

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-143549

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. **Request for a hearing.** I believe that the alleged violation 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 violation, but I believe that the penalty should be reduced for the reasons set out below:

See attached Letter

- 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: 10/11/14 [month/day/year], at Stanswood [city, state]

Alice The Mover
 Name of Respondent (company) – please print

Heidi A Bergman
 Signature of Applicant

Heidi Bergman

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.”

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SERVICE DATE

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

SEP 30 2014

PENALTY ASSESSMENT: TV-143549
PENALTY AMOUNT: \$2,900

RECEIVED
REGULATORY MANAGEMENT

2014 OCT 14 PM 12:45

STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

HEIDI BERGMAN D/B/A ALICE THE MOVER
4133 268TH ST NW
STANWOOD, WA 98292

The Washington Utilities and Transportation Commission (Commission) believes that you have committed one or more violations of Washington Administrative Code (WAC) 480-15-570 – Driver safety requirements, which requires household goods carriers to comply with CFR Part 391 – Qualification of drivers.

On August 19, 2014, Motor Carrier Safety Inspector Alan Dickson conducted a compliance review inspection of Heidi Bergman d/b/a Alice the Mover (Alice the Mover). Mr. Dickson found the following violations:

- **29 violations of CFR Part 391.45(a)** – Using a driver not medically examined and certified. Driver Mark Rice drove 29 days over a six-month period with no medical certificate.

Alice the Mover had not previously violated this rule, and the Commission generally will provide technical assistance rather than assess penalties for first-time violations. The Commission's Enforcement Policy, however, provides that some Commission requirements are so critical to safe operations that the Commission may issue penalties for a first-time violation, even if staff has not previously provided technical assistance on specific issues.¹ Maintaining drivers' medical certification is one such requirement, and the Commission assesses penalties for the 29 violations of this rule.

This information, if proved at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

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

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. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. 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 through evidence presented at a hearing or in writing. A 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.
- 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 September 29, 2014.


GREGORY J. KOPTA
Administrative Law Judge

September 16th, 2014

TV-143549

Washington Utilities and Transportation Commission
ATTN: John Foster
P.O. Box 47250
Olympia, WA 98504-7250

STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

2014 OCT 14 PM 12:45

RECEIVED
REGIONS MANAGEMENT

RE: Compliance Review - Actions Taken

Dear Mr. Foster;

I am writing in response to my Compliance Review that I had on August 19th, 2014 with Alan Dickinson, Transportation/Motor Carrier and Safety.

I have taken immediate action to each violation as explained below.

1) Part B Violation- "Driver not medically examined and certified."

I have attached Mark Rice, my driver's medical certificate. He is now medically examined and certified and has been issued a state card. Every new driver will have a medical card before employment is obtained as a job requirement.

2) "Requiring or permitting a short-haul property carrying commercial motor vehicle driver to drive after having been on duty 16 consecutive hours."

This happened due to the crew being over an hour away on a job with only 15 minutes remaining to go to unload customer cargo. We now keep a short-haul book in the truck to keep track closely when needed of hours so we do not ever repeat this violation again and are aware of our limits and when we need to leave the job to allow us the allotted time within our regulations to return back to headquarters. We will then return the following day to not run into this situation again. This has been discussed with crew and this has only happened one time. It will not happen in the future.

3) "Failure to conduct criminal background check prior to employee hire date"

I was not aware of the background check until Alan called to schedule the Compliance Review. He explained to me it needed to be done when we talked on the phone and it was a newly enforced law. I immediately obtained the background check on employees as needed but it was done after their hire date. All employees will have a background check completed before employment with this company in the future before a hire date is set.

To sum up the actions taken, the new company policy is to get medical certification and background checks before a driver or employee is hired in the future with no exceptions. The hours are watched closely by myself and the crew so that we are in compliance always with the driver's and workers requirements under 395.1. for safe working

conditions.

All the items above and all the requirements of the "Guide for Motor Carriers" provided by The Utilities and Transportation Commission are being followed very closely. I am proud to say as the owner of this new company we are in now in complete compliance with the above corrections and what our original standard work practices are anyways. I will be attending another training session in November along with my foreman. I will be my second class and it is a way to stay on top of any new changes or requirements from the UTC. I understand and appreciate while you are here to help us maintain a safe and reputable company, you are also there for us when needed to answer any questions or work with us closely to allow for growth and success in a much needed industry in our area.

I am asking for consideration in lowering the fine of \$2900.00. I was under the impression that the compliance review was a review to help new Moving Companies work with any issues that may arise in the review and help resolve in fixing them, or work with me to make sure I am in complete compliance. I should have been more up to date on the medical certification, but I actually thought that it was only required for a CDL driver. After having my compliance review, my driver immediately went in and had the medical certification done. I just purchased this company this year and had to deal with one violation over the yearly report that was due by the previous owner. I am concerned about the amount due. Our industry is a much needed industry in our area for the local communities. We are not just a moving company, we are a team helping to change people's lives with assisting them in moves and much more various things we do here at Alice the Mover. We are just getting on our feet and up and running and things are starting to pick up. The fine would be a devastation for me, financially. I understand now that I should have had the certification done and I would have if I understood it was for Non CDL Drivers. I know the UTC is there to help and assist us as needed for my company and also for any needs my customer may have. I was actually looking forward to the review so that I could clean up anything I was doing incorrectly and use the information provided to me to meet with 100% compliance with my company. I am proud to say that we are now in complete compliance with everything that was discussed at the Compliance review. I am proud of Alice the Mover and the proper procedures we follow. Every new hire has a whole new process to go through before hiring. (Which complies 100% of the Safety regulations set forth by the UTC.)

I am asking for another look at the penalty. Again, this would create a huge hardship on a 1st year new owner in this industry. I am not saying what I did wasn't wrong, but what I am saying that I clearly thought it was for CDL drivers only. I am now fully aware of all guidelines set forth and the reasoning behind them. Paying the full penalty at this time would create an extreme hardship and I am asking if you could look into the fact that this is my first year as a new owner and I am learning new things as I go also. I understand why the rules are set and why and how extremely important they are for companies to follow and after the Compliance Review I can say proudly that they are being followed. This will not happen again.

The compliance review was a welcome review. It re-in forced the things I am doing correctly while also reminding me and making me aware of the things that need to be done on a continual basis for success and safety.

Thanks for your continuous support.

I anxiously await your decision.

Sincerely,

A handwritten signature in cursive script that reads "Heidi Bergman". The signature is fluid and elegant, with a long, sweeping tail on the letter "n".

Heidi Bergman
Alice the Mover