

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: TE-160824  
PENALTY AMOUNT: \$2,300

AAA Party Bus LLC  
DBA Seattle Party Bus Rentals  
23925 NE 115<sup>th</sup> Lane #303  
Redmond, WA 98503

The Washington Utilities and Transportation Commission (Commission) believes that you have committed violations of Washington Administrative Code (WAC) 480-30-221 Driver Safety Requirements, which requires charter and excursion carriers to comply with Title 49 Code of Federal Regulations (CFR) Part 390 General Regulations, Part 391 Qualifications of Drivers, Part 395 Driver Hours of Service, and Part 396 Inspection, Repair and Maintenance. RCW 81.04.405 allows penalties of one hundred dollars for every such violation. In the case of an ongoing violation every day's continuance is considered a separate and distinct violation.

On June 7, 2016 Commission Motor Carrier Investigator Wayne Gilbert conducted a compliance review of AAA Party Bus LLC, d/b/a Seattle Party Bus Rentals (Seattle Party Bus Rentals) and documented the following violations of acute or critical regulations:

- **One violation of CFR Part 390.35 – Making or causing to make fraudulent or intentionally false entry on a required medical examiner's certificate.** Upon verification of driver Travis Edwards' medical certificate staff learned that the medical examination was not conducted at the medical facility indicated on the certificate. This is an acute violation.
- **Two violations (16 occurrences) of CFR Part 391.45(b)(1) – Using a driver not medically examined and certified.** Seattle Party Bus Rentals used two drivers who had not been medically examined and certified within the preceding 24 months. The company had no medical certificate on file for driver Fernando Valde, and staff learned that the medical certificate on file for driver Travis Edwards was not valid. Together, these two drivers made sixteen individual trips in company vehicles over twelve days without being medically examined and certified. This is a critical violation.
- **Four violations of CFR Part 391.51(a) – Failing to maintain a driver qualification file on each driver employed.** The company failed to create or maintain a driver qualification file for four drivers: Travis Edwards, Fernando Valde, Jabril Ibrahim, and Bill Handy. This is a repeat critical violation from a 2011 review.

- **Seven violations of CFR Part 395.8(a) – Failing to require driver to make a record of duty status.** Together, Travis Edwards and Fernando Valde drove on seven occasions during a 30-day period without making record of duty status. This is a first-time critical violation.
- **Thirty violations of CFR Part 396.11(a) – Failing to require driver to prepare driver vehicle inspection report.** The company does not require its drivers to prepare daily driver vehicle inspection reports. Staff identified 30 occasions in which employees failed to complete the required inspection report. This is a first-time critical violation.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. **How serious or harmful the violation is to the public.** The violations noted are serious and potentially harmful to the public. Companies that permit their employees to perform safety-sensitive functions prior to being medically examined and certified, without documentation of driver qualifications or hours of rest, or using vehicles that are not inspected daily put the traveling public at risk. An undocumented medical condition, unqualified or fatigued driver, or an undetected vehicle defect could present serious safety concerns.
2. **Whether the violation is intentional.** Considerations include:
  - Whether the company ignored Commission 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 violations.

In its application for charter and excursion authority dated May 30, 2010, Seattle Party Bus Rentals Manager Travis Edwards acknowledged his responsibility to understand and comply with the federal motor carrier safety regulations. Commission staff provided education and technical assistance to Seattle Party Bus Rentals on July 27, 2010, April 20, 2011, and September 21, 2011.

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

3. **Whether the company self-reported the violation.** The company did not self-report these violations.
4. **Whether the company was cooperative and responsive.** Seattle Party Bus Rentals Manager Travis Edwards was cooperative and responsive.
5. **Whether the company promptly corrected the violations and remedied the impacts.** Staff has no evidence that Seattle Party Bus Rentals has corrected any of the violations noted, however the company management was cooperative and appeared willing and interested in correcting these violations and coming into full compliance.

6. **The number of violations.** For a company this size, the number of violations noted is significant.
7. **The number of customers affected.** The company is a charter and excursion carrier so customers were potentially put at risk. A driver not medically certified, with undocumented qualifications and rest periods, or a vehicle in an unknown mechanical condition present potential safety risks to passengers as well as the traveling public in general.
8. **The likelihood of recurrence.** Staff has no information to indicate whether this company is likely to repeat these violations, but the company is small and its owner appeared to be cooperative.
9. **The company's past performance regarding compliance, violations, and penalties.** On January 27, 2010, Commission staff provided new entrant education and technical assistance, and noted one minor violation: no USDOT number displayed on the vehicle.  
  
On April 20, 2011 staff conducted a Level 1 inspection and provided additional education and technical assistance. Staff noted a defective fire extinguisher on the vehicle, which was corrected immediately.  
  
On September 21, 2011 staff conducted a compliance review and noted a violation of CFR Part 395.51(a), failure to maintain driver qualification files. Staff provided additional education and technical assistance.
10. **The company's existing compliance program.** The company has no formal compliance program.
11. **The size of the company.** In 2015, Seattle Party Bus Rentals operated three commercial vehicles and employed up to four drivers, earned \$80,381 in gross revenue and logged 15,000 miles.

Some of the acute and critical violations noted in the compliance review are first-time violations, but the Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue penalties for certain first-time violations, regardless of whether Staff has previously provided technical assistance on specific issues.<sup>1</sup> Within these first-time violations are regulations so critical to public safety that statute (RCW 81.04.405) and enforcement policy penalize each occurrence. Repeat violations are also penalized on a per-occurrence basis.

**The Commission has considered these factors and determined that Seattle Party Bus Rentals should be penalized \$2,300 -- \$100 for each of the following twenty-three violations**

---

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

**of WAC 480-30-221 Driver Safety Requirements, which adopts CFR Parts 390, 391, 395 and 396:**

- One violation of CFR Part 390.35 – Making or causing to make fraudulent or intentionally false entry on a required medical examiner certificate. This is an acute violation. Commission enforcement policy recommends penalties for each acute violation, including first-time offenses. Staff recommends a penalty of \$100 for this acute violation.
- Two violations (sixteen occurrences) of CFR Part 391.45(a) – Using a driver not medically examined and certified. These are first-time violations, however the Commission grants no leeway with this type of violation. Drivers who are not medically examined and certified put the traveling public at risk. Commission policy views each occurrence as an individual violation and staff recommends a penalty of \$1,600 for sixteen violations of this critical regulation.
- Four violations of CFR Part 391.51(a) – Failing to maintain a driver qualification file for each driver employed. This violation was noted during a 2011 compliance review. A repeat critical violation warrants a penalty for each occurrence. Staff recommends a penalty of \$400 for four violations of this critical regulation.
- Seven violations (1 violation type) of CFR Part 395.8(a) – Failing to require driver to make a record of duty status. Together, Travis Edwards and Fernando Valde drove on seven occasions during a 30-day period without making record of duty status. This is a first-time violation of this critical regulation and is a type of violation that is penalized as a single violation. Staff recommends a penalty of \$100 for one first-time critical violation of this type.
- Thirty violations (1 violation type) of CFR Part 396.1 – Failing to require drivers to prepare driver vehicle inspection report. The company did not require its drivers to prepare vehicle inspection reports on 30 separate occasions. This is a first-time violation of this critical regulation and is a type of violation that is penalized as a single violation. Staff recommends a penalty of \$100 for one violation of this critical regulation.

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 you admit any or all of the violation(s) but believe there is a reason for the violations that should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at the August 9, 2016, 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 to present evidence at the August 9, 2016, hearing and the Commission grants that request, the Commission will consolidate the matters and will review the evidence supporting your dispute of the violations 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.
- Request to present evidence at the August 9, 2016, 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 July 13, 2016.

GREGORY J. KOPTA  
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TE-160824

**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. I have:
  - Enclosed \$ \_\_\_\_\_ in payment of the penalty
  - Submitted my payment of \$ \_\_\_\_\_ online at [www.utc.wa.gov](http://www.utc.wa.gov). My confirmation number is \_\_\_\_\_.
  
- 2. **Request for a hearing.** I believe that one or more of the alleged violations did not occur, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:
  
- 3. **Application for mitigation.** I admit the violations, 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.”