

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: TE-210286  
PENALTY AMOUNT: \$200

Leavenworth Shuttle & Taxi LLC  
PO Box 1041  
Leavenworth, WA 98826

The Washington Utilities and Transportation Commission (Commission) believes Leavenworth Shuttle & Taxi LLC (Leavenworth Shuttle 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 396 – Inspection, Repair, and Maintenance.

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 April 26, 2021, Commission Motor Carrier Investigator Tracy Cobile completed a follow-up safety investigation of Leavenworth Shuttle and documented the following violations:

- **One violation of 49 CFR § 396.3(a)(1) – Defective brakes.** Commission staff (Staff) discovered a commercial motor vehicle with 20 percent or greater of its service brakes defective. This commercial motor vehicle was placed out-of-service.
- **One violation of 49 CFR § 396.3(a)(1) – Brake system pressure loss.** Staff discovered a commercial motor vehicle with its brake system failing an air loss rate test. This vehicle was placed out-of-service.

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 use commercial motor vehicles in need of repairs put their customers and the traveling public at risk. These violations present significant safety concerns.
2. **Whether the violations were intentional.** Considerations include:
  - Whether the Company ignored 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 violation.

On April 10, 2013, the Commission received the Company's application for charter and excursion carrier services. In the application, David Witt, owner of Leavenworth Shuttle,

acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety regulations. On April 23, 2013, Staff provided new entrant safety regulation training to the Company.

Since 2016, Staff has completed four safety investigations of Leavenworth Shuttle. The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Leavenworth Shuttle 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.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Leavenworth Shuttle has not provided Staff with evidence that it corrected the violations.
6. **The number of violations.** Staff identified 31 violation types with a total of 52 individual occurrences.
7. **The number of customers affected.** Leavenworth Shuttle reported traveling 90,000 miles in 2020. 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 throughout the safety investigation and expressed interest in coming into compliance. Absent a commitment to prioritize safe operations, the violations are likely to reoccur.
9. **The Company's past performance regarding compliance, violations, and penalties.** On May 28, 2014, the Commission assessed a \$1,000 penalty against Leavenworth Shuttle in Docket TE-141068 for failing to file an annual report and pay regulatory fees by the due date. The Company paid the penalty in full.

On June 9, 2015, the Commission assessed a \$1,000 penalty against Leavenworth Shuttle in Docket TE-151027 for failing to file an annual report and pay regulatory fees by the deadline. Leavenworth Shuttle paid the penalty in full.

On September 28, 2016, the Commission assessed a \$19,800 penalty against Leavenworth Shuttle in Docket TE-161020 for safety violations of WAC 480-30-221. On October 24, 2016, the Commission entered Order 01, which reduced the penalty to \$14,800 and suspended a \$10,000 portion of the reduced penalty for a period of two years, subject to conditions. Leavenworth Shuttle failed to comply with a condition of Order 01 in Docket TE-161020 and the \$10,000 suspended penalty was imposed. The Company paid the entire \$14,800 penalty.

On June 2, 2017, the Commission assessed a \$300 penalty against Leavenworth Shuttle in Docket TE-170372 for safety violations of WAC 480-30-221. Leavenworth Shuttle paid the penalty in full.

On June 20, 2017, the Commission assessed a \$200 penalty against Leavenworth Shuttle in Docket TE-170625 for failing to file an annual report and pay regulatory fees by the due date. The Company paid the penalty in full.

On February 27, 2019, the Commission served a complaint for penalties against Leavenworth Shuttle in Docket TE-181030 for safety violations of WAC 480-30-221. On April 16, 2019, the Commission entered Order 01, which assessed a \$25,800 penalty against Leavenworth Shuttle and suspended a \$20,000 portion of the penalty for a period of two years, subject to conditions. The Company paid the \$5,800 non-suspended portion of the penalty and complied with the conditions of Order 01 in Docket TE-181030.

**10. The Company's existing compliance program.** David Witt is responsible for the Company's safety compliance program.

**11. The size of the Company.** Leavenworth Shuttle operates 14 commercial motor vehicles and employs three drivers. The Company reported \$640,000 in gross revenue for 2020.

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 generally will assess penalties by violation category, 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 Leavenworth Shuttle \$200, calculated as follows:

- One violation of 49 CFR § 396.3(a)(1) – Defective brakes. The Commission assesses a penalty of \$100 for this out-of-service violation.
- One violation of 49 CFR § 396.3(a)(1) – Brake system pressure loss. The Commission assesses a penalty of \$100 for this out-of-service 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

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

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](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, 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 May 18, 2021.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TE-210286

**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 \$200 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.”