
 <p>DEPARTMENTAL POLICY State of Tennessee Department of Transportation</p>	<p>Policy Number: 230-18</p> <p>Effective Date: March 1, 2016</p>
<p>Approved By:</p> 	<p>Supersedes:</p> <p>January 1, 2014</p>
<p>SUBJECT: CDL and Safety-Sensitive Employees Alcohol & Drug Testing</p>	

RESPONSIBLE OFFICE: Human Resources Division.

AUTHORITY: 21 U.S.C. § 812, as amended. 41 U.S.C. § 8103, as amended. T.C.A. § 4-3-2303. Federal Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V. 21 C.F.R. Part 1308, 49 C.F.R. Part 382, and 49 C.F.R. Part 40. If any portion of this policy conflicts with applicable state or federal laws or regulations, that portion shall be considered void. The remainder of this policy shall not be affected thereby and shall remain in full force and effect.

PURPOSE: The purpose of this policy is to ensure employees' fitness for duty in positions requiring a commercial driver license (CDL) and other "Safety-Sensitive" positions; to protect our employees and the public from risks posed by the use of alcohol and prohibited drugs; and to comply with all applicable Federal and State statutes, regulations, and policies governing workplace anti-drug programs.

APPLICATION: All employees in the Tennessee Department of Transportation (TDOT) who are required to have a commercial driver license (CDL) and those who perform other Safety-Sensitive duties as defined by this Policy (See Appendix A).

DEFINITIONS:

Controlled Substance means a controlled substance subject to drug testing under United States Department of Transportation regulations as provided in 49 CFR § 40.85, including without limitation marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine.

Controlled Substance means any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812).

Detectable limits means, with respect to alcohol, an alcohol concentration of 0.02 or higher, and with respect to controlled drugs, a concentration in excess of the limits established in 49 C.F.R. § 40.87.

Dilute Specimen means a urine specimen with creatinine and specific gravity values that are lower than expected for human urine. A dilute specimen does not provide adequate sensitivity to determine an accurate drug test result.

Reasonable suspicion means a belief based upon specific, objective, articulable facts and the reasonable inferences that may be drawn from those facts or knowledge sufficient under the circumstances to cause an ordinary reasonable person to believe that an employee has used or is using a controlled substance and/or alcohol.

Safety-Sensitive Position means a work position in which drug or alcohol impairment constitutes an immediate threat to public health or safety, or a position in which a momentary lapse of attention or judgment could result in injury or death to another person. Safety-Sensitive work requirements apply from the time an employee 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.

A complete list of Safety-Sensitive positions at TDOT as of the effective date of this policy is listed in Appendix A.

POLICY: It is the policy of the Department that no TDOT employee will be allowed to work under the influence of or within detectable limits of alcohol or controlled drugs, nor manufacture, distribute, possess, or use such during work hours. Furthermore, no employee will be allowed to work under the influence of any controlled substance or other prescribed or other lawfully obtained drugs when the taking of these drugs impairs the employee's ability to perform his/her job.

CDL-holding employees and other employees in Safety-Sensitive positions are responsible for the safety and welfare of the general public and fellow employees. Employees in Safety-Sensitive positions are required to work free of impaired judgment or physical ability so as to avoid injury to themselves, other employees, and the public. The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, if a CDL-holding employee or other employee in a Safety-Sensitive position uses any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected, the employee must report the use to his/her supervisor and the employee is required to provide a written release from his/her doctor indicating that the employee can perform his/her Safety-Sensitive functions. This form can be found in Appendix B.

The Department shall from time to time contract for services to ensure compliance with the law and this policy.

Appropriate disciplinary action, up to and including dismissal, will be taken for those employees not in compliance with this policy. Any employee who has a verified positive drug test for the use of controlled substances or a verified positive breath alcohol test will be subject to a five-day suspension without pay for the first offense and dismissal for the second offense. In addition, any employee who has a verified positive drug test for the use of controlled substances or a verified positive breath alcohol test must complete a Substance Abuse Professional (SAP) evaluation, referral and education/treatment process prior to again performing any Safety-Sensitive duties. Any employee who is out of work due to the testing and procedures outlined in this policy will be required to use his/her own accumulated annual or sick leave.

Refusal to take an alcohol or drug test at the time it is requested shall be treated the same as a positive test and shall be subject to the same disciplinary action. Any employee on initial probation with TDOT will be dismissed from State service as a result of the first offense of a verified positive drug test for the use of controlled substances or a verified positive breath alcohol test. Any supervisor who compromises the integrity of the alcohol and drug testing policy or who fails to enforce it shall be subject to disciplinary action up to and including dismissal from State service. Dismissal from State service under this policy shall, at a minimum, include a designation that the employee is not recommended for future employment with TDOT.

REQUIRED TESTS AND TESTING PROCEDURES: This policy will be administered in accordance with applicable laws, rules, regulations and contract provisions. The Department's Human Resources Division will administer this policy and any contract entered into for the purpose of

enforcing this policy. Additional information regarding the administration of the alcohol and drug testing procedures under this policy is contained in TDOT's "Supervisor's Guide for Alcohol and Drug Testing Procedures." Supervisors may seek technical assistance by calling the TDOT Human Resources Division.

The below procedures will be followed when drug and/or alcohol tests need to be administered. For all drug and/or alcohol tests employees must be escorted by a supervisor from work to the testing site. No stops between the two locations are allowed. Tests for alcohol and controlled substances are required for the following circumstances:

Pre-Appointment: Any applicant who has been offered employment to a position that requires the employee to have a CDL or to any other Safety-Sensitive position must take a drug test as prescribed by this policy. Failure to pass any portion of this testing requirement will result in the job offer being withdrawn. Tests must also be completed before an employee is promoted, transferred or assigned to a CDL or Safety-Sensitive position, or prior to returning to work when an employee has been on leave or otherwise not performing the required duties of these positions for a period of six months or longer.

Critical Incident: Alcohol and drug tests will be conducted after any critical incident involving a CDL or Safety-Sensitive employee. A critical incident* is one which results in any or all of the following:

1. An incident that results in death of a human being; or
2. An incident that results in bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
3. An incident where one of the vehicles is towed from the scene of the accident; or
4. An incident that results in the driver [TDOT employee] being issued a citation.

(*NOTE: This pertains to all incidents at work, not just incidents involving vehicles.)

Alcohol and drug tests should be done as soon as practical (within two hours) after a critical incident, although there should be no delay in providing medical treatment. If circumstances prevent adhering to the two-hour time limitation, the employee's supervisor must immediately contact the Human Resources Division to request a time extension. In no case will a drug test be performed after thirty-two (32) hours from the occurrence of the incident and in no case will an alcohol test be performed after eight (8) hours from the occurrence of the incident.

Reasonable Suspicion: All CDL-holding employees and other employees in Safety-Sensitive positions are subject to reasonable suspicion testing when, after review of the specific facts and circumstances of a particular employee's case, a trained supervisor concludes that there exists a reasonable suspicion that an employee has engaged or is engaging in conduct prohibited by this policy. No employee shall be allowed to drive or perform any safety sensitive function when suspected of being under the influence of drugs or alcohol until a test reports that the employee is qualified to work. The supervisor must document how this determination was made and how the conclusion was reached (e.g., the smell or sight of alcohol, a description of impaired or erratic behavior). Supervisors should document their observations on the Reasonable Suspicion Checklist in Appendix C. All reasonable suspicion actions are subject to review and approval by the Human Resources Division. There are no exceptions. Supervisors will receive required training as established and provided by TDOT's Human Resources Division.

Random: Employees in CDL and other Safety-Sensitive positions are subject to testing on a random, unannounced basis. TDOT HR, specifically the Designated Employer Representative (DER), will receive the list of employees who are subject to random testing from the contracted drug testing company. The DER will send the names to the Region Safety Coordinator on the day the drug/alcohol test must be administered. The Region Safety Coordinator will contact the selected employees' supervisors and instruct them to take the employee(s) for testing that day. If an employee is absent from work that day the Region Safety Coordinator will inform the DER and the employee will be rescheduled for drug/alcohol test. All employees selected for testing must be tested on the day of notification. Failure to test will be treated the same as a positive test and shall be subject to the same disciplinary action.

Return-to-Duty and Follow-Up: Any employee who has violated this policy, and who is allowed to return to work, shall present negative test result(s) prior to returning to work and shall be subject to applicable follow-up testing. Return-to-duty and follow-up tests will be collected under direct observation.

Recollection Due to a Dilute Specimen: In the case of a negative test based on a dilute specimen with a creatinine concentration of the specimen equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL, a recollection under direct observation will be required immediately. If the creatinine concentration of the dilute specimen is greater than 5 mg/dL, the employee will be directed to take another test immediately but the recollections will not be collected under direct observation, unless there is another basis for use of direct observation as determined by the Medical Review Officer (MRO). The result of the recollected test will become the test result of record and not that of a prior test. If the result of the recollected test is also negative and dilute, no additional tests will be conducted because the result was dilute. If the employee declines to take a test that they have been directed to take under this section, such refusal shall be treated the same as a positive test and shall be subject to the same disciplinary action.

No employee or job applicant shall be excused from taking a test after receiving notice that such a test has been requested, absent some emergency or other compelling circumstance that renders the employee unable to take the test at that time. A conflicting appointment away from work that has not been previously disclosed to the employee's supervisor shall not be considered a legitimate excuse for failing to take a drug or alcohol test at the time it is requested. Refusal to take an alcohol or drug test at the time it is requested shall be treated the same as a positive test and shall be subject to the same disciplinary action.

REFERENCE:

Drug-Free Workplace Policy 230-02

TDOT Supervisor's Guide for Alcohol and Drug Testing Procedures



SAFETY SENSITIVE TITLES REQUIRING A CDL	
EQUIPMENT MECHANIC 1	DOT
EQUIPMENT MECHANIC 2	DOT
EQUIPMENT MAINTENANCE SUPV 1	DOT
TDOT OPERATIONS TECHNICIAN	DOT
TDOT OPERATIONS TECHNICIAN SENIOR	DOT
TDOT OPERATIONS TECHNICIAN SUPV	DOT
AUTOMOTIVE MASTER MECHANIC	DOT

SAFETY SENSITIVE TITLES NOT REQUIRING A CDL	
AIRCRAFT CHIEF PILOT	Non-DOT
AIRCRAFT LEAD PILOT	Non-DOT
AIRCRAFT MECHANIC 1	Non-DOT
AIRCRAFT MECHANIC 2	Non-DOT
EQUIPMENT SERVICE WORKER	Non-DOT
HWY RESP OPERATOR 1*	Non-DOT
HWY RESP OPERATOR 2*	Non-DOT
HWY RESP OPERATOR SUPERVISOR 1	Non-DOT
HWY RESP OPERATOR SUPERVISOR 2	Non-DOT
MAINTENANCE CARPENTER 1	Non-DOT
MAINTENANCE CARPENTER 2	Non-DOT
TDOT TMC TECHNICIAN – TRAINEE	Non-DOT
TDOT TMC TECHNICIAN	Non-DOT
TDOT TMC TECHNICIAN SENIOR	Non-DOT
TDOT TMC TECHNICIAN SUPERVISOR	Non-DOT

SAFETY SENSITIVE IF POSITIONS REQUIRE A CDL	
TDOT TECHNICIAN	DOT
TDOT TECHNICIAN SENIOR	DOT
TDOT TECHNICIAN SUPERVISOR	DOT