

Crimes Related to Transit Conduct

421.1 PURPOSE AND SCOPE

To establish a uniform procedure for the enforcement of transit-related infractions under section 640 of the California Penal Code.

421.2 POLICY

It shall be the policy of the BART Police Department to vigorously enforce transit specific crimes. The District views the enforcement of quality of life violations under 640 P.C. as an important method of maintaining the system as an attractive, crime-free environment.

421.3 DEFINITION

Several crimes against the transit district are defined in section 640 of the California Penal Code. Any of the acts described therein are infractions punishable by a fine and/or community service when committed on or in any of the following:

(a) (1) Any of the acts described in paragraphs (1) to (5), inclusive, of subdivision (b) is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. Any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or second violation, is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. A third or subsequent violation of any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c) is a misdemeanor punishable by a fine of not more than four hundred dollars (\$400) or by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment. Any of the acts described in subdivision (d) shall be punishable by a fine of not more than four hundred dollars (\$400), by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment.

(2) This section shall apply only to acts committed on or in a facility or vehicle of a public transportation system.

(b)(1) Eating or drinking in or on a system facility or vehicle in areas where those activities are prohibited by that system. (2) Disturbing another person by loud or unreasonable noise. (3) Smoking in or on a system facility or vehicle in areas where those activities are prohibited by that system. (4) Expectorating upon a system facility or vehicle. (5) Skateboarding, roller skating, bicycle riding, roller blading, or operating a motorized scooter or similar device, as defined in Section 407.5 of the Vehicle Code in a system facility, vehicle, or parking structure. This paragraph does not apply to an activity that is necessary for utilization of the transit facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard a transit vehicle, if that activity is conducted with the permission of the transit

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agency in a manner that does not interfere with the safety of the bicyclist or other patrons of the transit facility.

(c)(1) Evasion of the payment of a fare of the system. For purposes of this section, fare evasion includes entering an enclosed area of a public transit facility beyond posted signs prohibiting entrance without obtaining valid fare, in addition to entering a transit vehicle without valid fare.

(2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

(3) (A) Unauthorized use of a discount ticket or failure to present, upon request from a transit system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155 of the Public Utilities Code and posted system identification policies when entering or exiting a transit station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting. (B) In the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, any citation issued shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, the citation shall be voided. If the proof is not produced within that time period, the citation shall be processed.

(d)(1) Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior. (2) Carrying an explosive, acid, or flammable liquid in a public transit facility or vehicle. (3) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition. (4) Willfully blocking the free movement of another person in a system facility or vehicle. This paragraph shall not be interpreted to affect any lawful activities permitted or First Amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes. (5) Willfully tampering with, removing, displacing, injuring, or destroying any part of any facility or vehicle of a public transportation system. (e) Notwithstanding subdivision (a), the City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, and the Alameda-Contra Costa Transit District may enact and enforce an ordinance providing that any of the acts described in subdivision (b) or (c) on or in a facility or vehicle described in subdivision (a) for which the City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, or the Alameda-Contra Costa Transit District has jurisdiction shall be subject only to an administrative penalty imposed and enforced in a civil proceeding. The ordinance for imposing and enforcing the administrative penalty shall be governed by Chapter 8 (commencing with Section 99580) of Part 11 of Division 10 of the Public Utilities Code and shall not apply to minors. (f) For purposes of this section, a "facility or vehicle of a public transportation system" means any of the following: (1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code. (2) A facility of, or vehicle operated by any entity subsidized by, the Department of Transportation. (3) A leased or rented facility or vehicle for which any of the entities described in paragraph (1) or (2) incurs costs of cleanup, repair, or replacement as a result of any of those acts.

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421.4 PROCEDURE

BART Police will diligently pursue the enforcement of the above crimes against the District in order to provide a safe and secure environment for BART patrons. Officers may use discretion and demonstrate diplomacy through verbal and/or written warnings, and through the issuance of citations for 640 PC violations.

- (a) **Fare Evasion** - Refer to policy manual 419 for fare evasion procedures.
- (b) **Smoking Violations on Trains** - Officers shall issue citations for violations of the "no smoking" regulation observed inside BART trains.
- (c) **Smoking, Eating and Drinking Violations Inside the Paid Area of BART Stations** - Officers may exercise discretion in enforcement of "no smoking, eating or drinking" regulations or violations occurring inside the paid area of BART stations and consider available alternatives including:
 - 1. Issuance of a warning, absent any previous warnings as determined by a records check;
 - 2. Issuance of a citation, if the subject has been previously warned as determined by a records check;
 - 3. Issuance of a citation for a first offense without extending a warning when warranted by the circumstances.

421.5 DISCOUNT TICKETS

- (a) **Red Discount Ticket** ~~—A red discount ticket provides a 62.5% discount for seniors 65 years and older or for persons with disabilities. Also for medicare cardholders and children 5-12 years old.~~
- (b) **Green Discount Ticket** ~~—A green discount ticket provides a 62.5% discount for seniors 65 years and older or for persons with disabilities.~~
- (c) **Orange Discount Ticket** ~~—An orange discount ticket provides a 50% discount for middle and secondary school students. Tickets include a last ride bonus allowing a trip of any value to be made with last remaining value of as little as \$0.05). Special purchasing restrictions apply. Tickets may be used only by the student (s) who purchased them.~~
 - 1. ~~Orange tickets are sold to participating schools within Alameda, Contra Costa, San Francisco, and San Mateo Counties, and are only to be used to and from school, or school-related activities (including summer school). Tickets are sold by the school, and can also be ordered on-line by establishing an on-line account with the participating school (limit four per month). Schools collect payment in advance from students and place ticket orders directly with BART. Students should check with their school administrator for requirements and forms. School administrators should call (510) 464-6406 to request an information packet.~~

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2. ~~Students age 13 to 18 who are enrolled in middle or secondary school, and have no history of vandalism with their school or the BART District are eligible. The orange ticket may be used only for trips to and from school or school-sponsored events, Monday through Friday only. Student must present school ID card or other verifying identification if requested to do so by BART Personnel. A citation from BART Police for violating law or BART rules may result in revocation of program privileges.~~

421.5.1 PROCEDURE FOR RED AND GREEN DISCOUNT TICKETS

~~Penal Code sections 640 (c)(3)(A) shall be used when taking enforcement action on the use of red, green, or orange discount tickets. Officers who contact a person using a red, green, or orange discount ticket should verify the person's eligibility through either disability, age, or education requirement.~~

~~It shall be the policy of the BART Police Department provide enforcement against the illegal use of red, green, and orange discount tickets. It will also be the policy of this department to use discretion and to demonstrate diplomacy if it becomes necessary to cite a person who has a physical/mental handicap.~~

~~If the discount ticket user claims eligibility as a result of a disability, several forms of identification can be presented for proof of eligibility. Acceptable proofs of eligibility include:~~

- ~~A valid Regional Transit Card~~
- ~~A California DMV Disabled Veterans placard~~
- ~~A valid discount card from any California transit operator~~
- ~~A valid Medicare Card~~

~~Station agents and police personnel have discretion to accept other forms of identification that he/she believes is valid. If the discount ticket claims eligibility as a result of a disability, two forms of identification can be used to substantiate the disability. If the discount ticket user cannot substantiate their disability with either of these identification cards, and the officer elects to issue a citation for 640 (c)(3) A) PC, the officer shall:~~

- ~~Instruct the person cited to present an acceptable form of identification with the citation to a BART Police Department officer at any BART station within the five day grace period from the issuance date of the citation.~~
- ~~Inform the person that only BART Police Department officers can verify the possession of valid identification cards for this particular purpose.~~
- ~~Give the person cited the five day grace period advisement notice along with a copy of the citation.~~

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~~In accordance to 640 (c)(3)(B) PC, in the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, any citation issued shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, the citation shall be voided. If the proof is not produced within that time period, the citation shall be processed. Though 72 hours is the minimum mandated by the law this department will allow up to 5 days before taking the following steps whenever he/she is requested to verify the individual's transit discount identification card:~~

- ~~(a) Verify that the card was issued to the bearer, and is currently in effect. It is not necessary that the ID card was valid at the time the citation was issued.~~
- ~~(b) The retrieved citation will be placed back into the "five day hold" citation box before the officer goes off duty.~~
- ~~(c) Direct reporting officers will give verified citations to their supervisor who will place citation in the "five day hold" box.~~
- ~~(d) The Traffic Officer will send all such verified 640 (c)(3)(A) PC citations to the court requesting dismissal.~~
- ~~(e) Once the court returns the disposition of the request, the Traffic Officer will notify the subject via mail of the court's disposition.~~

~~Individuals seeking discount card verification on citations received outside the five working day grace period shall be informed that the matter will have to be adjudicated in a court of law. In such cases, the officer will not accept the citation.~~