

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: TE-180368
PENALTY AMOUNT: \$200**

BEELINE TOURS LTD.
8110 7th Ave S.
Seattle, WA 98108

The Washington Utilities and Transportation Commission (Commission) believes that Beeline Tours LTD. (Beeline or company) has committed violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopt 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 April 25, 2018, Commission Motor Carrier Investigator Francine Gagne completed a vehicle inspection of a Beeline vehicle¹ during a destination check and documented the following out-of-service violations:

- **One violation of Title 49 CFR Part 393.62(a) – No or defective emergency exits.** Staff found the passenger side rear exit inoperable, as well as discovered three emergency exits on the driver side missing the required identification markings.
- **One violation of Title 49 CFR Part 396.3(a)(1) – Brake system pressure loss.** Staff discovered an audible air leak that prevented the brake system from maintaining air pressure.

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. Companies that fail to maintain critical safety equipment increase the potential for a failure to occur during an emergency. This could present serious safety concerns to its passengers. In addition, a leaking air brake can affect the vehicle's braking ability, which places the traveling public at risk.
2. **Whether the violation is intentional.** Considerations include:
 - Whether the company ignored Commission staff's previous technical assistance; and

¹ Fleet number 502.

- Whether there is clear evidence through documentation or other means that shows the company knew of and failed to correct the violation.

Commission staff has conducted several routine safety investigations of Beeline since July 2002, with the most recent safety investigation dating back to August 2015. The company knew, or should have known about these requirements; however, there is no evidence that the company disregarded staff's previous technical assistance.

3. **Whether the company self-reported the violation.** The company did not self-report this violation.
4. **Whether the company was cooperative and responsive.** The driver was cooperative and responsive throughout the vehicle inspection.
5. **Whether the company promptly corrected the violations and remedied the impacts.** Beeline sent a mechanic to the site to repair the vehicle. Staff has not received written proof of repair; therefore, the Commission does not know if Beeline has corrected these violations.
6. **The number of violations.** Staff identified four violation types with a total of four occurrences.
7. **The number of customers affected.** The company reported 447,860 miles traveled in 2016. A significant number of customers were potentially affected by these safety violations.
8. **The likelihood of recurrence.** The Commission does not know if Beeline is likely to repeat these safety violations.
9. **The company's past performance regarding compliance, violations, and penalties.** On March 1, 2011, the Commission penalized Beeline \$3,300 in Docket TE-110155 for violations of WAC 480-30-221, Vehicle and Driver Safety Requirements.

On June 8, 2015, the Commission penalized Beeline \$500 in Docket TE-151005 for failing to file its 2014 annual report or pay 2015 regulatory fees.

On July 7, 2017, the Commission penalized Beeline \$1,000 in Docket TC-170576 for failing to file its 2016 annual report or pay 2017 regulatory fees. On Sept. 8, 2017, the Commission issued a notice to cancel Beeline's certificates in Docket TC-170920 for failing to file its 2016 annual report or pay 2017 regulatory fees.
10. **The company's existing compliance program.** Tony Connors, operations manager for Beeline, is responsible for the company's safety compliance program.
11. **The size of the company.** Beeline is a moderate-sized company operating 20 commercial motor vehicles under its charter and excursion service.

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.² 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, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Beeline \$200 for violations of WAC 480-30-221, Vehicle and Driver Safety Requirements, which adopt Title 49 CFR Parts 393 and 396, calculated as follows:

- One violation of Title 49 CFR Part 393.62(a) – No or defective emergency exits. This is a first-time violation of a fundamental safety requirement. The Commission assesses a penalty of \$100 per occurrence, for a total of \$100.
- One violation of Title 49 CFR Part 396.3(a)(1) – Brake system pressure loss. This is a first-time violation of a fundamental safety requirement. The Commission assesses a penalty of \$100 per occurrence, 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 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.

² Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

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. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO 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 May 11, 2018.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-180368

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 \$200 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.”