

# DRIVER/VEHICLE EXAMINATION REPORT

Staff Exhibit No. 1



Public Utilities Commission of Ohio  
180 East Broad Street  
Transportation Department  
Columbus, OH 43215  
Phone #: (614)466-0429 Fax #: (614)752-9274

Report Number: OH3230014289  
Inspection Date: 6/17/2019 Certification Date: 07/01/2019  
Time Started: 16:25 Time Ended: 17:16  
Inspection Level: I - Full Inspection  
HM Inspection Type: No HM Inspection

## TURNER AUTOMOTIVE & FABRICATING SERVICES INC

11921 AVON BELDEN RD

GRAFTON, OH 44044

USDOT #: 02488865

Phone #: (440)236-5633

MC/MX #:

Fax #: (440)748-3364

State #:

Driver: UPCHURCH, STEVEN P

License #:

State: OH

Date of Birth:

Location: ROADSIDE

MilePost: 30

Highway: SR 2

Origin: FOSTORIA, OH

Bill of Lading: 27094526

County: ERIE

Destination: LORAIN, OH

Cargo: MOTOR VEHICLES

Shipper: IAA

## VEHICLE IDENTIFICATION:

Unit	Type	Make	Year	State	License#	Equipment ID	Unit VIN	GVWR	CVSA #	CVSA Issued #	OOS Stkr.#
1	TR	FRHT	2005	OH	PHW6846	FREIGHTLINER	1FVACWCT45HU17509	25,500			
2	OT	TRLR	2008	OH	SPECIAL	COBALT	1G1AK58F187168844	1,953			Y

## BRAKE ADJUSTMENTS:

Axle #	1	2
Right	N/A	N/A
Left	N/A	N/A
Chamber	HYDR	HYDR

## VIOLATIONS :

Vio Code	Section	Unit	OOS	State Citation Number	Verify*	Crash	Violation Description
392.16	392.16	D	N		N	N	Failing to use seat belt while operating a CMV: Driver was failing to wear seat belt as he drove past my stationary location
393.60C	393.60(c)	1	N		N	N	Damaged or discolored windshield: Windshield cracked in multiple locations on drivers side
393.81	393.81	1	N		N	N	Horn inoperative: Horn inoperative at time of inspection
393.9	393.9(a)	1	N		N	N	Inoperable Required Lamp: Right low beam head lamp inoperative at time of inspection
393.9	393.9(a)	1	N		N	N	Inoperable Required Lamp: Left brake lamp inoperative at time of inspection
393.9	393.9(a)	1	N		N	N	Inoperable Required Lamp: Right brake lamp inoperative at time of inspection
393.9	393.9(a)	1	N		N	N	Inoperable Required Lamp: License plate lamp inoperative at time of inspection
393.9	393.9(a)	2	Y		U	N	Inoperable Required Lamp: Left brake lamp inoperative at time of inspection
393.9	393.9(a)	2	Y		U	N	Inoperable Required Lamp: Right brake lamp inoperative at time of inspection

\* N - Non-OOS or Driver OOS Violation; U - Unknown

## HazMat:

No HM Transported.

Placard: NA

Cargo Tank:

## Special Checks:

- ☐ Alcohol/Controlled Substance Check  
☐ Conducted by Local Jurisdiction  
☐ Size and Weight Enforcement  
☐ EScreening

- ☐ Traffic Enforcement  
☐ PASA Conducted Inspection  
☐ Drug Interdiction Search

- ☐ Post Crash Inspection  
☐ PBBT Inspection  
Arrests:

Report Prepared By:

J D ANDERSON

Badge #:

3230

Copy Received By:

UPCHURCH, STEVEN P

Page 1 of 3



OH3230014289

X

X

# DRIVER/VEHICLE EXAMINATION REPORT



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## TURNER AUTOMOTIVE & FABRICATING SERVICES INC

11921 AVON BELDEN RD

GRAFTON, OH 44044

USDOT #: 02488865

Phone #: (440)236-5633

MC/MX #:

Fax #: (440)748-3364

State #:

Driver: UPCHURCH, STEVEN P

License #:

State: OH

Date of Birth:

**Inspection Notes:** This carrier was shown as not having operating authority by a real-time query at 6/17/2019 4:45:06 PM intra state move has authority. driver hit brake 10 times during inspection it did not function also did not function while coming to stop to conduct inspection driver brought light bar into cab of vehicle it worked momentarily he stated it needed charged and charged it was not functioning at end of inspection escorted driver to BP on sr 60 to place oos driver had light gray shirt(see photo) black seat belt (see photo)

This carrier was shown as not having operating authority by a real-time query at 6/17/2019 5:15:57 PM

## Special Study Fields:

Special Study1:

Special Study6:

Special Study2:

Special Study7:

Special Study3:

Special Study8:

Special Study4:

Special Study9:

Special Study5:

Special Study10:

## Locally Defined Fields:

For-Hire Carrier: Y;Driver Address: 843 W 13TH ST;Driver City: LORAIN;Driver State: OH;Driver Zip: 44052;Reason Code: OBVI;FMCSA Credentials Verified-Y/N: Y;CDL Verified (Y/N): Y;FMCSA OOS Order Issued(Y/N): N;Driver Address Verified (Y/N): Y;ISS Score: 46

\* Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9, I hereby declare vehicles with defects followed by an "Y" in the "Out of Service" column in the violations discovered section of this report OUT OF SERVICE. No person shall remove the out of service stickers applied to these vehicles, or operate such vehicles until the out of service defects have been repaired and the vehicles have been restored to safe operating condition.

All violations of the FHMR and FMCSR or Title 49 of the Ohio Revised Code will be reviewed by the PUCO's Transportation Department to determine whether civil forfeitures should be assessed against any responsible parties in accordance with the penalty provisions of Title 49 of the Ohio Revised Code. If civil forfeitures are assessed, you will receive a separate notice by mail. These penalties may be assessed to motor carriers, shippers, and/or drivers.

ATTENTION MOTOR CARRIER: The motor carrier must examine this report and repair all the vehicle defects/violations noted above -AND- The motor carrier must sign the Certification of Repairs below and return the signed form to: Public Utilities Commission of Ohio, TASD - 4th floor, 180 E Broad St, Columbus, OH 43215-3793 -OR- Fax (614) 752-9274 within 15 days of the inspection. If "No Violations Were Discovered" then you do not need to return this report. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000. If you have any questions, please contact (614) 466-0429.

Signature of Carrier Official: X

Date:

Report Prepared By:

J D ANDERSON

Badge #:

3230

Copy Received By:

UPCHURCH, STEVEN P

Page 2 of 3



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OH3230014289

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GRAFTON, OH 44044

USDOT #: 02488865

Phone #: (440)236-5633

MC/MX #:

Fax #: (440)748-3364

State #:

Driver: UPCHURCH, STEVEN P

License #:

State: OH

Date of Birth:

ATTENTION DRIVER: This report must be sent to the motor carrier whose name appears at the top of this inspection report within 24 hours. If the inspection report cannot be delivered within 24 hours the driver must mail or fax the inspection report to the motor carrier.

## \*\*\*\*\* POSSIBLE CDL DISQUALIFICATION \*\*\*\*\*

If this roadside inspection identified an alleged violation of one or more of the below noted regulations, your CDL may be disqualified. If the PUCO finds you committed a violation of any of these regulations, the violation will be treated as a conviction for the purposes of federal and state law and notice of such conviction will be forwarded to the Ohio Bureau of Motor Vehicles (BMV). The BMV may disqualify you from operating a commercial motor vehicle for a minimum of 60 days. Any BMV sanction is in addition to sanctions imposed by the Public Utilities Commission of Ohio (PUCO).

177.804(b)(1), 177.804(b)(2), 177.804(b)(3), 177.804(c), 4901:2-5-07D, 383.23(a)(2), 383.51(a), 383.51A-NSIN, 383.51A-NSOUT, 383.51A-SIN, 383.51A-SOUT, 383.91(a), 383.93(b)(1), 383.93(b)(2), 383.93(b)(3), 383.93(b)(4), 383.93(b)(5), 391.15(a), 391.15A-NSIN, 391.15A-NSOUT, 391.15A-SIN, 391.15A-SOUT, 392.10(a)(1), 392.10(a)(2), 392.10(a)(3), 392.10(a)(4), 392.11, 392.12, 392.4(a), 392.5(a)(2), 392.5A2-UI, 392.5(c)(2), 392.80(a), 392.82(a)(1), 395.13(d), 396.9(c)(2).

MOTOR CARRIER CERTIFICATION OF COMPLETED REPAIRS: The undersigned certifies that all violations noted on this report have been corrected and action taken to assure compliance with the Federal Motor Carrier Safety & Hazardous Materials Regulations insofar as they are applicable to motor carriers and drivers. A false certification of repairs is required to be prosecuted with penalties up to \$10,000.

Signature of Repairer:

X

Facility:

Date:

Report Prepared By:

J D ANDERSON

Badge #:

3230

Copy Received By:

UPCHURCH, STEVEN P

Page 3 of 3



OH3230014289

X

X





# Public Utilities Commission

Sam Randazzo, Chairman

Staff Exhibit No. 2 Commissioners

M. Beth Trombold  
Lawrence K. Friedeman  
Dennis P. Deters  
Daniel R. Conway

June 21, 2019

STEVEN P UPCHURCH  
843 WEST 13TH ST  
LORAIN, OH 44052

RE: **Notice of Apparent Violation  
And Intent to Assess Forfeiture**  
Case No. OH3230014289D  
PIN #: GvzFhSTE

Dear Sir or Madam:

On 06-17-2019, a vehicle operated by TURNER AUTOMOTIVE & FABRICATING SERVICES INC and driven by, UPCHURCH, STEVEN P was inspected in the State of Ohio, resulting in the discovery of the following apparent violation(s) of the Commission's rules. The Commission intends to assess a civil forfeiture against STEVEN UPCHURCH in the following amount:

<u>Code</u>	<u>Group</u>	<u>Description</u>	<u>Crash</u>	<u>State Citation</u>	<u>Forfeiture</u>
392.16	4	Failing to use seat belt while operating a CMV	N		\$ 100.00
<b><u>Total Amount Due:</u></b>					<b>\$ 100.00</b>

**Within 30 days of this notice you must either: 1) pay the assessed civil forfeiture or, 2) submit a written Request for Conference to present mitigating circumstances. \* Violations with a "Y" in the "crash" column or any text in the "State Citation" column are not assessed a civil forfeiture. Further, because these offenses are primarily under the jurisdiction of local courts, these violations are not available for a conference.**

Failure to comply with either option above shall constitute a waiver of your right to further contest the violation(s) and will conclusively establish the occurrence of the violation(s). Such failure shall also constitute a waiver of your right to further contest liability to the State of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's Office for collection. In addition, your Ohio operating authority (CPCN) may be sanctioned as permitted by law.

180 East Broad Street  
Columbus, Ohio 43215-3793

(614) 466-3016  
www.PUCO.ohio.gov



Please consult the enclosed instruction sheet for additional information regarding this "Notice of Apparent Violation and Intent to Assess Forfeiture."

Sincerely,

Michael Hines  
Compliance Division  
(614) 466-0351

Enclosure



# INSTRUCTION SHEET

## NOTICE OF APPARENT VIOLATION AND INTENT TO ASSESS FORFEITURE

**Please read these instruction sheets carefully. They contain information about your rights and responsibilities in regard to this “Notice of Apparent Violation and Intent to Assess Forfeiture.”**

You have received a combined “Notice of Apparent Violation and Intent to Assess Forfeiture” as described in 4901:2-7-09, Ohio Administrative Code (OAC). **Within 30 days of this notice you must either: 1) pay the assessed civil forfeiture or, 2) submit a written request for a conference to present mitigating circumstances.** If you do not pay the forfeiture or request a conference within 30 days of this notice, your case will be placed in our default process. Additionally, your Ohio operating authority and/or your commercial driving privileges may be sanctioned as permitted by law.

### How to pay the forfeiture

<b>Online</b>	<a href="https://www.puco.ohio.gov/sc/mcos/">https://www.puco.ohio.gov/sc/mcos/</a> Enter the case number and PIN located on the enclosed invoice.	<b>Mail</b>	Public Utilities Commission of Ohio Attn: Fiscal Section 180 E. Broad Street, 4 <sup>th</sup> Floor Columbus, Ohio 43215-3793  Send check/money order (no foreign checks/money orders) made payable to “ <b>Public Utilities Commission of Ohio</b> ”. To ensure proper credit, write the case number on the face of the check or money order.
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**\* Payments cannot be completed by telephone**

### How to make a Request for Conference

If you believe any of the violations described in this notice did not occur as alleged, that any of the occurrences described did not constitute a violation of the Commission’s rules, that you were not responsible for the violations, or if you wish to present mitigating circumstances regarding the amount of the forfeiture you should submit a “Request for Conference” as described in Rule 4901:2-7-10 OAC.

- \* Violations with a “Y” in the “crash” column or any text in the “State Citation” column are not assessed a civil forfeiture. Further, because these offenses are primarily under the jurisdiction of local courts, these violations are not available for a conference.

Your “Request for Conference” must be in writing and must contain the case number found at the top of the “Notice of Alleged Violation and Intent to Assess Forfeiture.” Also, please include the contact name, address, and telephone number of the person to whom further communications should be directed. Your request should indicate your desire to discuss this matter in person or by telephone and may include any additional information you wish to submit to support your position. Violations will not be removed from the inspection unless documentation supporting your claim is provided and confirmed upon a review. Also, changes to an inspection following a successful “DataQ” challenge will be reflected in our records.

Your “Request for Conference” must be submitted within 30 days of this notice via one of the following methods:

<b>Mail</b>	Public Utilities Commission of Ohio Transportation – Compliance Division 180 E. Broad Street, 4 <sup>th</sup> Floor Columbus, Ohio 43215-3793	<b>Online</b>	<a href="https://www.puco.ohio.gov/sc/mcos/">https://www.puco.ohio.gov/sc/mcos/</a> Register using the PIN located on the invoice.
		<b>Fax</b>	(614) 466-2753

### Failure to submit a Request for Conference

If you do not serve a timely “Request for Conference” in one of the manners described, you will forfeit your right to further contest the violations described in the “Notice of Alleged Violation and Intent to Assess Forfeiture” and the occurrence of the violations will be conclusively established.

Such failure shall also result in the forfeiture amount being referred to the Ohio Attorney General’s Office for collection. Also, your Ohio operating authority and/or your commercial driving privileges may be sanctioned as permitted by law.



## **ATTENTION DRIVER**

### **Potential Disqualification**

If the roadside inspection leading to this letter identified an alleged violation of one or more of the below noted regulations, your CDL may be disqualified. If the Public Utilities Commission of Ohio (PUCO) finds you committed a violation of any of these regulations, the violation will be treated as a conviction<sup>1</sup> for the purposes of federal and state law and notice of such conviction will be forwarded to the Ohio Bureau of Motor Vehicles (BMV). The BMV may disqualify you from operating a commercial motor vehicle for a minimum of 60 days. Any BMV sanction is **in addition to** sanctions imposed by the PUCO.

177.804B1	177.804(b)(1)	Failure to comply with 49 CFR Section 392.12 Complying With Safe Clearance Requirements For Highway-Rail Grade Crossings.
177.804B2	177.804(b)(2)	Failure to comply with 49 CFR Section 392.80 Texting While Operating a CMV When Transporting Select Agents or Toxins or HM Requiring Placarding.
177.804B3	177.804(b)(3)	Failure to comply with 49 CFR Section 392.82 Using a Cell Phone While Operating a CMV When Transporting Select Agents or Toxins or HM Requiring Placarding.
177.804C	177.804(c)	Failure to comply with 49 CFR Section 392.82 Using a Handheld Mobile Phone While Operating a CMV When Transporting Select Agents or Toxins or HM Requiring Placard.
2-5-07D	392.2	Operating a CMV after Driver or Vehicle declared out of service.
383.23A2	383.23(a)(2)	Operating a CMV without a CDL.
383.51A	383.51(a)	Driving a CMV while disqualified from holding a CDL.
383.51A-NSIN	383.51(a)	Driving a CMV while CDL is suspended for a non-safety-related reason and in the state of driver's license issuance.
383.51A-NSOUT	383.51(a)	Driving a CMV while CDL is suspended for a non-safety-related reason and outside the state of driver's license issuance.
383.51A-SIN	383.51(a)	Driving a CMV while CDL is suspended for a safety-related or unknown reason and in state of driver's license issuance.
383.51A-SOUT	383.51(a)	Driving a CMV while CDL is suspended for safety-related or unknown reason and outside the state of driver's license issuance.
383.91A	383.91(a)	Operating a CMV with improper CDL group.
383.93B1	383.93(b)(1)	No double or triple trailer endorsement on CDL when required.
383.93B2	383.93(b)(2)	No passenger vehicle endorsement on CDL when required.
383.93B3	383.93(b)(3)	No tank vehicle endorsement on CDL when required.
383.93B4	383.93(b)(4)	No hazardous materials endorsement on CDL when required.
383.93B5	383.93(b)(5)	Operating a School Bus without a school bus endorsement as described in 383.93(b)(5).
391.15A	391.15(a)	Driving a CMV while disqualified.
391.15A-NSIN	391.15(a)	Driving a CMV while disqualified. Suspended for non-safety-related reason and in the state of driver's license issuance.
391.15A-NSOUT	391.15(a)	Driving a CMV while disqualified. Suspended for a non-safety-related reason and outside the state of driver's license issuance.
391.15A-SIN	391.15(a)	Driving a CMV while disqualified. Suspended for safety-related or unknown reason and in the state of drivers license issuance.
391.15A-SOUT	391.15(a)	Driving a CMV while disqualified. Suspended for a safety-related or unknown reason and outside the driver's license state of issuance.
392.10A1	392.10(a)(1)	Failure to stop at railroad crossing - Bus transporting passengers.
392.10A2	392.10(a)(2)	Failure to stop at railroad crossing - CMV transporting Division 2.3 Chlorine.
392.10A3	392.10(a)(3)	Failure to stop at railroad crossing - CMV requiring display of HM placards.
392.10A4	392.10(a)(4)	Failure to stop at railroad crossing - HM Cargo Tank vehicle.
392.11	392.11	Commercial Vehicle failing to slow down approaching a railroad crossing.
392.12	392.12	No Driver of a Commercial Motor Vehicle Shall Drive Onto a Highway-Rail Grade Crossing Without Having Sufficient Space to Drive Completely Through the Crossing Without Stopping.
392.4A	392.4(a)	Driver on duty and under the influence of, or using a narcotic drug / amphetamine, which renders the driver incapable of safe operation.
392.5A2-UI	392.5(a)(2)	Operating a CMV while under the influence of an intoxicating beverage regardless of its alcohol content.
392.5C2	392.5(c)(2)	Violating OOS order pursuant to 392.5(a)/(b) - Alcohol prohibitions.
392.80A	392.80(a)	Driving a commercial motor vehicle while Texting.
392.82A1	392.82(a)(1)	Using a hand-held mobile telephone while operating a CMV.
395.13D	395.13(d)	Driving after being declared out-of-service for HOS violation(s).
396.9C2	396.9(c)(2)	Operating an out-of-service vehicle.

<sup>1</sup> Federal regulations define "conviction" as, "... a determination that a person has violated or failed to comply with the law ... by an authorized administrative tribunal, ... the payment of a fine or court cost, ... regardless of whether or not the penalty is rebated, suspended, or probated." 49 CFR 383





# Public Utilities Commission

Sam Randazzo, Chairman

## Commissioners

M. Beth Trombold  
Lawrence K. Friedeman  
Dennis P. Deters  
Daniel R. Conway

STEVEN UPCHURCH  
843 WEST 13TH ST  
LORAIN, OH 44052

Invoice #: 19-00014375  
Date: 06/21/2019  
Due Date: 07/21/2019  
PIN #: GvzFhSTE

### 2019

Item #	Type	Description	Amount Due
INVD-0024257	Civil Forfeiture Non HazMat	Failing to use seat belt while operating a CMV	\$ 100.00
Payments Received			\$ 0.00
Total Amount Due			\$ 100.00

Please visit <https://www.puco.ohio.gov/sc/mcos/> to make your online payments.

Questions concerning this invoice should be addressed to our call center at 1-800-686-7826.

(Remittance for mailed check payment)

Please make checks payable to:

Public Utilities Commission of Ohio  
180 East Broad Street  
4<sup>th</sup> Floor Finance  
Columbus, OH 43215

STEVEN UPCHURCH  
843 WEST 13TH ST  
LORAIN, OH 44052

Invoice #: 19-00014375  
Date: 06/21/2019  
Due Date: 07/21/2019







# Public Utilities Commission

Sam Randazzo, Chairman

Staff Exhibit No. 3 Commissioners

M. Beth Trombold  
Lawrence K. Friedeman  
Dennis P. Deters  
Daniel R. Conway

July 21, 2019

STEVEN P UPCHURCH  
843 WEST 13TH ST  
LORAIN, OH 44052

## SECOND NOTICE

RE: Notice of Apparent Violation  
And Intent to Assess Forfeiture  
Case No. OH3230014289D  
PIN #: GvzFhSTE

Dear Sir or Madam:

On 06-17-2019, a vehicle operated by TURNER AUTOMOTIVE & FABRICATING SERVICES INC and driven by, UPCHURCH, STEVEN P was inspected in the State of Ohio, resulting in the discovery of the following apparent violation(s) of the Commission's rules. The Commission intends to assess a civil forfeiture against STEVEN UPCHURCH in the following amount:

<u>Code</u>	<u>Group</u>	<u>Description</u>	<u>Crash</u>	<u>State Citation</u>	<u>Forfeiture</u>
392.16	4	Failing to use seat belt while operating a CMV	N		\$ 100.00
<u>Total Amount Due:</u>					\$ 100.00

**Within 30 days of this notice you must either; 1) pay the assessed civil forfeiture or, 2) submit a written Request for Conference to present mitigating circumstances. \* Violations with a "Y" in the "crash" column or any text in the "State Citation" column are not assessed a civil forfeiture. Further, because these offenses are primarily under the jurisdiction of local courts, these violations are not available for a conference.**

Failure to comply with either option above shall constitute a waiver of your right to further contest the violation(s) and will conclusively establish the occurrence of the violation(s). Such failure shall also constitute a waiver of your right to further contest liability to the State of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's Office for collection. In addition, your Ohio operating authority (CPCN) may be sanctioned as permitted by law.

180 East Broad Street  
Columbus, Ohio 43215-3793

(614) 466-3016  
www.PUCO.ohio.gov



Please consult the enclosed instruction sheet for additional information regarding this "Notice of Apparent Violation and Intent to Assess Forfeiture."

Sincerely,

Michael Hines  
Compliance Division  
(614) 466-0351

Enclosure



# INSTRUCTION SHEET

## NOTICE OF APPARENT VIOLATION AND INTENT TO ASSESS FORFEITURE

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### How to pay the forfeiture

<b>Online</b>	<a href="https://www.puco.ohio.gov/sc/mcos/">https://www.puco.ohio.gov/sc/mcos/</a> Enter the case number and PIN located on the enclosed invoice.	<b>Mail</b>	Public Utilities Commission of Ohio Attn: Fiscal Section 180 E. Broad Street, 4 <sup>th</sup> Floor Columbus, Ohio 43215-3793  Send check/money order (no foreign checks/money orders) made payable to “ <b>Public Utilities Commission of Ohio</b> ”. To ensure proper credit, write the case number on the face of the check or money order.
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**\* Payments cannot be completed by telephone**

### How to make a Request for Conference

If you believe any of the violations described in this notice did not occur as alleged, that any of the occurrences described did not constitute a violation of the Commission’s rules, that you were not responsible for the violations, or if you wish to present mitigating circumstances regarding the amount of the forfeiture you should submit a “Request for Conference” as described in Rule 4901:2-7-10 OAC.

- \* Violations with a “Y” in the “crash” column or any text in the “State Citation” column are not assessed a civil forfeiture. Further, because these offenses are primarily under the jurisdiction of local courts, these violations are not available for a conference.

Your “Request for Conference” must be in writing and must contain the case number found at the top of the “Notice of Alleged Violation and Intent to Assess Forfeiture.” Also, please include the contact name, address, and telephone number of the person to whom further communications should be directed. Your request should indicate your desire to discuss this matter in person or by telephone and may include any additional information you wish to submit to support your position. Violations will not be removed from the inspection unless documentation supporting your claim is provided and confirmed upon a review. Also, changes to an inspection following a successful “DataQ” challenge will be reflected in our records.

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<b>Mail</b>	Public Utilities Commission of Ohio Transportation – Compliance Division 180 E. Broad Street, 4 <sup>th</sup> Floor Columbus, Ohio 43215-3793	<b>Online</b>	<a href="https://www.puco.ohio.gov/sc/mcos/">https://www.puco.ohio.gov/sc/mcos/</a> Register using the PIN located on the invoice.
		<b>Fax</b>	(614) 466-2753

### Failure to submit a Request for Conference

If you do not serve a timely “Request for Conference” in one of the manners described, you will forfeit your right to further contest the violations described in the “Notice of Alleged Violation and Intent to Assess Forfeiture” and the occurrence of the violations will be conclusively established.

Such failure shall also result in the forfeiture amount being referred to the Ohio Attorney General’s Office for collection. Also, your Ohio operating authority and/or your commercial driving privileges may be sanctioned as permitted by law.



## **ATTENTION DRIVER**

### **Potential Disqualification**

If the roadside inspection leading to this letter identified an alleged violation of one or more of the below noted regulations, your CDL may be disqualified. If the Public Utilities Commission of Ohio (PUCO) finds you committed a violation of any of these regulations, the violation will be treated as a conviction<sup>1</sup> for the purposes of federal and state law and notice of such conviction will be forwarded to the Ohio Bureau of Motor Vehicles (BMV). The BMV may disqualify you from operating a commercial motor vehicle for a minimum of 60 days. Any BMV sanction is **in addition to** sanctions imposed by the PUCO.

177.804B1	177.804(b)(1)	Failure to comply with 49 CFR Section 392.12 Complying With Safe Clearance Requirements For Highway-Rail Grade Crossings.
177.804B2	177.804(b)(2)	Failure to comply with 49 CFR Section 392.80 Texting While Operating a CMV When Transporting Select Agents or Toxins or HM Requiring Placarding.
177.804B3	177.804(b)(3)	Failure to comply with 49 CFR Section 392.82 Using a Cell Phone While Operating a CMV When Transporting Select Agents or Toxins or HM Requiring Placarding.
177.804C	177.804(c)	Failure to comply with 49 CFR Section 392.82 Using a Handheld Mobile Phone While Operating a CMV When Transporting Select Agents or Toxins or HM Requiring Placard.
2-5-07D	392.2	Operating a CMV after Driver or Vehicle declared out of service.
383.23A2	383.23(a)(2)	Operating a CMV without a CDL.
383.51A	383.51(a)	Driving a CMV while disqualified from holding a CDL.
383.51A-NSIN	383.51(a)	Driving a CMV while CDL is suspended for a non-safety-related reason and in the state of driver's license issuance.
383.51A-NSOUT	383.51(a)	Driving a CMV while CDL is suspended for a non-safety-related reason and outside the state of driver's license issuance.
383.51A-SIN	383.51(a)	Driving a CMV while CDL is suspended for a safety-related or unknown reason and in state of driver's license issuance.
383.51A-SOUT	383.51(a)	Driving a CMV while CDL is suspended for safety-related or unknown reason and outside the state of driver's license issuance.
383.91A	383.91(a)	Operating a CMV with improper CDL group.
383.93B1	383.93(b)(1)	No double or triple trailer endorsement on CDL when required.
383.93B2	383.93(b)(2)	No passenger vehicle endorsement on CDL when required.
383.93B3	383.93(b)(3)	No tank vehicle endorsement on CDL when required.
383.93B4	383.93(b)(4)	No hazardous materials endorsement on CDL when required.
383.93B5	383.93(b)(5)	Operating a School Bus without a school bus endorsement as described in 383.93(b)(5).
391.15A	391.15(a)	Driving a CMV while disqualified.
391.15A-NSIN	391.15(a)	Driving a CMV while disqualified. Suspended for non-safety-related reason and in the state of driver's license issuance.
391.15A-NSOUT	391.15(a)	Driving a CMV while disqualified. Suspended for a non-safety-related reason and outside the state of driver's license issuance.
391.15A-SIN	391.15(a)	Driving a CMV while disqualified. Suspended for safety-related or unknown reason and in the state of drivers license issuance.
391.15A-SOUT	391.15(a)	Driving a CMV while disqualified. Suspended for a safety-related or unknown reason and outside the driver's license state of issuance.
392.10A1	392.10(a)(1)	Failure to stop at railroad crossing - Bus transporting passengers.
392.10A2	392.10(a)(2)	Failure to stop at railroad crossing - CMV transporting Division 2.3 Chlorine.
392.10A3	392.10(a)(3)	Failure to stop at railroad crossing - CMV requiring display of HM placards.
392.10A4	392.10(a)(4)	Failure to stop at railroad crossing - HM Cargo Tank vehicle.
392.11	392.11	Commercial Vehicle failing to slow down approaching a railroad crossing.
392.12	392.12	No Driver of a Commercial Motor Vehicle Shall Drive Onto a Highway-Rail Grade Crossing Without Having Sufficient Space to Drive Completely Through the Crossing Without Stopping.
392.4A	392.4(a)	Driver on duty and under the influence of, or using a narcotic drug / amphetamine, which renders the driver incapable of safe operation.
392.5A2-UI	392.5(a)(2)	Operating a CMV while under the influence of an intoxicating beverage regardless of its alcohol content.
392.5C2	392.5(c)(2)	Violating OOS order pursuant to 392.5(a)/(b) - Alcohol prohibitions.
392.80A	392.80(a)	Driving a commercial motor vehicle while Texting.
392.82A1	392.82(a)(1)	Using a hand-held mobile telephone while operating a CMV.
395.13D	395.13(d)	Driving after being declared out-of-service for HOS violation(s).
396.9C2	396.9(c)(2)	Operating an out-of-service vehicle.

<sup>1</sup> Federal regulations define "conviction" as, "... a determination that a person has violated or failed to comply with the law ... by an authorized administrative tribunal, ... the payment of a fine or court cost, ... regardless of whether or not the penalty is rebated, suspended, or probated." 49 CFR 383







# Public Utilities Commission

Sam Randazzo, Chairman

## Commissioners

M. Beth Trombold  
Lawrence K. Friedeman  
Dennis P. Deters  
Daniel R. Conway

STEVEN UPCHURCH  
843 WEST 13TH ST  
LORAIN, OH 44052

Invoice #: 19-00014375  
Date: 06/21/2019  
Due Date: 07/21/2019  
PIN #: GvzFhSTE

### 2019

Item #	Type	Description	Amount Due
INVD-0024257	Civil Forfeiture Non HazMat	Failing to use seat belt while operating a CMV	\$ 100.00
Payments Received			\$ 0.00
Total Amount Due			\$ 100.00

Please visit <https://www.puco.ohio.gov/sc/mcos/> to make your online payments.

Questions concerning this invoice should be addressed to our call center at 1-800-686-7826.

(Remittance for mailed check payment)

Please make checks payable to: Public Utilities Commission of Ohio  
180 East Broad Street  
4<sup>th</sup> Floor Finance  
Columbus, OH 43215

STEVEN UPCHURCH  
843 WEST 13TH ST  
LORAIN, OH 44052

Invoice #: 19-00014375  
Date: 06/21/2019  
Due Date: 07/21/2019





**Public Utilities  
Commission**

Sam Randazzo, Chairman

**Staff Exhibit No. 4 Commissioners**

M. Beth Trombold  
Lawrence K. Friedeman  
Dennis P. Deters  
Daniel R. Conway

December 10, 2019

STEVEN UPCHURCH  
843 W 13TH ST.  
LORAIN, OH 44052

RE: **NOTICE OF PRELIMINARY DETERMINATION**  
Case No. OH3230014289D

Dear Sir or Madam:

On 06/17/2019, a vehicle operated by TURNER AUTOMOTIVE & FABRICATING SERVICES INC, and driven by, UPCHURCH, STEVEN P was inspected within the state of Ohio. As a result of discovery of the following violation(s) of the Commission's rules, Staff of the Commission timely notified STEVEN UPCHURCH pursuant to rule 4901:2-7-07, Ohio Administrative Code (OAC), that it intended to assess a civil forfeiture against STEVEN UPCHURCH in the following amount:

<u>CODE</u>	<u>GROUP</u>	<u>VIOLATION</u>	<u>FORFEITURE</u>
392.16	Group 4	Failing to use seat belt while operating a CMV	\$ 100.00
<b><u>Original Amount Due:</u></b>			<b>\$100.00</b>

A conference was conducted pursuant to Rule 4901:2-10, OAC, at which STEVEN UPCHURCH had a full opportunity to present reasons why the violation(s) did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by the Staff.

As a result of the conference, staff has made a preliminary determination that the commission should assess a civil forfeiture against STEVEN UPCHURCH in the following amount:

<u>CODE</u>	<u>GROUP</u>	<u>VIOLATION</u>	<u>FORFEITURE</u>
392.16	Group 4	Failing to use seat belt while operating a CMV	\$ 100.00
<b><u>New Amount Due:</u></b>			<b>\$100.00</b>

**Within 30 days of this notice you must either; 1) pay the assessed civil forfeiture or, 2) submit a written Request for an Administrative Hearing.**

180 East Broad Street  
Columbus, Ohio 43215-3793

(614) 466-3016  
www.PUCO.ohio.gov



Failure to comply with either option above shall constitute a waiver of your right to further contest the violation(s) and will conclusively establish the occurrence of the violation(s). Such failure shall also constitute a waiver of your right to further contest liability to the State of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's Office for collection. In addition, your Ohio operating authority and/or commercial driving privileges may be sanctioned as permitted by law.

Please consult the enclosed instruction sheet for additional information regarding this "Notice of Preliminary Determination."

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Williams", written in a cursive style.

John D. Williams, Director  
Transportation Department

cc: Michael Hines



# INSTRUCTION SHEET

## NOTICE OF PRELIMINARY DETERMINATION

Please read these instruction sheets carefully. They contain information about your rights and responsibilities in regard to this "Notice of Preliminary Determination."

You have received a "Notice of Preliminary Determination" as described in 4901:2-7-12, Ohio Administrative Code (OAC). **Within 30 days of this notice you must either; 1) pay the assessed civil forfeiture or, 2) submit a written Request for an Administrative Hearing.** If you do not pay the forfeiture or request a hearing within 30 days of this notice, your case will be placed in our default process. Additionally, your Ohio operating authority and/or your commercial driving privileges may be sanctioned as permitted by law.

### How to pay the forfeiture

<b>Online</b>	<a href="https://www.puco.ohio.gov/sc/mcos/">https://www.puco.ohio.gov/sc/mcos/</a> Enter the case number and PIN located on the enclosed invoice.	<b>Mail</b>	Public Utilities Commission of Ohio Attn: Fiscal Section 180 E. Broad Street, 4 <sup>th</sup> Floor Columbus, Ohio 43215-3793
Send check/money order (no foreign checks/money orders) made payable to <b>"Public Utilities Commission of Ohio"</b> . To ensure proper credit, write the case number on the face of the check or money order.			

\* Payments cannot be completed by telephone

### How to make a Request for an Administrative Hearing

If you wish to further contest the violations described in this notice, you should file a "Request for an Administrative Hearing" with the Commission's Docketing Division as described in Rule 4901:2-7-13, OAC.

Your "Request for an Administrative Hearing" must be in writing and must contain the case number found at the top of the "Notice of Preliminary Determination." Also, please include the contact name, address, and telephone number of the person to whom further communications should be directed. The request shall be signed by the Respondent or the Respondent's authorized representative. A copy of the "Notice of Preliminary Determination" must be attached to your request.

Your "Request for an Administrative Hearing" must be mailed or hand-delivered within 30 days of this notice to the following address:

Public Utilities Commission of Ohio  
ATTN: Docketing Division  
180 E. Broad Street, 11<sup>th</sup> Floor  
Columbus, Ohio 43215-3793

### Failure to submit a Request for Administrative Hearing

If you do not serve a timely "Request for an Administrative Hearing" in the manner described above, you will forfeit your right to further contest the violations described in this notice and the occurrence of the violations will be conclusively established. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in this notice and will result in the forfeiture amount being referred to the Ohio Attorney General's Office for collection. Also, your Ohio operating authority and/or your commercial driving privileges may be sanctioned as permitted by law.

### Codes, Violation Groups, and Forfeiture Amounts

"Code" in this notice identifies the rule violated. Numbers in a 100 or 300 series refer to specific sections of the Hazardous Materials Regulations or the Federal Motor Carrier Safety Regulations located in Title 49 of the Code of Federal Regulations (CFR). Some section numbers may have suffixes beyond those appearing in the CFR. These are used for internal data collections purposes. Codes in other formats refer to violations of Ohio's statutes or regulations.

"Violations Group" identifies the assigned numerical group (1-4) for the violation for purposes of calculating the civil forfeiture. Section 4923.99, Ohio Revised Code (ORC) authorizes the Public Utilities Commission of Ohio to assess civil forfeiture up to \$25,000 for each day of each violation. The amount of any forfeiture is dependent upon the nature, gravity, circumstances, and extent of the violation, the offender's degree of culpability for the violation, and the offender's violation history. "Total Amount Due" is the total amount of the civil forfeiture assessed for all violations described in this notice.





## ATTENTION DRIVER

### Potential Disqualification

If the roadside inspection leading to this letter identified an alleged violation of one or more of the below noted regulations, your CDL may be disqualified. If you are convicted of violating any of these regulations, notice of the conviction will be forwarded to the Ohio Bureau of Motor Vehicles (BMV). The BMV may disqualify you from operating a commercial motor vehicle for a minimum of 60 days. Any BMV sanction is **in addition to** sanctions imposed by the Public Utilities Commission of Ohio (PUCO).

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395.13D	395.13(d)	Driving after being declared out-of-service for HOS violation(s).
396.9C2	396.9(c)(2)	Operating an out-of-service vehicle.

Federal regulations define "conviction" as, "An un-vacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an un-vacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.





# Public Utilities Commission

Sam Randazzo, Chairman

## Commissioners

M. Beth Trombold  
Lawrence K. Friedeman  
Dennis P. Deters  
Daniel R. Conway

STEVEN UPCHURCH  
843 WEST 13TH ST  
LORAIN, OH 44052

Invoice #: 19-00027277  
Date: 12/09/2019  
Due Date: 01/08/2020  
PIN #: GvzFhSTE

### 2019

Item #	Type	Description	Amount Due
INVD-0061914	Civil Forfeiture Non HazMat	Failing to use seat belt while operating a CMV	\$ 100.00
Payments Received			\$ 0.00
Total Amount Due			\$ 100.00

Please visit <https://www.puco.ohio.gov/sc/mcos/> to make your online payments.

Questions concerning this invoice should be addressed to our call center at 1-800-686-7826.

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(Remittance for mailed check payment)

Please make checks payable to:

Public Utilities Commission of Ohio  
180 East Broad Street  
4<sup>th</sup> Floor Finance  
Columbus, OH 43215

STEVEN UPCHURCH  
843 WEST 13TH ST  
LORAIN, OH 44052

Invoice #: 19-00027277  
Date: 12/09/2019  
Due Date: 01/08/2020



**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on**

**3/9/2022 11:12:30 AM**

**in**

**Case No(s). 19-2237-TR-CVF**

Summary: Exhibit State Exhibits 1 through 4 electronically filed by Mr. Ken Spencer  
on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.