

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TE-191058

PENALTY AMOUNT: \$1,700

Assure Ride Non Emergency Medical Transportation Company, LLC,
d/b/a Assure Ride
720 N 10th St. A #227
Renton, WA 98057

The Washington Utilities and Transportation Commission (Commission) believes Assure Ride Non Emergency Medical Transportation Company, LLC, d/b/a Assure Ride, (Assure Ride or Company) violated Washington Administrative Code (WAC) 480-30-191, Bodily Injury and Property Damage Liability Insurance, and WAC 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 382 – Controlled Substances and Alcohol Use and Testing and 49 CFR Part 383 – Commercial Driver’s License Standards; Requirements and Penalties.

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 motor vehicle driver not in compliance with the motor vehicle driver controlled substance and alcohol testing requirements.

On December 18, 2019, Commission Motor Carrier Investigator Wayne Gilbert completed a routine safety investigation of Assure Ride and documented the following violations:

- **Six violations of WAC 480-30-191 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.** Assure Ride operated a 16 passenger bus on six occasions between September 24 and October 29, 2019, without having the required minimum levels of insurance.
- **Six violations of 49 CFR § 383.37(a) – Knowingly allowing, requiring, permitting, or authorizing an employee to operate a commercial motor vehicle (CMV) during any period in which the driver does not have a current commercial learner’s permit (CLP) or commercial driver’s license (CDL) or does not have a CLP or CDL with the proper class or endorsements.** The Company allowed drivers Alexandros Angous and Jordan Babineaux to operate a CMV designed for 16 passengers without a valid CDL.
- **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.** Assure Ride allowed driver Alexandros Angous to operate a commercial motor vehicle before the Company received a negative pre-employment controlled substance test result.

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

1. **How serious or harmful the violations are to the public.** The violations noted are serious and potentially harmful to the public. Companies that: (1) fail to maintain adequate levels of insurance, (2) allow drivers without proper licensing to operate commercial motor vehicles, and (3) allow drivers to operate commercial motor vehicles prior to receiving negative pre-employment controlled substance test results put their customers and the traveling public at risk. These violations present public safety concerns.
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 June 16, 2017, the Commission received the Company's application for charter and excursion authority. In the application, Rick Brown, Fleet Manager of Assure Ride, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety regulations.

On July 10, 2017, Staff provided new entrant safety regulation training to the Company. Jordan Babineaux, President of Assure Ride, acknowledged receiving training related to applicable motor carrier safety regulations.

On December 14, 2018, the Commission received the Company's application for reinstatement of charter and excursion authority. In the application, Jason Orton, Safety Manager of Assure Ride, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety regulations.

The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Assure Ride did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation, expressed a desire to come into compliance with safety regulations, and made corrections during the safety investigation.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** The violations were corrected prior to the closing of Staff's investigation when Assure Ride sold its 16 passenger commercial motor vehicle on November 21, 2019.
6. **The number of violations.** Staff identified 15 violation types with a total of 52 individual occurrences.

7. **The number of customers affected.** The Company employs seven drivers and operated five commercial motor vehicles. Assure Ride traveled 82,733 miles in 2018. These safety violations 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 November 29, 2018, the Company's certificate was cancelled due to insufficient proof of insurance. On December 18, 2018, the Company's certificate was reinstated. Assure Ride has no history of penalties for safety violations.
10. **The Company's existing compliance program.** Jordan Babineaux is responsible for the Company's safety compliance program.
11. **The size of the Company.** Assure Ride currently operates four commercial motor vehicles and employs seven drivers. The Company reported \$350,000 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 Assure Ride \$1,700, calculated as follows:

- Six violations of WAC 480-30-191 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage. The Commission assesses a penalty of \$100 for each occurrence of this acute violation, for a total of \$600.
- Six violations of 49 CFR § 383.37(a) – Knowingly 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 a CLP or CDL with the proper class or endorsements. The Commission assesses a penalty of \$100 for each occurrence of this acute violation, for a total of \$600.

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

- 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 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. Alternatively, 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 their 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).
- Admit the violations but request mitigation of the penalty amounts.

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 Lacey, Washington, and effective January 8, 2020.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-191058

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 \$1,700 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