

# Controlled Substances and Alcohol Testing Policy

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

This policy follows Department of Transportation and Federal Motor Carrier Safety Administration regulations found in 49 CFR Parts 40 and 382.

If you have questions about this controlled substances and alcohol testing contact \_\_\_\_\_, the designated company official to answer questions.

## **All drivers who drive commercial motor vehicles which require a CDL are subject to controlled substances and alcohol testing.**

The definition of a driver Safety Sensitive Function is found in 49 CFR Section 382.107 (attached). Safety sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.

### **Safety sensitive function shall include:**

- (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- (2) All time inspecting equipment as required by Part 392.7 and Part 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 393.76 of this subchapter);
- (5) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**Driver conduct that is prohibited is found in 49 CFR Part 382 Subpart B.**

- (1) 382.201: No driver shall report for duty requiring the performance of a safety sensitive function with an alcohol concentration of 0.04 or greater.
- (2) 382.205: No driver shall use alcohol while performing a safety sensitive function.
- (3) 382.207: No driver shall perform a safety sensitive function within 4 hours after using alcohol.
- (4) 382.207: No driver required to take a post accident alcohol test under 49 CFR 0382.209 shall use alcohol for 8 hours following the accident.
- (5) 382.21: No driver shall refuse to submit to any required alcohol or controlled substances test.
- (6) 382.213: No driver shall report for duty requiring the performance of a safety sensitive function when the driver uses controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 49 CFR 0382.107. This must not interfere with the driver's ability to perform a safety sensitive function,
- (7) 382.215: No driver shall report for duty or remain on duty requiring the performance of a safety sensitive function, if the driver tests positive for controlled substances.

**The circumstances in which the driver will be tested are incorporated and found in 49 CFR Part 382 Subpart C:**

382.301: Pre-Employment Testing	382.307: Reasonable Suspicion Testing
382.303: Post Accident Testing	382.309: Return to Duty Testing
382.305: Random Testing per the prevailing rate required by U.S. DOT	382.311: Follow-Up Testing.

All definitions, regulations, and procedures used to test for controlled substances and alcohol in order to protect the integrity of the testing process, safeguard test validity, and insure results are attributed to correct driver are found in 49 CFR Parts 40 and 382. They are incorporated into this policy and are attached.

**Refusal to submit to an alcohol or controlled substances test is defined in 49 CFR 382.107.**

Refuse to submit (to an alcohol or controlled substances test) means that a driver:

- 1) Fails to appear for any test (except a Pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner operator) to appear for a test when called by a C/TPA,
- 2) Fails to remain at the testing site until the testing proceeds is complete. Provided, that an employee who leaves the testing site before the testing process commences on a pre-employment test is not deemed to have refused to test,
- 3) Fails to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen, because he or she has left the testing site before the testing process commences on a pre-employment test is not deemed to have refused to test,
- 4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the drivers provision of a specimen,
- 5) Fails to provide a sufficient amount of urine specimen when directed, and it has been determined that there was no adequate medical explanation for the failure,
- 6) Fails or declines to take a second test the employer or the collector has directed the driver to take,
- 7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under 49 CFR 40.193(d). In the case of a pre--employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment,
- 8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process),
- 9) Is reported by the MRO as having a verified adulterated or substituted test result.

*Note: In reference to item 1 for the FMCSA **immediate** means that the employer shall ensure that the driver ceases to perform the safety sensitive function and proceeds to the testing site as soon as possible.*

**The consequences for violators of Subpart B are incorporated and found in 49 CFR Part 382 Subpart F.**

- (1) All CDL drivers will be removed from any safety sensitive position.
- (2) The driver must see a Substance Abuse Professional before driving again, anywhere.
- (3) The driver must take a Return To Duty test with a Negative result and/or an Alcohol test with results below .02.

**The consequences for CDL drivers tested for Alcohol with results at .02 but below .04 are that the driver will be removed from any safety sensitive position for a period of 24 hours per 49 CER Section 3 82.505(a).**

Information concerning the effects of drug use and alcohol abuse has been provided to the driver in Appendix A of this policy.

As required by the Federal Regulations, the following personal information collected and maintained as part of this policy shall be reported to the Clearinghouse:

- A verified positive, adulterated, or substituted drug test result;
- An alcohol confirmation test with a concentration of 0.04 or higher;
- A refusal to submit to any test required by subpart C of § 382;
- An employer's report of actual knowledge, as defined at § 382.107;
- On duty alcohol use pursuant to § 382.205;
- Pre-duty alcohol use pursuant to § 382.207;
- Alcohol use following an accident pursuant to § 382.209; and
- Controlled substance use pursuant to § 382.213;
- A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;
- A negative return-to-duty test; and
- An employer's report of completion of follow-up testing.

**COMPANY POLICY**

**Any driver that violates 49 CFR Part 382 Subpart B shall be terminated for cause.**

**LIST OF SUBSTANCES ABUSE PROFESSIONALS**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

This is to certify that I have received a copy of the company Alcohol and Controlled Substances Policy:

Driver Printed Name : \_\_\_\_\_

Signature \_\_\_\_\_

Date: \_\_\_\_\_

**Safety-sensitive function** means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- (2) All time inspecting equipment as required by §~392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of~393.76 of this subchapter);
- (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

## Appendix A

### Brain Chemistry

The human brain is the most complex organ in the human body. Although it may weigh less than 3 pounds, it somewhat mysteriously controls both your thoughts and the physiological processes that keep you alive. Drugs and alcohol change the way you feel by altering the chemicals that keep your brain working smoothly.

Let's get into the science of things. When you first use drugs, your brain releases a chemical called dopamine that makes you feel euphoric and want more of the drug. After all, it's only natural to want more of the thing that makes you feel good right?

Over time, your mind gets so used to the extra dopamine that you can't function normally without it. Everything about you will begin to change, including your personality, memory, and bodily processes that you might currently take for granted.

### Health Complications

Drug and alcohol use impacts nearly every part of your body from your heart to your bowels. Substance abuse can lead to abnormal heart rates and heart attacks, and injecting drugs can result in collapsed veins and infections in your heart valves.

Some drugs can also stop your bones from growing properly, while others result in severe muscle cramping and general weakness. Using drugs over a long period of time will also eventually damage your kidneys and your liver.

### Infections

When you are under the influence of drugs or alcohol, you may forget to engage in safe sex practices. Having unprotected sex increases your chances of contracting a sexually transmitted disease. Sharing the needles used to inject certain drugs can give you diseases like hepatitis C, hepatitis B, and HIV. You can also spread common colds, the flu, and mono from sharing pipes and bongs.

### Legal Consequences

Drug and alcohol abuse not only has negative effects on your health but can also have legal consequences that you'll have to deal with for the rest of your life. Many employers require that you take a drug test before offering you a job—many of them even conduct random drug tests even after you become an employee. Refusing to give up drugs could end up making you unemployed, which comes with even more issues.

Driving under the influence of drugs or alcohol can lead to a suspended driver's license, usually for 6 months to 2 years. You'll also need to pay heavy fines and may even spend some time in jail.

## Financial Problems

Drugs and alcohol are expensive, especially when you're using a lot and constantly. Substance abuse also impacts your productivity and success at work and in school. The time spent searching for, using and recuperating from drugs can be better spent learning new skills to advance your career.

The legal issues tied to drug use will increase your bills as well. Your car and health insurance rates may increase and you will have to find a way to pay for arrest warrants, DUIs, and legal counsel.

## Injuries and Death

If you use drugs and alcohol, you're more likely to experience physical injury or be involved in car accidents. Even worse, you also have an increased risk of death through both suicide and homicide.

These drug-related deaths are on the rise, doubling since the early 1980s. Alcohol specifically results in 5.2 million accidental injuries and 1.8 million deaths each year. It's estimated that 1 out of every 4 deaths is caused by drugs and alcohol, according to the World Health Organization.

## Sources

National Institute on Drug Abuse. (2012). [Drugs, Brains, and Behavior: The Science of Addiction](#).

National Institute on Drug Abuse. (2012). [Medical Consequences of Drug Abuse](#).

New Jersey State Bar Association. (n. d.). [Legal Consequences of Substance Abuse](#).

More information can be found at: <https://drugabuse.com/>