

Appendix A: DRUG AND ALCOHOL POLICY FOR CDL DRIVERS

ALCOHOL AND CONTROLLED SUBSTANCE TESTING POLICY FOR COMMERCIAL DRIVERS LICENSE (CDL) EMPLOYEES

The County Highway Department and the Knox County Commissioners recognize the critical and growing problem that alcohol and controlled substances abuse poses to the community. It is the policy of the Knox County Highway Department to provide and maintain a safe, healthy and productive work environment for our drivers. This policy applies to all employees and applicants for employment with the Knox County Highway Department who must have a Commercial Drivers License (CDL) to operate County-owned vehicles.

All such employees have the responsibility to report for work and perform their jobs in a fit mental and physical condition. The nature of driving for the County is such that any unnecessary risk could affect our employees and the public as a whole. This policy was developed to ensure not only the employees' safety but the general public's safety as well.

The Highway Superintendent is required to implement this policy and program, including a periodic review of the program to address any problems, changes and/or provisions of it, maintenance of all records required by the federal regulations and determination by the Board of Commissioners on approval of how the program will be accomplished, whether in-house, contracted or by consortium.

The Highway Superintendent is responsible for communicating this policy to all employees and is accountable for its consistent enforcement. The Highway Superintendent is designated to answer questions about this policy and all other matters involved in alcohol and controlled substance testing of CDL drivers.

TESTING OF DRIVERS

All drivers will be tested for drugs and alcohol in accordance with the approved procedures when directed by the Highway Superintendent. Drivers will be tested under the following guidelines:

A. Pre-employment

Under no circumstances will an individual be placed on the payroll without proof of a successful completion of alcohol and drug test. Any individual who refuses to submit to such tests, has a detectable amount of alcohol in his/her system, or has a positive controlled substance test result will not be considered for employment with the County.

B. Random

A minimum rate of 50% of drivers shall be tested annually for drugs and 10% of drivers shall be tested annually for alcohol.

Random drug and alcohol testing may be combined. For example, when testing at 50 percent drug random rate and 10 percent alcohol random rate, some of the randomly selected drivers chosen for testing would be tested for both drugs and alcohol, while the rest could be tested only for drugs.

Random testing selection:

1. Employee remains in pool.
2. Use valid random selection.
3. Test at least once each quarter.
4. Do not announce date of testing.
5. Testing 50 percent of drivers for drugs and 10 percent of drivers for alcohol.

C. Post-Accident

Drivers are required to submit to drug and alcohol testing as soon as possible following a "DOT" accident which involves the loss of human life or the driver receives a citation under state or local law for a moving traffic violation arising from the accident. A "DOT" accident is defined as an occurrence involving a commercial motor vehicle operating on a public road which results in any of the following:

1. A fatality.
2. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.
3. One or more motor vehicles incurring disabling damage as a result of the accident requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

A driver who is subject to a post-accident testing shall remain readily available for such testing or may be deemed by the County to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical treatment or to prohibit the driver from leaving the scene of an accident for a period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

No driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

If a driver is seriously injured and cannot submit to testing at the time of the accident, he/she shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any drugs or alcohol in his/her system.

The results of a breath or blood test for the use of alcohol or urine test for the use of drugs conducted by federal, state, or local officials having independent authority for the test shall be considered to meet the requirements for post-accident testing if the results are obtained by the County.

Actions to take in a post-accident situation:

1. Treat injuries.
2. Work with law enforcement.
3. Explain the need for testing.
4. Work with medical facility.
5. Collect specimens.
6. Document events.

D. Reasonable Suspicion

Knox County is required to test for the use of alcohol and controlled substances upon "reasonable suspicion." Reasonable suspicion is defined to mean that the County believes the behavior, speech, body odor or appearance of an employee while on duty is indicative of the use of alcohol and/or controlled substances. The conduct must be witnessed by the Highway Superintendent or other designated personnel if so trained. The mere possession of alcohol does not constitute the need for an alcohol test. The witness must have received training in the probable alcohol and drug use by observing a person's behavior. If the behavior is at all questionable, the witness should conduct the alcohol test in order to protect the employee.

Alcohol testing is authorized only if the observations are made during, just before or just after the period of the workday of the employee. A written record shall be made of the observations leading to an alcohol and/or controlled substance test. This record is to be signed by the supervisor who made the observations.

If a reasonable suspicion alcohol test is not administered within two (2) hours following the observations, the witness shall prepare and maintain on file a record stating the reasons the alcohol test was not administered promptly. In addition, if not administered within eight (8) hours, all attempts to administer the test shall cease. A record shall be prepared and maintained stating why the alcohol test was not administered.

Guide to successful reasonable suspicion testing includes:

1. Focus on safety.
2. Verify reasonable suspicion.
3. Isolate and inform the employee.
4. Inquire and observe the employee.
5. Review the findings.
6. Transport the employee to a testing site.
7. Document events.

Prior to the start of work, an employee must report to his/her immediate supervisor, the use of any prescription or over-the-counter drugs which may affect job performance or the safety of others. It is the driver's responsibility to obtain from his/her physician a determination as to whether or not the drug could affect job performance.

All information obtained in the course of testing of drivers shall be protected as confidential medical information. No data concerning this information will be made a part of the driver's personnel file or will be provided to any other party without the direct written consent of the employee.

Failure to sign a release for alcohol and drug testing will be classified as insubordination and the employee shall be terminated as a driver for Knox County, subject to applicable state laws.

Refusal to submit to alcohol and controlled substance testing, as required, will be recorded as a positive test. Refusal to submit to an alcohol or controlled substance test means that a driver (1) fails to provide adequate breath for testing without valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with this policy; (2) fails to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for testing in accordance with this policy; or (3) engages in conduct that clearly obstructs the testing process.

Employees testing positive for alcohol (.04 percent or greater) or for a controlled substance shall be prohibited from driving or performing a safety-sensitive function for the County and referred to the Employee Assistance Program (a drug and alcohol assistance program) and become subject to any other County policy dealing with the use of alcohol and controlled substances. The employee is subject to all associated costs. Drivers testing .02 percent or greater, but less than .04 percent, shall also not drive or perform safety-sensitive functions for the County, nor shall the County permit the driver to perform or to continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than twenty-four (24) hours following the administration of the test.

The employee also becomes subject to any other County policy dealing with the use of alcohol and controlled substances.

Performing a safety-sensitive function means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform or immediately available to perform any safety-sensitive functions.

A safety-sensitive function is defined as:

1. All time spent at a facility, or other property, or on any public property, waiting to be dispatched, unless the employee has been relieved by the County.
2. All time inspecting equipment, otherwise inspecting, servicing or conditioning any motor vehicle at any time.
3. All driving time at the driving controls of a motor vehicle in operation.
4. All time, other than driving time, in or upon any motor vehicle.
5. All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, or remaining in readiness to operate the vehicle.
6. All time spent performing the driver requirements relating to an accident.
7. All time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

Return to Duty Testing

A driver who has been prohibited from performing a safety-sensitive function after engaging in conduct regarding alcohol misuse prohibited by U.S. Department of Transportation regulations, and before returning to duty, shall undergo a return-to-duty test which indicates a breath alcohol concentration of less than .02 percent.

A driver who has been prohibited from performing a safety-sensitive function after engaging in conduct regarding controlled substance use prohibited by U.S. Department of Transportation regulations, and before returning to duty, shall undergo a return-to-duty test with a result indicating a verified negative result.

When a return-to-duty test is required, the driver must also be evaluated by a substance abuse professional (SAP) and participate in an assistance program prescribed by the SAP at the employee's cost.

Follow-up Testing

When a driver has been determined to be in need of assistance in resolving problems associated with alcohol misuse and/or controlled substance use, the driver will be subject to unannounced follow-up alcohol and/or controlled substance testing at the employee's cost.

The driver will be subject to a minimum of six (6) follow-up tests in the first twelve (12) months, with the follow-up testing period not to exceed sixty (60) months.

FAILURE TO SIGN RELEASE

Failure to sign a release for alcohol and drug testing will be classified as insubordination and the employee shall be terminated from Knox County, subject to applicable state laws.

TRAINING FOR SUPERVISORS AND DRIVERS

Supervisor Training

At a minimum, the supervisor will receive basic training and orientation on:

1. The identification of behavioral and physiological signs of alcohol and drug abuse.
2. How to recognize, counsel and document employees whose performance has deteriorated.
3. How and when to suggest and/or require the services of the Employee Assistance Program (EAP) or any other drug/alcohol assistance program.
4. Document training.

Driver Training

The driver training program will consist of:

1. Explanation of the effects and consequences of alcohol and controlled substance use on personal health, safety and work environment.
2. The manifestations and behavioral causes that may indicate alcohol and controlled substance use or abuse.
3. Information and materials required by federal regulations.
4. Documentation of training.

RETENTION OF RECORDS

The following records relating to Knox County's drug and alcohol testing program are required to be maintained.

1. **Records relating to the collection process:**
 - a) Collection log books.
 - b) Documents related to the random selection process.
 - c) Calibration documentation for EBT's.
 - d) Documentation of Breath Alcohol Technician (BAT) testing.
 - e) Documentation of reasoning for reasonable suspicion testing.
 - f) Documentation of reasoning for post-accident testing.
 - g) Documents verifying a medical explanation for the inability to provide adequate breath or urine for testing.

2. **Records relating to the driver's test results:**
 - a) Employer's copy of the alcohol test form, including results.
 - b) Employers copy of the drug test chain of custody and control form.
 - c) Documents sent to the employer by the Medical Review Officer.
 - d) Documentation of any driver's refusal to submit to a required alcohol or controlled substance test.
 - e) Documents provided by the driver to dispute results of the test.

3. **Documentation on any other violations of controlled substance use or alcohol misuse rules.**

4. **Records related to evaluations and training:**
 - a) Records pertaining to substance abuse (SAP) determination of driver's need for assistance.
 - b) Records concerning a driver's compliance with SAP's recommendations.

5. **Records related to education and training:**
 - a) Materials on drug and alcohol awareness, including a copy of the employer's policy on drug use and alcohol abuse.
 - b) Documentation of compliance with requirement to provide drivers with educational materials, including driver's signed receipt of materials.
 - c) Documentation of supervisor training.
 - d) Certification that training conducted under this rule complies with all requirements of the rule.

6. **Records related to drug testing:**
 - a) Agreements with collection site facilities, laboratories, medical review officer (MRO) and consortia.
 - b) Names and positions of the officials and their role in the employer's

- alcohol and controlled substance testing program.
- c) Monthly statistical summaries of urinalysis.
- d) The employer's drug testing policy and procedures.

All required records shall be maintained in a secure location with limited access. Records shall be made available for inspection at the Courthouse within two (2) business days after a request has been made by an authorized representative of the Federal Highway Administration.

The following is a chart regarding how long records must be maintained:

<u>Documents to be Maintained</u>	<u>Period Required</u>
Negative drug test results	1 year
Alcohol test results less than 0.02	1 year
Records related to the alcohol and drug collection process	2 years
Previous employer records	3 years
Annual MIS reports	5 years
Employee evaluation and referrals to SAPs	5 years
Follow-up tests and follow-up schedules	5 years
Refusals to test	5 years
Alcohol test results 0.02 or greater	5 years
Verified positive drug test results	5 years
EBT calibration documentation	5 years

Indefinite period: Education and training records, plus two years after ceasing to perform functions. **Legal reference: 49 C.F.R. Part 382.401**

TESTING PROCEDURES REGULATIONS

The following testing procedures are to be strictly observed by any collection facility and/or laboratory contracted with by the County in order to carry out its drug and alcohol-testing program.

Controlled substance testing procedures include the following:

1. **Chain of Custody**

Chain of custody is defined as procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures will require an approved chain-of-custody form.

2. **Preparation for Testing**

Use of tamper proof seal system designed in a manner that a specimen bottle top can be sealed against undetected opening and the bottle has a means for identification of the test subject either by number or some other confidential manner.

Use of shipping containers in which one or more specimens and associated paper work can be transferred and which can be sealed and initialed to prevent undetected tampering.

3. **Specimen Collection**

Specimen collections will be done at collection sites designated by the County

4. **Laboratory Analysis**

Laboratory analysis of all specimens collected will be done by a certified laboratory selected by the Commissioners under all federal guidelines.

5. **Review of the Results of the Laboratory Test**

The laboratory reports the test results of the County directly to the County's Medical Review Officer (MRO) within an average of five (5) working days.

Both positive and negative results must be reported. The report, as certified by the responsible laboratory individual, shall indicate the drug/metabolites tested for, whether the results are positive or negative, and the cutoff level for each drug analyzed, the specimen number assigned to the specimen and the drug testing laboratory identification number.

The laboratory shall transmit the test results to the MRO by various electronic means such as teleprinter, facsimile or computer, so long as those methods established are designed to maintain confidentiality. Results cannot, at any time, be provided verbally by telephone.

The laboratory must also transmit the MRO the original or a certified copy of urine chain of-custody and control form and must identify the individual responsible for the day-to-day management of the laboratory process.

6. **The Role of the Medical Review Officer**

The MRO must be a licensed M.D. or D.O. and principally serve as an arbiter between the laboratory and the County. The MRO must possess knowledge of drug abuse disorders. It is the primary role of the MRO to review and interpret positive results obtained from the laboratory. The MRO must assess and determine whether alternate medical explanation could account for the positive test results.

To accomplish the task, the MRO may conduct medical interviews of the individual, review the individual's medical history and review other relevant biomedical factors. Additionally, the MRO must examine all medical records as evidence of prescribed medications.

The MRO must give the individual testing positive an opportunity to discuss the test results. If the tested individual provides sufficient medical documentation that the positive result derives from the use of legally prescribed medication, the MRO may allow the driver to continue to operate, or the MRO may request the opinion of another physician.

After the individual testing positive has been given the opportunity to provide sufficient information, and the MRO makes a final decision, the County is notified of the results of the substance test.

7. **The Need for Confidentiality**

All information obtained in the course of testing employees shall be protected as confidential medical information. No data concerning this information will be made part of the driver's personnel file or will be provided to any other party without the written consent of the driver.

8. **The Appeal Process Available to Drivers Testing Positive**

If the driver tests positive, he/she has the right to question the results by:

- A. Contact with the MRO to verify the sample number of the urine sample to the MRO's form.
- B. Requesting the split sample be tested within seventy-two (72) hours of the original testing.

Alcohol testing procedures include the following:

1. **Testing Devices**

Alcohol test are to be conducted with only evidential breath testing devices (EBT's) approved by the National Highway Traffic Safety Administration (NHSTA) on their Conforming Products List (CPL). The rules allow the use of EBT's for the initial screen tests that are on the CPL, that do not meet the additional requirements for the confidential test (e.g. sequential numbering and printout capability).

2. **Test Administration**

Only a Breath Alcohol Technician (BAT) that has had proper training may administer a breath alcohol test. Reasonable cause tests may not be conducted by the person making the determination that reasonable suspicion exists to conduct an alcohol test.

3. **Test Procedures**

The BAT will perform an initial alcohol screen. If the initial screen results in a Blood Alcohol Concentration (BAC) of .02 percent or above, a confirmation test is required. Any tests resulting in a BAC of less than .02 percent will be considered negative. The BAT will wait a minimum of fifteen (15) minutes before administering the confirmation test; however, confirmation tests must be performed within twenty (20) minutes.

The Highway Superintendent will be responsible for maintaining in County files, and on a confidential basis, all records required by the federal regulations under this testing program.

CONTROLLED SUBSTANCE AND ALCOHOL POLICY

It is the purpose of this policy to encourage an enlightened viewpoint toward alcoholism and other drug dependencies as behavioral/medical problems which can be treated. At the same time, the Knox County Highway Department and Knox County Commissioners are concerned about the adverse effects of alcohol or other drug use on employee performance, health and safety.

Employees are expected and required to be in suitable mental and physical condition while at work, performing their jobs satisfactorily and behaving appropriately. When the use of alcohol and other drugs interferes with such expectations, a driver's failure to meet these basic expectations will result in disciplinary actions.

This policy applies to all employees who are required to hold a Commercial Driver's License (CDL) to perform their job functions. The use, possession, sale, purchase or transfer of unauthorized or illegal drugs or substances, or the abuse and misuse of legal

drugs on County property, while on County business or while operating County vehicles and equipment is prohibited. Drinking alcoholic beverages during working hours, four (4) hours before reporting to work, or having any measurable amount of alcohol in his/her system during working hours is prohibited, whether on or off County property. Working hours include all breaks. Off-duty use of drugs and alcohol is prohibited to the extent it affects a driver's attendance or controlled substance tests. Any violation of this policy is grounds for termination as an employee for the County and possible legal prosecution.

Since physician-directed use of drugs can affect behavior and performance, employees are encouraged to advise their supervisor whenever they are taking drugs for medical reasons. When such use of drugs adversely affects job performance or safety, it is in the best interests of the driver, co-workers and the County that the employee take sick or vacation days, or, if necessary, unpaid leave, in accordance with the County's policy.

The Knox County Highway Department and Knox County Commissioners reserve the right to terminate any employee who violates the Knox County Drug and Alcohol Policy for CDL Drivers. Employees who are convicted for alcohol or drug-related charges may be subject to County disciplinary action, up to and including termination. The County may offer the employee (at the employee's expense) the opportunity to receive appropriate treatment.

Any information concerning a driver's drug or alcohol abuse will be available only to members of the administration whom the County believes should be aware of this information. Unless otherwise required by law, this information will not be disclosed by the County to any other employee, organization or individual without the employee's written consent.