

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: TE-230223  
PENALTY AMOUNT: \$200

Puget Sound Tours, LLC  
109 Dexter Ave. N, Apt. 202  
Seattle, WA 98109

The Washington Utilities and Transportation Commission (Commission) believes Puget Sound Tours, LLC, (Puget Sound Tours or Company) violated Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 395 – Hours of Service of Drivers and 49 C.F.R. 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 March 30, 2023, Commission Motor Carrier Investigator Sandra Yeomans completed a routine safety investigation of Puget Sound Tours and documented the following violations:

- **Thirty violations of 49 C.F.R. § 395.8(a)(1) – Failing to require driver to make a record of duty status.** The Company failed to maintain records of duty status for driver Earl Alexander on 30 occasions between January 1 and January 30, 2023.
- **One violation of 49 C.F.R. § 396.17(a) – Using a commercial motor vehicle (CMV) not periodically inspected in accordance with minimum standards.** The Company failed to have an annual inspection performed on its CMV.

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 fail to maintain records of duty status and use CMVs that have not been inspected put their customers and the traveling public at risk. These violations present 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 3, 2015, the Commission received an application for charter and excursion authority for Earl Alexander d/b/a Puget Sound Tours. In the application, Earl Alexander acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On March 2, 2018, Staff completed a routine safety investigation of Earl Alexander d/b/a Puget Sound Tours and identified a violation of 49 C.F.R. § 396.17(a). On July 16, 2020, Staff completed a non-rated follow-up safety investigation of Earl Alexander d/b/a Puget Sound Tours and identified a violation of 49 C.F.R. § 396.17(a).

On July 16, 2021, the Commission received an application to reinstate the Company's charter and excursion authority and change its name from Earl Alexander d/b/a Puget Sound Tours (Puget Sound Tours) to Puget Sound Tours, LLC. In the application, Earl Alexander acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On September 7, 2021, Staff provided new entrant carrier safety regulation training to Puget Sound Tours, where Earl Alexander certified receiving training pertaining to 49 C.F.R. § 395.8 and 49 C.F.R. § 396.17(a). The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Puget Sound Tours 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.** Puget Sound Tours made corrections during the safety investigation.
6. **The number of violations.** Staff identified 14 violation types with a total of 43 individual occurrences during its routine safety investigation of Puget Sound Tours. Of those violations, Staff identified two violation types with 31 individual occurrences that warrant penalties in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Puget Sound Tours reported traveling 4,948 miles in 2022. 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. Staff believes the likelihood of recurrence is low if the Company prioritizes safe operations.
9. **The Company's past performance regarding compliance, violations, and penalties.** On June 20, 2016, the Commission assessed a \$1,000 penalty against Puget Sound Tours for failing to file an annual report and pay regulatory fees in Docket TE-160673. On June

19, 2017, the Commission assessed a \$1,000 penalty against Puget Sound Tours for failing to file an annual report and pay regulatory fees in Docket TE-170597.

On April 4, 2018, the Commission assessed a \$1,800 penalty against Puget Sound Tours in Docket TE-180197 for safety violations of WAC 480-30-221. On April 20, the Company applied for mitigation of the assessed penalty. On May 23, the Commission entered Order 01, which denied the Company's request for mitigation and suspended a \$1,000 portion of the penalty for a period of two years, and then waived it, subject to conditions.

**10. The Company's existing compliance program.** Earl Alexander is responsible for the Company's safety compliance program.

**11. The size of the Company.** Puget Sound Tours employs one driver and operates one CMV. The Company reported \$132,719 in gross revenue for 2022.

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 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 Puget Sound Tours \$200 (Penalty Assessment), calculated as follows:

- Thirty violations of 49 C.F.R. § 395.8(a)(1) – Failing to require driver to make a record of duty status. The Commission assesses a "per category" penalty of \$100 for these critical violations.
- One violation of 49 C.F.R. § 396.17(a) – Using a CMV not periodically inspected in accordance with minimum standards. The Commission assesses a penalty of \$100 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 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 the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the

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

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 at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment.<sup>2</sup> 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 wish to make a payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).<sup>3</sup>

**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 April 11, 2023.

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

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<sup>2</sup> <https://efiling.utc.wa.gov/Form>.

<sup>3</sup> <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TE-230223

**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.

Enclose \$200 in payment of the penalty.

OR  Attest that I have paid the penalty in full through the Commission’s payment portal.

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 or she makes a materially false statement which he or she 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 or her 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.