



REGISTRAR OF PASSENGER TRANSPORTATION

INDUSTRY NOTICE TO LICENSEES

Introducing

ADMINISTRATIVE PENALTY FRAMEWORK (AP Framework) (For Licensees' in Non Compliance of the Passenger Transportation Act and Regulation)

Implementation Date: March 07, 2006

Overview

Under the Passenger Transportation Act (PTA), the Registrar of Passenger Transportation has the authority to impose Administrative Penalties solely against licensees, in recognition of licensees' responsibilities to exercise oversight for the operation of their commercial passenger vehicles. An Administrative Penalty Framework (APF) has been developed to guide the implementation of these administrative penalties (a copy of the APF can be downloaded from the Registrar of Passenger Transportation website at www.th.gov.bc.ca)

The APF has two parts:

- a) Part 1 generally deals with matters related to the care and control of the Passenger Transportation licence; under the Motor Carrier Act regime, many of these types of offences were subject to Violation Tickets, but are not "ticketable" offences under the PTA.
- b) Part 2 responds to those situations in which the operator(s) of the licensees' vehicles are repeatedly being issued Violation Tickets for those offences which are "ticketable" under the Act.

Administrative penalties levied by the Registrar include monetary fines up to \$1500, licence suspension and cancellation, refusal to transfer the licence, and restricting the operation of one or more of the licensee's vehicles.

Administrative Penalties levied against licensees can only be appealed to the Passenger Transportation Board.

The Administrative Penalty regime attempts to provide for a more timely response to a wider range of enforcement issues. It also provides a fair opportunity to the affected licensee to respond to the proposal to impose an administrative penalty prior to it being formally administered.

The AP Framework should therefore be regarded as an additional enforcement tool available to the Registrar rather than being considered as a replacement to the Violation Ticket regime which is adjudicated by the provincial Court System.

The overarching objectives of the AP Framework are to:

- i) provide fairness and transparency to all licensees in setting out guidelines to achieve a general level of consistency in the imposition of administrative penalties, and
- ii) encourage voluntary compliance by all licensees, and discourage the recurrence of non compliance for chronic offenders.

The AP Framework, however, is a guide only, and each case will be considered on its own merits. The Registrar will consider when individual circumstances warrant a different outcome than provided for in the AP Framework. The Registrar will consider exceptional cases while attempting to achieve over-all consistency in the imposition of administrative penalties.

Statement Principle

The following statement principles will be considered by the Registrar before an administrative penalty is imposed. These include, but are not limited to:

- a) previous enforcement/compliance actions under the PTA for contraventions of a similar nature by the licensee or their operator(s);
- b) the extent of the harm, or the degree of risk of harm, to others as a result of the contravention, e.g. harming competitors by providing a monetary benefit to the offender and/or compromising the safe transportation of passengers;
- c) whether the contravention was repeated or deliberate;
- d) the length of time during which the contravention continued;
- e) the person's efforts to correct the contravention; and
- f) the economic benefit derived by the person from the contravention.

APF Components

As previously noted, the APF has the following two components:

Administrative Penalty Part 1:

Passenger Transportation Regulation (PTR) non-compliance: Sections 6 through 21 of the Passenger Transportation Regulation detail licensees' responsibilities when operating commercial passenger vehicles.

These responsibilities generally address the care and control of the licence, and the safe operation of vehicles.

The enforcement and compliance of these responsibilities will be initiated by the issuance of Notice & Orders to licensees, which will serve as the evidence upon which the Registrar can decide to issue a warning letter or a notice to impose a penalty to the licensee. The specific penalties for these acts of non-compliance are contained in Part 1 of the PTR Enforcement Actions in the APF.

Administrative Penalty Part 2:

Passenger Transportation Act (PTA) Offences: Sections 56 and 57 of the PTA detail offences under which operators may be issued violation tickets. The amounts of these ticketable offences are contained in the Violation Ticket and Fines Administration Regulation under the Offence Act.

These offences generally address situations in which the licensee has failed to ensure that the associated vehicles are carrying the required documents/plates/decals.

The enforcement and compliance activities will be initiated by the issuance of violation tickets to the operator of the subject vehicle. An accompanying Notice & Order will be issued to the operator with a copy sent to the licensee, which will serve as the evidence upon which the Registrar can decide to issue a warning letter or notice to impose a penalty to the licensee as guided by the AP Framework. The specific penalties for these offences are contained in Part 2 of the PTA Enforcement Actions.

Under Part 2, there is no legal requirement to await the outcome of any dispute of violation ticket prior to imposing an Administrative Penalty. The imposition of an administrative penalty under Part 2 will be directed in most part towards chronic offenders of the ticketable offences.

Administration

Each component of the APF provides a description of the non-compliance, the escalating occurrence formula and the trigger for the Registrar to administer administrative penalties to a licensee, with the recognition that the Registrar retains the flexibility to assess each situation on its own merits. The penalties to be administered are contingent on the type of non-compliance incurred and the number of reoccurrences for each offence within the AP Framework calendar year.

The APF calendar year means a 12 month period beginning every March 1st, except for 2006 for which the APF year will begin on March 7 to coincide with the implementation date of the APF. In those cases in which the final determination of an administrative penalty is still outstanding at the end of February, the licensee's new monitoring period will still be effective on March. 1st. If the licence expires during the monitoring period, the AP Framework calendar year monitoring period will remain unchanged if the licence is renewed as set out under Section 34 of the PTA.

Depending on the type of non-compliance, an offence may trigger a warning letter to the licensee, monetary fines, suspension of a vehicle, a Passenger Transportation Audit, and/or other penalties at the Registrar's discretion. Subsequent proven infractions will result in additional administrative penalties.

With the exception of not adhering to filed rates, the APF does not employ fleet sizes as a determinant for the imposition of administrative penalty sanctions to licensees. For licensees not adhering to filed rates, the APF employs four fleet sizes, with larger sanctions for the larger fleets, as it's likely all the licensee's vehicles would be in non compliance at the same time.

Procedural Summary

If the Registrar is satisfied that a licensee has failed to comply with the Act, the regulations or the terms and conditions of the licensee's licence, the Registrar may, in accordance with Part 6, Sec. 46 (1) of the PTA, and within one year after becoming aware of the licensee's failure to comply, take one or more of the following actions:

a) Notify licensee of intent to implement sanction(s), but first provide the licensee with an opportunity to respond; sanctions under this category may include one or more of the following:

- i) transferring the licence to another person;
- ii) amending the licence;
- iii) replacing the licence;
- iv) renewing the licence;
- v) obtaining a new licence;
- vi) impose an administrative fine.

If the Registrar proposes to impose a penalty to the licensee, the Registrar will notify the licensee in writing. The licensee has an opportunity to provide a written response within 7 days to a notice of the Registrar signifying intent to impose an administrative penalty. This seven day timeframe gives the licensee an opportunity to explain any mitigating circumstances or argument to defend against the imposition of an administrative penalty. (Ref. PTA Sec.46 (2) (e)).

b) The Registrar may impose the following sanction(s) against the licensee without first providing the licensee with an opportunity to respond (in accordance with Sec. 47 (1) of the PTA):

- i) suspension of a licence;
- ii) cancellation of a licence;
- iii) the requirement to stop operating one or more vehicles;

if, the Registrar is satisfied that:

- one or more vehicles no longer holds a valid & passed mechanical inspection report (e.g. “CVIP” – Commercial Vehicle Inspection Program) (PTR - Sec. 17; MVAR - Div. 25),
- licensee no longer holds a valid safety certificate, or equivalent if base plated outside of British Columbia. (PTR - Part 4; MVAR - Div 37),
- licensee no longer holds applicable insurance requirement for one or more vehicles (PTR - Part 4; ICBC - Section 4 of the MVA).

The Act authorizes the Passenger Transportation Board to suspend any type of administrative penalty except an administrative fine, pending an appeal to the Board.

If the Board does not suspend the decision of the Registrar then the licensee continues to be subject to the administrative penalty pending the determination of the appeal. If the Board suspends the Registrar's decision then the time period will recommence if the appeal is dismissed. For further information on appeals, please visit the Board's website at www.th.gov.bc.ca/ptb.

Further Information

As previously noted, a copy of the APF can be downloaded from the Registrar's website at www.th.gov.bc.ca. Copies are also available upon request.

We can be reached at:

- Office Phone 604.453.4250 or toll free at 888.453.4280
- Office Address: #104 – 4240 Manor Street, Burnaby BC V5G -1B2
- E-Mail Address: passengertransportationbr@gov.bc.ca

Thank you.



Tom Greene,
Registrar of Passenger Transportation