

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TE-160772  
PENALTY AMOUNT: \$100

ONSTAR LIMOUSINE LLC  
PO BOX 58461  
SEATTLE, WA 98138

The Washington Utilities and Transportation Commission (Commission) believes that you have committed a violation of Washington Administrative Code (WAC) 480-30-221 Vehicle and driver safety requirements, which requires charter and excursion carriers to comply with Title 49 Code of Federal Regulations (CFR) Part 396 - Inspection, repair, and maintenance.

RCW 81.04.405 allows penalties of one hundred dollars for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On May 19, 2016, Commission Motor Carrier Investigator Wayne Gilbert conducted a compliance review of Onstar Limousine LLC (Onstar Limousine) and identified the following violation of a critical regulation:

- **One violation of CFR Part 396.17(a) – Using a commercial motor vehicle not periodically inspected.** Onstar Limousine failed to maintain records of a periodic vehicle inspection. The previous inspection had expired in April 2016.

The Commission considered the following factors in determining the appropriate penalty for this violation:

1. **How serious or harmful the violation is to the public.** The critical violation noted is serious and potentially harmful to the public. Vehicles must be regularly inspected to ensure that they are in safe operating condition; failure to do so puts the traveling public at risk.
2. **Whether the violation is 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.

In its initial application for charter and excursion authority dated May 6, 2010, Tekeste Tekle, manager and owner of Onstar Limousine, acknowledged his responsibility to understand and comply with applicable motor carrier safety rules.

Staff conducted a new entrant compliance review on May 19, 2010 and provided four hours of education and technical assistance with regard to safety regulations, and provided the company with a safety guide.

On November 2, 2011, Commission staff conducted a compliance review of Onstar Limousine and found five violations of CFR Part 396. As a result of the compliance review, Commission staff provided the company with a safety guide and recommended that a recheck of Onstar Limousine be performed.

On March 5, 6 and 11, 2013, Commission staff conducted a compliance review of Onstar Limousine. In the compliance review staff noted twenty-eight critical violations of CFR Part 395 and Part 396, resulting in an unsatisfactory safety rating. Although authorized to assess \$2,800 in penalties, the Commission assessed penalties against Onstar Limousine in the amount of \$1,000 on April 8, 2013.

The company knew, or should have known, about these requirements.

3. **Whether the company self-reported the violation.** The company did not self-report the violation.
4. **Whether the company was cooperative and responsive.** Onstar Limousine was cooperative and appeared interested in coming into compliance.
5. **Whether the company promptly corrected the violations and remedied the impacts.** The company's owner expressed a willingness to comply with safety regulations and is working on correcting the violations.
6. **The number of violations.** The one critical violation noted is nominal.
7. **The number of customers affected.** The company traveled 3,200 miles and reported \$36,381.20 in gross revenue in 2015, operating one vehicle. Due to the one critical violation noted, a small number of customers were potentially affected.
8. **The likelihood of recurrence.** The violation relating to not periodically inspecting a commercial motor vehicle is a repeat violation from the 2013 compliance review. If Onstar Limousine does not change its operations and safety practices, violations are likely to recur.
9. **The company's past performance regarding compliance, violations, and penalties.** Commission staff reviewed Onstar Limousine's penalty and compliance history since the company received charter and excursion authority in 2010. On November 2, 2011, Commission staff found five violations of CFR Part 396 during a compliance review. On March 5, 6 and 11, 2013, Commission staff noted twenty-eight critical violations of CFR Part 395 and Part 396 during a compliance review, resulting in an unsatisfactory safety rating and a subsequent penalty assessment in the amount of \$1,000.



10. **The company's existing compliance program.** Onstar Limousine has no formal compliance program.

11. **The size of the company.** Onstar Limousine is a small charter and excursion company operating one commercial vehicle and reporting \$36,381.20 in gross revenue for 2015.

The Commission has considered these factors and determined that Onstar Limousine should be penalized \$100 for one violation of WAC 480-30-221 Driver Safety Requirements, which adopts CFR Part 396, calculated as follows:

- One violation of CFR Part 396.17(a) – Using a commercial motor vehicle not periodically inspected, at the penalty amount of \$100 per violation, for a total of \$100.

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 assessment 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 concerning the violation(s) require consideration of evidence and resolution in a hearing. Any contest of the penalty assessment must include a written statement of the reasons supporting that contest. Failure to provide such a statement will result in denial of the contest.

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 this 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 for mitigation 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 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 his or her 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 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 June 15, 2016.



GREGORY J. KOPTA  
Administrative Law Judge

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
**PENALTY ASSESSMENT TE-160722**

**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 \$ \_\_\_\_\_ in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below:

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 violation, but I believe that the penalty should be reduced for the reasons set out below:

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.”