

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: TE-180596

PENALTY AMOUNT: \$1,400

Luxury1 Limo, LLC  
32010 111th Ct SE  
Auburn, WA 98092

The Washington Utilities and Transportation Commission (Commission) believes that Luxury1 Limo, LLC (Luxury1 Limo or Company) has committed violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (CFR) Part 382 – Controlled Substances and Alcohol Use and Testing, Part 383 – Commercial Driver’s License Standards; Requirements and Penalties, Part 393 – Parts and Accessories for Safe Operation, and Part 395 – Hours of Service of Drivers.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. In the case of an ongoing violation, every day’s continuance is considered a separate and distinct violation. RCW 81.04.530 allows penalties of \$500 for each driver who is not in compliance with controlled substances and alcohol testing requirements.

On July 2, 2018, Commission Motor Carrier Investigator Francine Gagne completed a routine safety investigation of Luxury1 Limo and documented the following violations:

- **One violation of Title 49 CFR Part 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.** Luxury1 Limo allowed its employee Travis Powell to drive on April 28, 2018, and was unable to provide evidence of a pre-employment controlled substance test.
- **Seven violations of Title 49 CFR Part 383.37(a) – Allowing, requiring permitting, or authorizing an employee to operate a CMV during any period in which the driver does not have a current CLP or CDL or does not have the proper class endorsements.** Luxury1 Limo allowed employee Travis Powell to operate a commercial motor vehicle on seven occasions without a passenger endorsement on his commercial driver’s license. Mr. Powell drove on March 10, 16, 17, 24, 25, and 31, and April 28, 2018.
- **One violation of Title 49 CFR Part 393.62(c) – Emergency exits for buses.** Upon inspection of the Company’s fleet unit number one, staff discovered unmarked emergency exit windows that would not open. This is a defect that places the vehicles out of service.
- **Seven violations of Title 49 CFR Part 395.8(a) – Failing to require driver to make a record of duty status.** The Company allowed its employee Travis Powell to operate a

commercial motor vehicle on seven occasions without keeping required records of duty status. Mr. Powell drove on March 10, 16, 17, 24, 25, and 31, and April 28, 2018.

The Commission considered the following factors in determining the appropriate penalty for the violation:

1. **How serious or harmful the violations is to the public.** The violations cited are serious and potentially harmful to the public. Companies that use drivers without the required license endorsement or pre-employment drug test, fail to record driver hours, or operate vehicles with defective emergency exits put the traveling public at risk. A disqualified, impaired, or fatigued driver presents serious safety concerns.
2. **Whether the violations were intentional.** Considerations include:
  - Whether the company ignored Commission 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 violations.

Commission staff provided Luxury1 Limo with new entrant training on May 15, 2017, and the Commission granted operating authority to the Company on May 31, 2017. In its 2017 application for authority, the Company acknowledged its responsibility to understand and comply with applicable state and federal safety requirements. The Company knew, or should have known, about these requirements.

3. **Whether the company self-reported the violation.** The Company did not self-report the violations.
4. **Whether the company was cooperative and responsive.** The Company was receptive during the investigation but did not timely provide follow-up documentation.
5. **Whether the company promptly corrected the violation and remedied the impacts.** It is unknown whether or not the Company promptly took corrective action.
6. **The number of violations.** Staff identified 16 violations types with 23 individual occurrences.
7. **The number of customers affected.** The Company reported 8,571 miles traveled 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 Luxury1 Limo is likely to repeat these safety violations, however the Company was receptive to staff and expressed a desire to come into compliance.
9. **The company's past performance regarding compliance, violations, and penalties.** The Company has no similar violations.

10. **The company's existing compliance program.** The Company's owner, Satwinder Singh, is responsible for the carrier's safety and compliance program.
11. **The size of the company.** Luxury1 Limo is a small company with one driver and one vehicle. The Company currently operates one CMV. The Company reported a gross revenue of \$42,750 for 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>1</sup> The Commission will generally 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 Luxury1 Limo \$1,400 for violations of WAC 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 CFR Parts 382, 383, 393, and 396, calculated as follows:

- Seven acute violations of Title 49 CFR Part 383.37(a) – Allowing, requiring permitting, or authorizing an employee to operate a CMV during any period in which the driver does not have a current CLP or CDL or does not have the proper class endorsements. The Commission assesses penalties of \$100 per occurrence, for a total of \$700.
- Seven critical violations of Title 49 CFR Part 395.8(a) – Failing to require driver to make a record of duty status. The Company allowed its employee Travis Powell to operate a commercial motor vehicle on seven occasions without keeping required records of duty status. Mr. Powell drove on March 10, 16, 17, 24, 25, and 31, and April 28, 2018. This is a first-time violation, and thus the Commission assesses penalties of \$100 per violation type.
- One critical violation of Title 49 CFR Part 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result. Luxury1 allowed its employee Travis Powell to drive on April 28, 2018, and was unable to provide evidence of a pre-employment controlled substance test. The Commission assesses a penalty at the statutory amount of \$500.
- One violation of Title 49 CFR Part 393.62(c) – Emergency exits for buses. Upon inspection of the Company's fleet unit number one, staff discovered unmarked emergency exit windows that would not open. This is a violation of a fundamental safety requirement, and thus the Commission assesses a penalty of \$100 for this violation.

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<sup>1</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

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. 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 to contest the violations or 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 July 25, 2018.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TE-180596

**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 \$1,400 in payment of the penalty.
- 2. **Contest the violation.** I believe that 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.”