

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TC-200658

PENALTY AMOUNT: \$1,800

Shuttle Express, Inc.,
d/b/a Shuttle Express
800 SW 16th St.
Renton, WA 98057

The Washington Utilities and Transportation Commission (Commission) believes Shuttle Express, Inc., d/b/a Shuttle Express, (Shuttle Express or Company) violated Washington Administrative Code (WAC) 480-30-222, Vehicles with Capacity for Seven or Fewer Passengers (Including the Driver).

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.

On July 9, 2020, Commission Motor Carrier Investigator Wayne Gilbert completed a routine safety investigation of Shuttle Express and documented the following violations:

- **Eight violations of WAC 480-30-222(1) – Failing to ensure all vehicles have been properly inspected by a mechanic who has been certified by the National Institute for Automotive Service Excellence.** Shuttle Express failed to have an annual inspection performed on eight of its vehicles.
- **Eight violations of WAC 480-30-222(2) – Failing to ensure that drivers completed both pre-trip and post-trip inspections each day the vehicles were operated.** The Company failed to require its drivers to prepare a driver vehicle inspection report on eight occasions.
- **Eight violations of WAC 480-30-222(4)(b) – Failing to obtain a complete driving record from the Washington Department of Licensing.** Shuttle Express failed to ensure that a driver's abstract was maintained for drivers Kamal Singh, Pardeep Singh, Katie Isobe, Tiffiney Reason, Haris Sijamic, Kapil Sharma, Alexander Stoyanov, and Terry Wood.
- **Fifteen violations of WAC 480-30-222(4)(e) – Failing to ensure drivers were medically examined and certified prior to operating a passenger carrying vehicle.** The Company allowed drivers Pardeep Singh and Alexander Stoyanov to operate a passenger carrying vehicle without a valid medical certificate on 15 occasions between January 20 and 31, 2020.

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. Passenger transportation companies that: (1) use vehicles that have not been inspected, (2) fail to require drivers to prepare driver vehicle inspection reports, (3) fail to maintain inquiries into drivers' driving records, and (4) use drivers that are not medically examined and certified, put their customers and the traveling public at risk. These violations present serious 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.

Shuttle Express began its operations in 1970, has been subject to enforcement action by the Commission on multiple occasions, and has been subject to numerous safety investigations conducted by Staff. The Company knew or should have known about these requirements; however, there is no evidence that suggests Shuttle Express ignored Staff's previous technical assistance.

3. **Whether the Company self-reported the violations.** Shuttle Express did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation and expressed a desire to come into compliance with safety regulations.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Shuttle Express has not provided Staff with evidence that it has corrected the violations.
6. **The number of violations.** Staff identified four violation types with a total of 39 individual occurrences.
7. **The number of customers affected.** This routine safety investigation focused on the Company's use of contracted drivers with vehicles seating seven or fewer passengers. Shuttle Express employs 83 drivers and operates 64 vehicles with a seating capacity of seven or fewer passengers. The Company reported 2,403,039 miles traveled in 2017, which does not include miles traveled by the contractors operating under Shuttle Express's certificate. These safety violations present 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. Shuttle Express was cooperative with Staff and expressed a desire to come into compliance. 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 August 15, 2016, Shuttle Express was penalized \$400 in Docket TC-160991 for using a driver with an invalid commercial driver's license. The Company paid the penalty in full.
- On July 5, 2018, Shuttle Express was penalized \$100 in Docket TC-180510 for using a vehicle that was unable to maintain air pressure during an air loss test and placed the vehicle out-of-service. The Company paid the penalty in full.
- On April 29, 2019, Shuttle Express was penalized \$100 in Docket TC-190200 for using a vehicle with an unsecured electrical connector rubbing against the steering linkage and placed the vehicle out-of-service. The Company paid the penalty in full.
10. **The Company's existing compliance program.** Paula Burckhard, Executive Assistant for Shuttle Express, is responsible for the Company's safety compliance program.
11. **The size of the Company.** Shuttle Express currently operates 64 vehicles with a seating capacity of seven or fewer passengers and employs 83 drivers. The Company reported \$5,064,352 in gross revenue for 2019.

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 Shuttle Express \$1,800, calculated as follows:

- Eight violations of WAC 480-30-222(1) – Failing to ensure all vehicles have been properly inspected by a mechanic who has been certified by the National Institute for Automotive Service Excellence. The Commission assesses a "per category" penalty of \$100 for these first-time violations.
- Eight violations of WAC 480-30-222(2) – Failing to ensure that drivers completed both pre-trip and post-trip inspections each day the vehicles were operated. The Commission assesses a "per category" penalty of \$100 for these first-time violations.
- Eight violations of WAC 480-30-222(4)(b) – Failing to obtain a complete driving record from the Washington Department of Licensing. The Commission assesses a "per category" penalty of \$100 for these first-time violations.

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

- Fifteen violations of WAC 480-30-222(4)(e) – Failing to ensure drivers were medically examined and certified prior to operating a passenger carrying vehicle. The Commission assesses a penalty of \$100 for each occurrence of this violation, for a total of \$1,500.

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 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.

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 August 17, 2020.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TC-200658

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 \$1,800 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 B felony.”