

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TV-170178

**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:

*See attachment*

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: 4/10/17 [month/day/year], at Vancouver WA [city, state]

Jennifer Tyler  
Name of Respondent (company) – please print

[Signature]  
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.”

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**RIGHTTURNMOVING.COM**

USDOT 2481094 WJTC THG065420 ODOT 179536

We accept full responsibility for the expired medical card. We simply overlooked that Robert Tyler's medical card had expired. Robert was fit to drive the truck during the time of the expired card. Once we were informed that the medical card had expired we had Robert get it updated. Robert passed the exam and was issued a new medical card that same day.

We have put new company policies in place to ensure nothing like this happens again. Our company's electronic calendar has been updated to notify admin and driver 45 days before a driver's card will become expired. Driver Qualification files will be audited every 90 days as a backup plan to ensure this will not happen again.

We asked for consideration for a reduced fine. Compared to our companies size this is an excessive fine and would be detrimental to us. As we are a very small operation and have experienced several mechanical issues in the last year. Even with the reduced fine we would need to make a payment plan. We want to keep a good working relationship with the UTC and ask for mitigation.

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*Jennifer Tyler  
rightturnmoving@yahoo.com  
rightturnmoving.com*



MAR 23 2017

## WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TV-170178

PENALTY AMOUNT: \$10,200

Right Turn Moving LLC  
4613 NE St. Johns Road, Suite A  
Vancouver, WA 98661

The Washington Utilities and Transportation Commission (Commission) believes that you have committed violations of Washington Administrative Code (WAC) 480-15-560 Vehicle Safety Requirements and 480-15-570 Driver Safety Requirements, which adopt Title 49 CFR Parts 391, 395 and 396.

Revised Code of Washington (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.

In February 2017, Commission Motor Carrier Investigator Wayne Gilbert conducted a compliance review of Right Turn Moving LLC (Right Turn Moving) and documented the following violations:

- **One-hundred violations of CFR Part 391.45(a) – Using a driver not medically examined and certified.** Right Turn Moving allowed its driver Robert Tyler to operate a commercial motor vehicle on one-hundred occasions during the six months prior to the compliance review. Mr. Tyler drove 83 times in 2016 (19 times in September, 20 times in October, 23 times in November, and 21 times in December) and 17 times in 2017 (12 times in January and 5 times in February). Mr. Tyler's medical certificate had expired August 7, 2016.
- **One violation of CFR 395.8(a) – Failing to require driver to make a record of duty status.** Right Turn Moving driver Robert Tyler failed to provide a record of duty status on November 16, 2016.
- **One violation of CFR 396.17(a) – Using a commercial motor vehicle not periodically inspected.** Right Turn Moving used both of its commercial vehicles after failing to have either vehicle periodically inspected.

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 put the traveling public at risk by using drivers not medically examined and certified, failing to require drivers to report their hours of service, or using vehicles not periodically inspected. An undetected medical

11. **The size of the company.** Right Turn Moving is a small company, with two drivers and two commercial vehicles. In 2016 the company reported 59,764 miles traveled and \$216,728 in gross revenue.

These 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 mandatory penalties for each occurrence of a first-time violation.<sup>1</sup> The Commission generally will assess penalties per type of violation, rather than per occurrence, for other first-time violations of critical regulations that do not meet the criteria for mandatory penalties. The Commission will assess penalties for any repeat violations of critical regulations found in future compliance investigations, including for each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Right Turn Moving \$10,200 for violations of WAC 480-15-560 Vehicle Safety Requirements, and 480-15-570 Driver Safety Requirements, which adopts Title 49 CFR Parts 391, 395 and 396, calculated as follows:

- One-hundred violations of CFR Part 391.45(a) – Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for each of these critical violations, for a total of \$10,000.
- One violation of CFR 395.8(a) – Failing to require driver to make a record of duty status. The Commission assesses a penalty of \$100 for one critical violation of this type.
- One violation of CFR 396.17(a) – Using a commercial motor vehicle not periodically inspected. The Commission assesses a penalty of \$100 for one critical violation of this type.

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 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

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