

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TV-210274
PENALTY AMOUNT: \$300

InMove LLC
9805 NE 116th St., Ste. 7427
Kirkland, WA 98034

The Washington Utilities and Transportation Commission (Commission) believes InMove LLC (InMove or Company) violated Washington Administrative Code (WAC) 480-15-555, Criminal Background Checks for Prospective Employees; WAC 480-15-570, Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 391 – Qualifications of Drivers, and WAC 480-15-560, Equipment Safety Requirements, which adopts 49 CFR Part 393 – Parts and Accessories Necessary for Safe Operation.

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 April 20, 2021, Commission Motor Carrier Investigator Tracy Coble completed a follow-up investigation of InMove and documented the following violations:

- **Two violations of 49 CFR § 391.21(a) – Using a driver who has not completed and furnished a completed proper employment application.** InMove failed to have drivers Juan Carlos Arriaga and Jaleel Harris complete proper employment applications.
- **One violation of 49 CFR § 393.45 – Brake tubing and hose adequacy.** Commission staff (Staff) discovered a commercial motor vehicle with a split in the outer ply of the right-side axle one brake hose. This vehicle was placed out-of-service.¹
- **One violation of WAC 480-15-555 – Failing to complete a criminal background check for every person the carrier intends to hire.** The Company failed to conduct a criminal background check on an employee it intended to hire. Juan Carlos Arriaga was hired on April 10, 2020, and a criminal background was not conducted until March 15, 2021.

The Commission considered the following factors in determining the appropriate penalty for the 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 have not completed proper employment applications, (2) operate

¹ Company equipment identifier 003.

vehicles in need of repair, and (3) fail to conduct criminal background checks on their employees put their customers, their customers' belongings, and the traveling public at risk. These violations present serious safety concerns.

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

- Whether the Company ignored 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.

On April 25, 2015, the Commission received the Company's application for household goods moving authority. In the application, Melanie Morris, owner of InMove, acknowledged the Company's responsibility to understand and comply with applicable safety laws and regulations.

On July 29, 2015, Matthew Hanna, a representative of InMove, attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

On July 18, 2016, Staff completed a routine safety investigation of InMove. On February 4, 2019, Staff completed a routine safety investigation of InMove and documented five violations of WAC 480-15-555.

The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** InMove did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** InMove was cooperative throughout the investigation and expressed a desire to come into compliance.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** InMove provided Staff with a corrective action safety plan that addresses the violations.
6. **The number of violations.** Staff identified 14 violation types with a total of 20 individual occurrences.
7. **The number of customers affected.** InMove traveled 11,485 miles in 2020. These safety violations presented a public safety risk.
8. **The likelihood of recurrence.** Staff provided technical assistance with specific remedies to help the Company assess how well its safety management controls support safe operations and how to begin improving its safety performance. While the Company was cooperative with Staff and expressed a desire to come into compliance, two of the violations were repeat violations identified during the 2019 routine safety investigation. Absent a commitment to prioritize safe operations, the violations are likely to reoccur.

9. **The Company's past performance regarding compliance, violations, and penalties.** On March 21, 2019, InMove was penalized \$9,800 in Docket TV-190082 for violations of WAC 480-15-555, WAC 480-15-560, and WAC 480-15-570. On April 29, 2019, the Commission entered Order 01, which reduced the penalty to \$5,100. The Commission further suspended \$2,550 portion of the penalty for a period of two years subject to conditions. The Company paid the non-suspended portion of the penalty in full.
10. **The Company's existing compliance program.** Melanie Morris is responsible for the Company's safety compliance program.
11. **The size of the Company.** InMove currently operates two commercial motor vehicles and employs two drivers. The Company reported \$544,538 in gross revenue for 2020.

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.² 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 InMove \$300, calculated as follows:

- Two violations of 49 CFR § 391.21(a) – Using a driver who has not completed and furnished a completed proper employment application. The Commission assesses a "per category" penalty of \$100 for these repeat violations.
- One violation of 49 CFR § 393.45 – Brake tubing and hose adequacy. The Commission assesses a penalty of \$100 for this out-of-service violation.
- One violation of WAC 480-15-555 – Failing to complete a criminal background check for every person the carrier intends to hire. 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 of 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 of the violations that you 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

² Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

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 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 **within FIFTEEN (15) days** after you receive this notice. 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 do not act within 15 days, the Commission may take additional enforcement action, including but not necessarily limited to suspending or revoking your permit 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 May 10, 2021.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-210274

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 and enclose \$300 in payment of the penalty.

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: 05/14/21 [month/day/year], at Kirkland, WA [city, state]

Melanie Morris
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