

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

**PENALTY ASSESSMENT: TV-210753  
PENALTY AMOUNT: \$1,300**

Amazing Movers 360 LLC  
838 W 15<sup>th</sup> St.  
Port Angeles, WA 98363

The Washington Utilities and Transportation Commission (Commission) believes Amazing Movers 360 LLC (Amazing Movers or Company) violated Washington Administrative Code (WAC) 480-15-555, Criminal Background Checks for Prospective Employees; WAC 480-15-570, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 391 – Driver Safety Requirements; and WAC 480-15-560, which adopts 49 CFR Part 396 – Equipment Safety Requirements.

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 September 28, 2021, Commission Motor Carrier Investigator Wayne Gilbert completed a routine safety investigation of Amazing Movers and documented the following violations:

- **Seven violations of 49 CFR § 391.45(a) – Using a driver not medically examined and certified.** The Company utilized drivers who were not medically examined or certified. Nathanael Hirst drove five times between March 5 and August 12, 2021, and Chad Ward drove twice on July 6 and 14, 2021.
- **Two violations of 49 CFR § 391.51(b)(2) – Failing to maintain inquiries into driver's driving record in driver's qualification file.** Amazing Movers failed to obtain an initial driver's abstract within 30 days of employment for Timothy Tull and Jeremy Greene.
- **One violation of 49 CFR § 396.3(a)(1) – The number of defective breaks is equal to or greater than 20 percent of the service breaks on the vehicle or combination.** Commission staff (Staff) discovered a commercial motor vehicle with a left front axle brake out of adjustment.<sup>1</sup> The vehicle was placed out-of-service.
- **Two violations of 49 CFR § 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.** Amazing Movers failed to maintain adequate minimum records of inspection and repair for vehicle maintenance conducted on a commercial motor vehicle.

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<sup>1</sup> Vehicle Identification Number 3HAMMMML9FL717571.

- **Three violations of WAC 480-15-555 – Failing to conduct or retain paperwork containing criminal background check or hiring an individual with a disqualifying conviction for a household goods carrier in the state of Washington.** The Company failed to conduct criminal background checks on employees it intended to hire. Chad Ward was hired on July 6, 2021, and a criminal background check was not conducted until August 19, 2021; Timothy Tull was hired on July 16, 2021, and a criminal background check was not conducted until August 16, 2021; and Jeremy Greene was hired on October 13, 2020, and a criminal background check was not conducted until August 16, 2021.

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. Household goods moving companies that: (1) use drivers not medically examined and certified, (2) fail to inquire into driver's driving records, (3) operate vehicles with defective brakes, (4) fail to keep minimum records of inspection and vehicle maintenance, and (5) fail to conduct background checks on employees, put their customers, their customers' belongings, 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 July 30, 2019, the Commission received the Company's application for household goods moving authority. In the application, Nathanael Hirst, owner of Amazing Movers, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On August 7, 2019, Nathanael Hirst attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Amazing Movers did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Driver Chad Ward was medically examined and certified prior to the closing of the safety investigation. The Company has not provided Staff with evidence that the other violations have been corrected.

6. **The number of violations.** Staff identified 16 violation types with a total of 33 individual occurrences. Of those violations, Staff identified five violation types with 15 individual occurrences that warrant penalties in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Amazing Movers traveled 14,000 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 a desire to come into compliance. In light of these factors, Staff believes that the likelihood of recurrence is low.
9. **The Company's past performance regarding compliance, violations, and penalties.** On August 13, 2019, Nathanael Hirst was penalized \$500 in Docket TV-190489 for engaging in business as a common carrier of household goods within the state of Washington without possessing the permit required for such operations.

This is the Company's first routine safety investigation.

10. **The Company's existing compliance program.** Nathanael Hirst is responsible for the Company's safety compliance program.
11. **The size of the Company.** Amazing Movers currently operates two commercial motor vehicles and employs four drivers. The Company reported \$286,000 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>2</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 Amazing Movers \$1,300, calculated as follows:

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<sup>2</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

- Seven violations of 49 CFR § 391.45(a) – Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for each occurrence of this critical violation, for a total of \$700.
- Two violations of 49 CFR § 391.51(b)(2) – Failing to maintain inquiries into driver’s driving record in driver’s qualification file. The Commission assesses a “per category” penalty of \$100 for these critical violations.
- One violation of 49 CFR § 396.3(a)(1) – The number of defective breaks is equal to or greater than 20 percent of the service breaks on the vehicle or combination. The Commission assesses a penalty of \$100 for this out-of-service violation.
- Two violations of 49 CFR § 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance. The Commission assesses a “per category” penalty of \$100 for these critical violations.
- Three violations of WAC 480-15-555 – Failing to conduct or retain paperwork containing criminal background check prior to hiring employees for a household goods carrier in the state of Washington as required. The Commission assesses a penalty of \$100 for each occurrence of this critical violation, for a total of \$300.

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 October 15, 2021.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TV-210753

**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 \$1,300 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.”