

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: TV-180706  
PENALTY AMOUNT: \$300

Three Generations Moving and Hauling, LLC  
2904 174th St. East  
Tacoma, WA 98445

The Washington Utilities and Transportation Commission (Commission) believes that Three Generations Moving and Hauling, LLC (Three Generations Moving or Company) has committed violations of Washington Administrative Code (WAC) 480-15-555 Criminal Background Checks for Prospective Employees, and WAC 480-15-560 Equipment Safety Requirements, which adopts Title 49 Code of Federal Regulations (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.

In August 2018, Commission Motor Carrier Investigator Edward Steiner completed a routine safety investigation of Three Generations Moving and documented the following violations:

- **One violation of WAC 480-15-555 – Criminal Background Checks for Prospective Employees.** The Company failed to conduct and maintain a criminal background check for employee Sam Tatum.
- **One violation of Title 49 CFR Part 396.3(b) – Required records.** The Company failed to keep the minimum required records of inspection and maintenance for the one vehicle examined.
- **One violation of Title 49 CFR Part 396.17(a) – Periodic Inspection.** The Company used a commercial motor vehicle that was not periodically inspected.

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

1. **How serious or harmful the violations are to the public.** The violations noted are serious and potentially harmful to the public. Household goods moving companies that hire workers without conducting required background checks and fail to conduct and document periodic vehicle inspections place the public, as well as their customers and their customers' belongings, at risk. Employees with unknown criminal backgrounds, and vehicles with unknown maintenance history, place the public at risk.

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.

Three Generations Moving began operations in 2016 as a household goods and general commodities carrier in Tacoma, Washington. The Commission granted provisional operating authority to the Company on December 15, 2016. In its application for provisional operating authority filed December 9, 2016, the Company acknowledged its responsibility to understand and comply with applicable state and federal safety 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 cooperative throughout the entire investigation.
5. **Whether the Company promptly corrected the violation and remedied the impacts.** The Company contacted Investigator Steiner and informed him that each of the violations identified in the investigative report were corrected.
6. **The number of violations.** Staff identified 10 violation types with 10 individual occurrences.
7. **The number of customers affected.** The Company reported 9,309 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 Three Generations Moving is likely to repeat these safety violations, however the Company was cooperative with staff and expressed a desire to come into compliance throughout the investigation process.
9. **The Company's past performance regarding compliance, violations, and penalties.** This is Three Generations Moving's first safety investigation. The Company has had no previous violations or penalties.
10. **The Company's existing compliance program.** Jamie Loneia, General Manager, is responsible for the carrier's safety and compliance program.
11. **The size of the Company.** Three Generations Moving is a small company with one driver and one vehicle. The Company reported a gross revenue of \$49,488 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 by 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 Three Generations Moving \$300 for violations of WAC 480-15-555 Criminal Background Checks for Prospective Employees, and WAC 480-15-560 Equipment Safety Requirements, which adopts Title 49 CFR Part 396, calculated as follows:

- One violation of WAC 480-15-555 – Criminal background checks for prospective employees. The Commission assesses a penalty of \$100 for this violation.
- One violation of Title 49 CFR Part 396.3(b) – Required records. The Commission assesses a penalty of \$100 for this violation.
- One violation of Title 49 CFR Part 396.17(a) – Periodic Inspection. The Commission assesses a penalty of \$100 for this violation.

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 through evidence presented at a hearing or in writing. Or, 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 the 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 violation(s) or for mitigation of the penalty 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 violation(s).
- Request mitigation to contest the amount of the penalty.

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

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 September 5, 2018.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TV-180706

**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 \$\_\_\_\_\_ in payment of the penalty.

[ ] 2. **Contest the violations.** 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.”