

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: TE-190877
PENALTY AMOUNT: \$500**

InnerPrizin LLC,
d/b/a VIP Party Bus Spokane; Driven VIP
214 S. Eastern Road, Apt. 11
Spokane Valley, WA 99212

The Washington Utilities and Transportation Commission (Commission) believes InnerPrizin LLC, d/b/a VIP Party Bus Spokane, and Driven VIP, (InnerPrizin or Company) violated Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 382 – Controlled Substance and Alcohol Use and Testing.

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

On October 11, 2019, Commission Motor Carrier Investigator Edward Steiner completed a routine safety investigation of InnerPrizin and documented the following violation:

- **One violation of 49 CFR § 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.** InnerPrizin allowed driver Charlene Gresham to operate a commercial motor vehicle before the Company received a negative pre-employment controlled substance test.

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

1. **How serious or harmful the violations are to the public.** The violation noted is serious and potentially harmful to the public. Companies that allow drivers to operate commercial motor vehicles prior to receiving negative pre-employment controlled substance test results put the traveling public at risk. This violation presented a serious safety concern.
2. **Whether the violations were intentional.** Considerations include:
 - Whether the Company ignored Commission staff's (Staff) 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 March 7, 2017, the Commission received the Company's application for charter and excursion service authority. In the application, Shaylon Reed, owner of InnerPrizin, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety regulations.

On March 14, 2017, Staff provided new entrant safety regulation training to InnerPrizin, and Shaylon Reed acknowledged receiving training related to 49 CFR § 382.301(a).

3. **Whether the Company self-reported the violations.** InnerPrizin did not self-report this violation.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation, and expressed a desire to come into compliance.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** The Company corrected the violation of 49 CFR § 382.301(a) prior to the conclusion of the safety investigation.
6. **The number of violations.** Staff identified 11 violation types with a total of 15 individual occurrences.
7. **The number of customers affected.** The Company employs three drivers and operates one commercial motor vehicle. InnerPrizin traveled 7,670 miles in 2018. This safety violation presented a public safety risk.
8. **The likelihood of recurrence.** Staff provided technical assistance with specific remedies to help the Company assess how well its safety management controls support safe operations and how to begin improving its safety performance. The Company was cooperative with Staff, and took immediate action to correct the violations. In light of these factors, Staff believes the likelihood of recurrence is low.
9. **The Company's past performance regarding compliance, violations, and penalties.** On February 12, 2018, the Company's certificate was cancelled due to insufficient proof of insurance. On November 16, 2018, the Company's certificate was reinstated.

The Company has no history of violations or penalties with the Commission.

10. **The Company's existing compliance program.** Shaylon Reed is responsible for the Company's safety compliance program.
11. **The size of the Company.** InnerPrizin currently operates one commercial motor vehicle and employs three drivers. The Company reported \$52,971 in gross revenue for 2018.

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.¹ 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 InnerPrizin \$500, calculated as follows:

- One violation of 49 CFR § 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result. The Commission assesses a penalty of \$500 for this first-time critical 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 the violation did not occur, you may deny committing the violation and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for the violation 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 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 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.
- Admit the violation but request mitigation of the penalty amount.

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.

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

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 Lacey, Washington, and effective October 30, 2019.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-190877

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 \$500 in payment of the penalty.

2. **Contest the violation(s).** I believe that the alleged violation(s) 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