

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TV-230215

PENALTY AMOUNT: \$4,700

Alto Moving LLC
12072 44th Pl. S
Tukwila, WA 98178

The Washington Utilities and Transportation Commission (Commission) believes Alto Moving LLC (Alto Moving or Company) violated Washington Administrative Code (WAC) 480-15-560, Equipment Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 396 – Inspection, Repair, and Maintenance; and WAC 480-15-570, Driver Safety Requirements, which adopts 49 C.F.R. Part 391 – Qualification of Drivers, and 49 C.F.R. Part 395 – Hours of Service of Drivers.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On March 30, 2023, Commission Motor Carrier Investigator Sandra Yeomans completed a follow-up safety investigation of Alto Moving and documented the following violations:

- **Forty-five violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.** The Company allowed John Tuttle to operate a commercial motor vehicle (CMV) without a valid medical certificate on 45 occasions between September 13, 2022, and February 11, 2023.
- **One violation of 49 C.F.R. § 395.8(a)(1) – Failing to require driver to make a record of duty status.** The Company failed to maintain a record of duty status for driver John Tuttle on February 3, 2023.
- **One violation of 49 C.F.R. § 396.17(a) – Using a CMV not periodically inspected.** The Company failed to have an annual inspection performed on its CMV.

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

1. **How serious or harmful the violations are to the public.** The violations noted are serious and potentially harmful to the public. Household goods moving companies that: (1) use drivers that are not medically examined and certified, (2) fail to maintain records of duty status, and (3) use commercial motor vehicles that have not been inspected put their customers' belongings, and the traveling public at risk. These violations present significant safety concerns.

2. **Whether the violations were intentional.** Considerations include:

- Whether the Company ignored Commission staff's (Staff) 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.

On May 17, 2018, the Commission received the Company's application for household goods moving authority. In the application, John Tuttle, owner of Alto Moving, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety regulations.

On August 15, 2018, John Tuttle attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

On September 1, 2020, Staff completed a routine safety investigation of Alto Moving and identified violations of 49 C.F.R. § 391.45(a), 49 C.F.R. § 395.8(a)(1), and 49 C.F.R. § 396.17(a). The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Alto Moving did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Alto Moving provided Staff with evidence that it corrected the violations of 49 C.F.R. § 391.45(a) by obtaining a valid medical certificate for driver John Tuttle. The Company has not provided Staff with evidence that it corrected the other violations.
6. **The number of violations.** Staff identified nine violation types with a total of 55 individual occurrences during its follow-up safety investigation of Alto Moving. Of those violations, Staff identified three violation types with 47 individual occurrences that warrant penalties in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Alto Moving reported traveling 3,592 miles in 2022. These safety violations presented a public safety risk.
8. **The likelihood of recurrence.** The Company incurred repeat violations despite prior technical assistance and suspended penalties. Absent a significant commitment to prioritize safe operations, violations are likely to reoccur.
9. **The Company's past performance regarding compliance, violations, and penalties.** On September 8, 2020, Alto Moving was penalized \$10,100 in Docket TV-200774 for safety violations of WAC 480-15-555, WAC 480-15-560, and WAC 480-15-570. On September 15, the Commission issued a Notice of Intent to Cancel the Company's

household goods moving permit in Docket TV-200775, following a safety investigation that resulted in a proposed conditional safety rating for Alto Moving.

On October 22, 2020, the Commission entered Order 01 in consolidated Dockets TV-200775 and TV-200774, which approved the Company's safety management plan, assessed a reduced penalty of \$5,150, and suspended a \$3,000 portion of the reduced penalty for a period of two years before being waived, subject to conditions. The Company paid the \$2,150 non-suspended portion of the penalty in full.

10. **The Company's existing compliance program.** John Tuttle is responsible for the Company's safety compliance program.
11. **The size of the Company.** Alto Moving employs one driver and operates one CMV. The Company reported \$64,637 in gross revenue for 2022.

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.¹ The Commission generally will assess penalties by violation category, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and for repeat violations of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Alto Moving \$4,700 (Penalty Assessment), calculated as follows:

- Forty-five violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for each occurrence of this repeat violation, for a total of \$4,500.
- One violation of 49 C.F.R. § 395.8(a)(1) – Failing to require driver to make a record of duty status. The Commission assesses a penalty of \$100 for this repeat violation.
- One violation of 49 C.F.R. § 396.17(a) – Using a CMV not periodically inspected. The Commission assesses a penalty of \$100 for this repeat violation.

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 the violations did not occur, you may deny committing the violation(s) and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for any or all the violations that you

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

believe should excuse you from the penalty, you may ask for mitigation (reduction) of the 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 to contest the violation(s) or for mitigation of the penalty 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(s) 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 their 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 violation(s).
- Admit the violations but request mitigation of the penalty amount.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment.² If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

If you wish to make a payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).³

If you do not act within 15 days, the Commission may take additional enforcement action, including but not necessarily limited to suspending or revoking your certificate to provide regulated service, assessing additional penalties, or referring this matter to the Office of the Attorney General for collection.

DATED at Lacey, Washington, and effective April 11, 2023.

/s/ Rayne Pearson
RAYNE PEARSON
Director, Administrative Law Division

² <https://efiling.utc.wa.gov/Form>.

³ <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-230215

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.
 - Enclose \$4,700 in payment of the penalty.
 - OR Attest that I have paid the penalty in full through the Commission's payment portal.

- 2. **Contest the violation(s).** I believe that the alleged violation(s) did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

- 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 violations, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

- 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: 4/27/23 [month/day/year], at Normandy Falls WA [city, state]

JOHN F. Tuttle
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 or she makes a materially false statement which he or she 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 or her 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.