



Portland City Auditor

Ombudsman



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CC: Mark Williams, Interim Director, Chief Administrative Office, Portland Bureau of Transportation
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FROM: Tony Green, Deputy Ombudsman

DATE: August 23, 2024

SUBJECT: Findings and recommendations on enforcement of tour bus regulations

Introduction

According to Bureau of Transportation records, dozens of tour companies operate in Portland, including party buses, charter buses, tour buses, and limousines. Tour companies ferry sightseers around Portland or from the city to wine country, the Oregon Coast, Mount Hood, the Columbia Gorge, and other locations throughout the state. To protect the safety of the passengers, the Bureau requires tour companies that conduct business within city limits to obtain a permit that includes proof of insurance, driver background checks, and vehicle safety. Permit fees are approximately \$1,130 but may be lower or higher depending on whether a company is renewing a permit and the number of drivers it employs.

The Ombudsman received a complaint in March 2024 from the owner of a tour bus company about the Bureau's enforcement of its permit requirements. The owner provided a list of nearly three dozen tour companies that were allegedly picking up customers in Portland without permits. The owner said that the Bureau was not making sufficient efforts to bring them into compliance, which put the owner at a competitive disadvantage because the unpermitted companies could avoid permit fees, carry less

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expensive insurance and avoid the costs of vehicle inspections and criminal background checks for drivers. The owner said the problem has been going on for more than a decade.

The Ombudsman investigated and discovered dozens of tour companies that appear to be operating in Portland but are not listed as having a permit. This means that some sightseers and partygoers are likely taking tours without assurances that the vehicles passed safety inspections, the drivers cleared background checks, and the companies have adequate insurance. The issue of unpermitted tour companies drew media attention in 2012 when an 11-year-old suffered a fatal injury after falling out of a window on a party bus that did not have a City permit.

We found that the Bureau's efforts to investigate whether companies are meeting the permit requirement involve unnecessary steps that may be slowing down the process of bringing companies into compliance. We also learned that other jurisdictions employ swifter and simpler approaches that achieve a high level of compliance.

We recommend that the Bureau take several steps to get unpermitted companies into compliance and help ensure the safety of the public.

Background

Portland City Code Chapter 16.40 provides the regulatory framework for all private for-hire transportation services, which include taxis, transportation network companies such as Uber and Lyft, and tour companies. The purpose of the regulations is to “ensure the safety and reliability” of the services, promote innovation, and allow fair competition “so long as public safety and the public interests are served.”

Under Title 16.40.600, permit requirements for tour buses, limousines, party buses, and other multi-passenger vehicles include:

- An insurance policy with no less than \$1 million per occurrence and \$2 million aggregate for bodily injury and property damage
- Criminal and driving background checks for all drivers
- A vehicle safety inspection.

Civil penalties for operating without a license are \$1,250 for a first offense, \$2,500 for a second offense, and \$5,000 for a third offense. Subsequent offenses result in suspension or revocation of certification. City Code also provides authority to impose criminal penalties for violations and to tow vehicles, but according to PBOT these provisions have not been used.

The Bureau unit that enforces tour company regulations also enforces regulations for taxis, medical transport, and transportation network companies such as Lyft and Uber. According to the Bureau, the unit's primary focus has been enforcement of requirements for taxi and transportation network company drivers.

The Bureau's records dating back to 2018 include the names of 116 tour companies. Thirty-four of these were either permitted or pending approval as of July 2, 2024. The remaining 82 did not have permits. The Bureau does not know how many of these 82 companies are operating in Portland. Some may have shut down during the COVID-19 pandemic and kept their websites active in case they decided to re-start. But Bureau officials acknowledge that many are operating in Portland without a permit. We conducted online searches on a sample of names from the list of 82 companies without a permit. Out of 28 companies we checked, we found that 23 appear to be conducting business in Portland, based on their websites, reviews or advertising.

Bureau's enforcement process includes unnecessary steps that prolong investigations, delay citations of unpermitted companies

Bureau officials told the Ombudsman that they are aware of the compliance issue but proving that a company is operating in Portland is challenging. Regulations require proof that a tour originates within city limits. The Bureau's enforcement efforts have included reviewing company websites and booking tours. If the Bureau uncovers evidence of an unpermitted company conducting business in Portland, its practice has been to issue a warning letter and then a cease-and-desist letter. If a company continues to operate without a permit after the letters, Bureau staff can issue a citation. Because of limited staffing, the Bureau does not promptly issue citations when a company fails to respond to a cease-and-desist letter. The Bureau's process does not have specified timelines.

A 2024 Portland Hearings Office decision suggests that the Bureau's practice of sending both a warning and cease-and-desist letter before issuing a citation consumes limited staff time and drags out the process. In the case before the Hearings Office, a company's permit expired in November 2020. The Bureau sent a warning letter 11 days after the permit expired. In September 2022, the Bureau sent a cease-and-desist letter. In January 2024, while conducting investigations into unpermitted tour companies, a Bureau investigator discovered that the company's website was offering regular tours and issued a \$1,250 citation, more than three years after the permit expired. After the Hearings Office ruling in April 2024, which upheld the citation, the owner renewed their permit and is now among the 34 legally operating tour companies.

Figure 1. In one case, the Bureau issued a citation more than three years after a permit expired



Source: Ombudsman’s Office visualization of data from Hearings Office records.

We find that the decision demonstrates two important points. First, the Hearings Office determined that Title 16 does not require sending out warning and cease-and-desist letters before issuing a citation. In other words, the Bureau is taking time and limited investigatory resources to send unnecessary letters. Second, the Bureau does not need extensive documentation to prove that a tour company is conducting business in Portland. In this case, the Bureau submitted 17 pieces of evidence to demonstrate that the company was operating in Portland, including screenshots of its website, online reviews and an advertisement. However, the Hearings Office determined that a single advertisement at a popular discount website was sufficient to justify the citation. Based on this decision, the Bureau appears to be spending limited time and investigative resources gathering more evidence than is necessary to justify a citation.

Other jurisdictions achieve high compliance in fewer steps

We reached out to several other jurisdictions in the western U.S. to see how they enforce their permitting requirements. Representatives of Colorado and Washington responded. Both have quick and simple enforcement practices with high compliance rates.

The Colorado Public Utility Commission regulates tour companies statewide and has similar requirements as Portland, including insurance and driver background and vehicle safety checks. When they receive a complaint about an unpermitted sightseeing operation, an undercover investigator calls the company on a recorded line and asks if they can book a seat on a tour. If the company representative says yes, the investigator uses the recording of the call as evidence that the company is operating tours without a permit and issues a citation. Colorado had 73 licensed tour companies as of July 2024. The exact number of unlicensed companies was not immediately available, but the

Commission indicated it was fewer than a dozen. That would give it a compliance rate of about 85%.

The Washington State Utilities and Transportation Commission regulates tour companies and requires insurance and vehicle inspections. When an investigator uncovers evidence of an unpermitted company, they send a cease-and-desist letter as required by state law. If the company does not respond within 15 days, an undercover investigator reaches out to the company and inquires about tour availability. If the company representative affirms availability, the investigator will issue a citation. Investigators do not record calls, but their notes are sufficient to uphold a citation. Washington has 117 licensed tour companies and 13 active investigations as of July 2024. If all 13 companies under investigation are proven to be operating without a permit, Washington has a compliance rate of 90%.

Conclusion

Portland City Code requires tour companies operating within the city to obtain permits that require them to show proof of insurance, vehicle safety inspections, and driver background checks. Lack of enforcement of tour company regulations undermines the core purpose of these rules—to protect public safety. Passengers may be put at risk when companies have not passed important safety checks or demonstrated that they are adequately insured. Weak enforcement also fails to provide an even playing field for the companies that comply with the rules.

Recommendations

To increase compliance by tour companies with City regulations designed to ensure public safety and promote fair competition, the Bureau should immediately take the following steps:

- Open investigations into the 82 unpermitted tour companies in Bureau records. Rather than continuing its practice of first issuing warning and cease-and-desist letters, the Bureau should instead use its authority under City Code to move directly to issuing citations against those that advertise that they pick up passengers in Portland.
- If evidence of advertising is unavailable, reach out to the company by email or phone and determine if they are conducting business in Portland. Promptly issue a citation if the company confirms.
- Look into whether it is necessary and feasible to record phone calls to use as evidence when the Bureau contacts companies by phone.