

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TE-240673

PENALTY AMOUNT: \$5,000

Baker Bus Ski and Snowboard Club
d/b/a Baker Bus
P.O. Box 5147
Glacier, WA 98244

The Washington Utilities and Transportation Commission (Commission) believes Baker Bus Ski and Snowboard Club d/b/a Baker Bus (Baker Bus or Company) violated the following provisions of the Washington Administrative Code: (WAC) 480-30-191 - Bodily Injury and Property Damage Liability Insurance; and WAC 480-30-221, Vehicle and Driver Safety Requirements, which adopts: Title 49 Code of Federal Regulations (49 C.F.R.) Part 382 - Controlled Substance and Alcohol Use and Testing; 49 C.F.R. Part 383 - Commercial Driver's License Standards; Requirements and Penalties; 49 C.F.R. Part 390 - Safety Regulations, General; 49 C.F.R. Part 391 - Qualification of Drivers; and 49 C.F.R. Part 396 - Inspection, Repair, and Maintenance.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. RCW 81.04.530 allows a penalty of \$1,500 for commercial motor vehicle (CMV) operations that fail to implement a controlled substance and alcohol testing program. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On August 27, 2024, Commission Motor Carrier Safety Investigator Sandra Yeomans completed a routine safety inspection of Baker Bus and documented the following violations:

- **One violation of WAC 480-30-191 - Operating a passenger carrying vehicle without having in effect the required minimum levels of financial responsibility.** Baker Bus operated a CMV on one occasion without having the required minimum levels of insurance. The Company maintained \$2,000,000 in auto liability coverage instead of the required \$5,000,000 in auto liability coverage.
- **One violation of 49 C.F.R. § 382.115(a) - Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.** The Company failed to implement an alcohol and controlled substances testing program for its commercial drivers.
- **One violation of 49 C.F.R. § 383.23(a) – Operating a CMV without a valid commercial driver's license.** The Company allowed driver Paul Engle to operate a CMV with a seating capacity greater than 16 passengers without a valid commercial driver license (CDL) and passenger endorsement.
- **Four violations of 49 C.F.R. § 390.35 - Making or causing to make a fraudulent or intentionally false entry on a record in a driver qualification file on driver(s).** Baker

Bus signed annual driver reviews prior to acquiring the motor vehicle reports for drivers Shea McClaran, Rhett Reed, Grace Schille, and Derek Stanbro.

- **Twenty-seven violations of 49 C.F.R. § 391.45(a) - Using a driver not medically examined and certified.** Baker Bus allowed drivers Paul Engel, Shea McClaran, Grace Schille, and Derek Stanbro to operate a motor vehicle without a valid medical certificate on 27 occasions between January 5, 2024, and July 6, 2024.
- **Four violations of 49 C.F.R. § 391.51(b)(2) - Failing to maintain inquiries into driver's driving record in driver's qualification file.** The Company failed to maintain inquiries into the driving record of Shea McClaran, Rhett Reed, Grace Schille, and Derek Stanbro.
- **Three violations of 49 C.F.R. § 396.17(a) - Using a CMV not periodically inspected.** Baker Bus failed to annually inspect three of its CMVs.

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. Passenger transportation companies that: (1) operate CMVs without the required minimum levels of insurance; (2) fail to implement a random controlled substance and alcohol testing program; (3) allow drivers to operate CMVs without valid CDLs; (4) make false statements or entries on driver records, (5) use drivers who are not medically certified; (6) fail to maintain inquiries into drivers' driving records,; and (7) use CMVs not periodically inspected put their customers 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 violations.

Paul Engel previously owned and operated Cascade Adventures Baker Bus LLC. On March 5, 2019, the Commission received Cascade Adventures Baker Bus LLC's application for charter and excursion authority. In the application, Paul Engle acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules. On March 25, 2020, Cascade Adventures Baker Bus LLC notified the Commission that it is no longer operating and requested its certificate be canceled.

Baker Bus began its operations in November 2020.

On November 29, 2021, the Commission received the Company's application for charter and excursion services. In the application, Paul Engle acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On December 7, 2021, Staff provided new entrant training to Baker Bus. Paul Engel signed and certified paperwork acknowledging completion of the training.

The company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Baker Bus did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was not cooperative and provided intentionally misleading information to Staff during the safety investigation.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Baker Bus has not provided staff with evidence of correction.
6. **The number of violations.** Staff identified 23 violation types with a total of 64 individual occurrences during the routine safety investigation of Baker Bus. Of those violations, Staff identified seven violation types with 41 individual occurrences that warrant a penalty in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Baker Bus last reported traveling 4,650 miles for 2023. These safety violations present a public safety risk.
8. **The likelihood of recurrence.** The Company incurred violations despite prior technical assistance including assistance provided for the owner's previous companies. Absent a significant commitment to prioritize safe operations, the violations are likely to reoccur.
9. **The Company's past performance regarding compliance, violations, and penalties.** In Docket TE-190086, Paul Engel's previous company Cascade Adventures, Inc was classified as a charter party or excursion service carrier and was ordered to cease and desist as a charter party or excursion service carrier until such time that it obtained a certificate from the commission.

Cascade Adventures, Inc., was penalized \$10,000, with a \$9,000 portion of the penalty to be suspended for a period of two years and then waived subject to conditions. Cascade Adventures, Inc. paid the \$1,000 portion of the penalty that was not suspended.
10. **The Company's existing compliance program.** Paul Hengel is responsible for the Company's safety compliance program.
11. **The size of the Company.** The Company employs five drivers and operates three commercial motor vehicles. The Company reported \$4,700 in gross revenue in 2023.

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 also 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 Baker Bus \$5,000 (Penalty Assessment), calculated as follows:

- One violation of WAC 480-30-191 - Operating a passenger carrying vehicle without having in effect the required minimum levels of financial responsibility. The Commission assesses a penalty of \$100 for this acute violation.
- One violation of 49 C.F.R. § 382.115(a) - Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations. The Commission assesses a penalty of \$1,500 for this acute violation.
- One violation of 49 C.F.R. § 383.23(a) – Operating a commercial motor vehicle without a valid commercial driver's license. The Commission assesses a penalty of \$100 for this critical-type violation.
- Four violations of 49 C.F.R. § 390.35 - Making or causing to make a fraudulent or intentionally false entry on a record in a driver qualification file on driver(s). The Commission assesses a penalty of \$100 for each occurrence of these acute violations for a total of \$400.
- Twenty-seven 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 these first-time critical violations for a total of \$2,700.
- Four violations of 49 C.F.R. § 391.51(b)(2) - Failing to maintain inquiries into driver's driving record in driver's qualification file. The Commission assesses a \$100 "per category" penalty for these first-time critical violations.
- Three violations of 49 C.F.R. § 396.17(a) - Using a commercial motor vehicle not periodically inspected. The Commission assesses a \$100 "per category" penalty for these first-time critical violations.

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 the violations did not occur, you may deny committing the violations and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for the violations that you believe should excuse you

¹ Docket A-12,00061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

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 violations 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 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 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 violations.
- 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 October 8, 2024.

/s/ James E. Brown II
JAMES E. BROWN II
Interim 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 TE-240673

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, 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 \$5,000 in payment of the penalty.
 OR Attest that I have paid the penalty in full through the Commission's payment portal.
2. **Contest the violations.** I believe that the alleged violations 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: _____ [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 they make a materially false statement which they know 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 their 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.