

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**NOTICE OF PENALTIES INCURRED AND DUE  
FOR VIOLATIONS OF LAWS AND RULES**

**PENALTY ASSESSMENT: TV-180254  
PENALTY AMOUNT: \$300**

MAJOR MOVERS LLC  
7530 47th Ave NW  
Tulalip, WA 98271

The Washington Utilities and Transportation Commission (Commission) believes that Major Movers LLC (Major Movers or Company) has committed violations of Washington Administrative Code (WAC) 480-15-560 Equipment Safety Requirements, which adopts Title 49 Code of Federal Regulations (CFR) Part 393 – Parts and Accessories Necessary for Safe Operation, and CFR Part 396 – Inspection, Repair, and Maintenance.

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On March 27, 2018, Commission Motor Carrier Investigator Wayne Gilbert completed a routine safety investigation of Major Movers and documented the following violations:

- **One violation of Title 49 CFR Part 393.45(d) – Brake connections with leaks or constrictions.** Commission staff (Staff) discovered one commercial motor vehicle with a leaking brake connection that meets the air loss rate.<sup>1</sup>
- **One violation of Title 49 CFR Part 393.51 – No or defective brake warning device: No low air pressure warning device.** Staff discovered one commercial motor vehicle with an inoperable low air pressure warning device.<sup>2</sup>
- **One violation of Title 49 CFR Part 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.** Major Movers failed to ensure adequate records of inspection, repair, and maintenance were kept for the carrier's commercial motor vehicle.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. **How serious or harmful the violation is to the public.** The violations noted are serious and potentially harmful to the public. A leaking air brake connection can reduce braking effectiveness and affect the vehicle's braking ability. In addition, an inoperable brake warning device prohibits the vehicle driver from receiving a critical warning of low air pressure. Lastly, companies that fail to maintain vehicle inspection and maintenance records may inadvertently operate a commercial motor vehicle that has an undetected

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<sup>1</sup> Fleet number 1.

<sup>2</sup> *Id.*

mechanical defect. These violations place the traveling public at risk, and present serious safety concerns.

2. **Whether the violation is intentional.** Considerations include:

- Whether the Company ignored Staff's previous technical assistance; and
- Whether there is clear evidence through documentation or other means that shows the Company knew of and failed to correct the violation.

On Oct. 28, 2014, the Commission received the Company's application for household goods moving authority. Travis Molenda, owner of Major Movers, acknowledged his Company's responsibility to understand and comply with applicable motor carrier safety rules in the application.

On Nov. 12, 2014, Travis Molenda attended household goods training provided by Commission Staff and acknowledged receiving training regarding motor carrier safety regulations.

On Nov. 18, 2015, Darin Pearson, manager of Major Movers, attended household goods training provided by Commission Staff and acknowledged receiving training regarding motor carrier safety regulations.

On April 29, 2016, Commission Motor Carrier Investigator Alan Dickson completed a routine safety investigation of Major Movers that resulted in a satisfactory safety rating. Mr. Dickson also provided technical assistance to Mr. Molenda during this routine safety investigation.

The Company knew, or should have known, about these requirements.

3. **Whether the Company self-reported the violation.** The Company did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** Major Movers was cooperative and responsive throughout the entire scope of the investigation and expressed a desire to come into compliance with motor carrier safety regulations.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Commission staff does not know if Major Movers has corrected these safety violations.
6. **The number of violations.** Commission staff identified seven violation types with a total of seven occurrences.
7. **The number of customers affected.** The Company traveled approximately 2,068 miles in 2017. A significant number of customers as well as members of the traveling public were potentially affected by these safety violations.
8. **The likelihood of recurrence.** The Commission does not know if Major Movers is likely to repeat these safety violations.
9. **The Company's past performance regarding compliance, violations, and penalties.** This is Major Movers' second routine safety review, and the Company has no previous history of violations or penalties as the result of a safety review.

The Company has, however, been issued penalties for operating as a household goods carrier without the required Commission-issued permit on May 23, 2012; and again on Nov. 4, 2014.

On June 29, 2017, the Company was issued a penalty for failure to file its complete 2016 annual report by May 1, 2017.

**10. The Company's existing compliance program.** Darin Pearson is primarily responsible for all motor carrier safety compliance items.

**11. The size of the Company.** Major Movers is a small company with two drivers and one commercial motor vehicle. The Company reported \$102,724 in gross revenue in 2017.

The Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue mandatory penalties for each occurrence of a first-time violation.<sup>3</sup> The Commission generally will assess penalties per type of violation, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and also for repeat violations of critical regulations found in future compliance investigations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Major Movers \$300 for violations of WAC 480-15-560 Equipment Safety Requirements, calculated as follows:

- One violation of Title 49 CFR Part 393.45(d) – Brake connections with leaks or constrictions. This is a first-time violation of a fundamental safety requirement. Accordingly, the Commission assesses a penalty at the statutory amount of \$100 per occurrence, for a total of \$100.
- One violation of Title 49 CFR Part 393.51 – No or defective brake warning device: No low air pressure warning device. This is a first-time violation of a fundamental safety requirement. Accordingly, the Commission assesses a penalty at the statutory amount of \$100 per occurrence, for a total of \$100.
- One violation of Title 49 CFR Part 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance. This is a first-time violation, and thus the Commission assesses a penalty of \$100 per violation type, for a total of \$100.

This information, if proven at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe any or all of the violations did not occur, you may deny committing the violation(s) and contest the penalty assessment through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact concerning the violation(s) require consideration of evidence and

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<sup>3</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

resolution in a hearing. Any contest of the penalty assessment must include a written statement of the reasons supporting that contest. Failure to provide such a statement will result in denial of the contest.

If there is a reason for any or all of the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW 81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation(s) or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal **within FIFTEEN (15) days** after you receive this notice. If you are unable to use the web portal, you may submit it via email to [records@utc.wa.gov](mailto:records@utc.wa.gov). If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250.

**If you do not act within 15 days**, the Commission may take additional enforcement action, including but not necessarily limited to suspending or revoking your certificate to provide regulated service, assessing additional penalties, or referring this matter to the Office of the Attorney General for collection.

DATED at Olympia, Washington, and effective April 10, 2018.

*/s/ Rayne Pearson*  
RAYNE PEARSON  
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TV-180254

**PLEASE NOTE:** You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed. I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violations occurred and enclose \$300 in payment of the penalty.

2. **Contest the violations.** I believe that some or all of the alleged violations did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide above.

3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: \_\_\_\_\_ [month/day/year], at \_\_\_\_\_ [city, state]

\_\_\_\_\_  
Name of Respondent (Company) – please print

\_\_\_\_\_  
Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”