

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TE-110698

PENALTY AMOUNT: \$600

AGATE PASS TRANSPORTATION LLC  
DBA AGATE PASS TRANSPORTATION  
PO BOX 1142  
KINGSTON, WA 98346-1142

The Washington Utilities and Transportation Commission (Commission) believes that you have committed one or more violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and driver safety requirements, which requires passenger charter carriers to comply with Title 49, Code of Federal Regulations (CFR), including Part 382, which governs controlled substance and alcohol use and testing.

On April 14, 2011, Commission Motor Carrier staff John Foster completed a re-check compliance review of Agate Pass and identified the following violations:

- One violation of WAC 480-30-221, which adopts by reference Title 49, CFR Part 382.305(b)(1), failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions. *(For 2010, Agate Pass had to ensure two drivers were randomly tested, however, only one driver was tested.)*
- Five violations of WAC 480-30-221, which adopts by reference Title 49, CFR Part 382.305(b)(2), failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions. **Critical Violations** *(For 2010, Agate Pass had to ensure nine drivers were randomly tested, however, only four drivers were tested.)*

This information, if proved 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 the violations did not occur, you may request a hearing to contest the penalty assessment. If there is a reason for the violations that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty. See RCW 81.04.405.

You have the right to present your request for review or mitigation at a hearing, but you are not required to do so. If you do, the Commission will review the evidence supporting your request in

an informal hearing, called a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider your plea and notify you of his or her decision.

**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

**If you do not act within 15 days**, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective May 2, 2011.



GREGORY J. KOPTA  
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TE-110698

**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 violation occurred and enclose \$600 in payment of the penalty.
2. **Request for a hearing.** I believe that the alleged violation did not occur, based on the following information, and request a hearing for a decision by an administrative law judge:
3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reason(s) set out below,
- a) I ask for a hearing for a decision by an administrative law judge
- OR  b) I waive a hearing and ask for an administrative decision on the information I present directly 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.”