderly, or disturbs
7 or annoys travelers in or upon the same by profane, obscene or
8 indecent language, or by indecent behavior shall be punished by
9 a fine of not more than two hundred dollars or by imprisonment
10 in a house of correction for not more than one month. Disorderly
11 conduct under this section shall include but not be limited to
12 persons who create unnecessary noise through the use of a sound
13 production device. Any person violating the provisions of this
14 section may be arrested without a warrant by a law enforcement
15 officer observing the violation.

1 SECTION 12. Section 43A of said Chapter 272 of the General
2 Laws as so appearing is amended in line 10 by striking the word
3 “fifty” and further amended by adding at the end thereof the
4 following sentence: — Any person violating the provisions of this
5 section may be arrested without a warrant by a law enforcement
6 officer observing the violation.

of the year 1911
of the year 1912
of the year 1913
of the year 1914

THE CONSTITUTIONAL PROVISIONS

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