

RCW 49.46.330 Transportation network companies—Department investigation of noncompensation requirements—Penalties—Appeals—Orders.

(1) If a driver files a complaint with the department alleging a violation of any noncompensation requirement of RCW 49.46.300 (7) through (10) and (12) through (14), the department shall investigate the complaint under this section.

(a) The department may not investigate any such alleged violation that occurred more than three years before the date that the driver filed the complaint or prior to this law going into effect.

(b) If a driver files a timely complaint with the department, the department will investigate the complaint and issue either a citation assessing a civil penalty or a closure letter within 60 days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the driver and the transportation network company setting forth good cause for an extension of the period, and specifying the duration of the extension.

(c) The department shall send notice of either a citation and notice of assessment or a citation assessing a civil penalty or the closure letter to both the transportation network company and the driver by service of process or by United States mail using a method by which delivery of such written notice to the transportation network company can be tracked and confirmed. A transportation network company may designate a mailing address of record for service, and additionally may provide an email address to which the department shall direct electronic courtesy copies of mailed correspondence, if such email address is provided.

(2) If the department's investigation finds that the driver's allegation cannot be substantiated, the department shall issue a closure letter to the driver and the transportation network company detailing such finding.

(3) If the department determines that the violation was a willful violation, and the transportation network company fails to take corrective action, the department may order the transportation network company to pay the department a civil penalty as specified in (a) of this subsection.

(a) A citation assessing a civil penalty for a willful violation will be \$1,000 for each willful violation. For a repeat willful violator, the citation assessing a civil penalty will not be less than \$2,000 for each repeat willful violation per claimant, but no greater than \$20,000 for each repeat willful violation per claimant.

(b) The department may not issue a citation assessing a civil penalty if the transportation network company reasonably relied on:
(i) A written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or (ii) an interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department shall maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether a transportation network company is immune from civil penalties under this subsection (3) (b).

(c) The department may, at any time, waive or reduce a civil penalty assessed under this section if the director determines that

the transportation network company has taken corrective action to resolve the violation.

(d) The department shall deposit civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

(e) If the department determines that a transportation network company has violated RCW 49.46.300(12), and issues to the transportation network company a citation and notice of assessment, the department may order the transportation network company to pay all owed remittance payments as required under RCW 49.46.300(12). The department shall deposit all owed remittance payments in the driver resource center fund.

(4) For purposes of this section, the following definitions apply:

(a) "Repeat willful violator" means any transportation network company that has been the subject of a final and binding citation for a willful violation of one or more rights under this chapter and all applicable rules, within three years of the date of issuance of the most recent citation for a willful violation of one or more such rights.

(b) "Willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

(5) A person, firm, or corporation aggrieved by a citation assessing a civil penalty issued by the department under this section may appeal the citation assessing a civil penalty to the director by filing a notice of appeal with the director within 30 days of the department's issuance of the citation assessing a civil penalty. A citation assessing a civil penalty not appealed within 30 days is final and binding, and not subject to further appeal.

(6) A notice of appeal filed with the director under this section stays the effectiveness of the citation assessing a civil penalty pending final review of the appeal by the director as provided for in chapter 34.05 RCW.

(7) Upon receipt of a notice of appeal, the director shall assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures must be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation assessing a civil penalty must be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the director within 30 days after service of the initial order. The director shall conduct administrative review in accordance with chapter 34.05 RCW.

(8) The director shall issue all final orders after appeal of the initial order. The final order of the director is subject to judicial review in accordance with chapter 34.05 RCW.

(9) Orders that are not appealed within the period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(10) Absent good cause, a transportation network company that fails to allow adequate inspection of records in an investigation by the department under this section within a reasonable time period may not use such records in any appeal under such rules to challenge the correctness of any determination by the department of penalties assessed.

(11) Collections of unpaid citations assessing civil penalties will be handled pursuant to the procedures outlined in RCW 49.48.086.

(12) If the department determines that a transportation network company has violated the requirements in RCW 49.46.300(12) to collect and remit the established fee, and issues to the transportation network company a citation and notice of assessment, the department may order the transportation network company to pay all owed remittance payments as required under RCW 49.46.300(12). The department shall deposit all unpaid remittance amounts into the driver resource center fund established in RCW 49.46.310. [2022 c 281 s 4.]