

TDLR Model Drug Testing Policy

1. General Rules

- Employees must not take or be under the influence of any drugs, unless prescribed by your licensed physician.
- Employees must not engage in the manufacture, sale, distribution, use, or possession of illegal drugs at any time.
- The drugs for which tests are required under this policy are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates.
- Company property is subject to inspection at any time without notice. There is no expectation of privacy in or on company property. Company property includes, but is not limited to, vehicles, desks, containers, files, and lockers.
- If you are convicted of violating a criminal drug statute, you must inform your supervisor within five days of the conviction occurring. Failure to inform your supervisor subjects you to disciplinary action, up to and including termination for the first offense.
- The company must notify TDLR of the conviction (including pleas of guilty and *nolo contendere*).

2. Types of Tests

- *Pre-employment.* All applicants who have received a conditional offer of employment must take a drug test before receiving a final offer of employment.
- *Annual.* All employees must complete at least one scheduled drug test every 12 months, beginning with the date of their initial license or renewal.
- *Random Testing.* In addition to annual testing, employees are subject to random urine drug testing. At least 25 percent of the total number of employees must be tested at random every year.

3. Consent Form

- Before taking a drug test, towing operators, VSF employees, and job applicants are required to sign a consent form authorizing the test, and permitting release of the test results to the medical review officer (MRO), the company, and TDLR. The form is available here: <http://www.tdlr.texas.gov/towing/forms/drugtesting.pdf>
- If an employee or applicant fails to cooperate by not signing the consent form, or refusing to undergo testing in a timely manner, this will be considered grounds for refusal to hire or for termination.
- If an employee or applicant submits a urine sample that is not their own, or is diluted in any way, this will also be considered grounds for refusal to hire or for termination.

4. Return to Duty and Follow-up

- Any employee who has violated this drug testing policy and is allowed to return to work must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty. The test results of all return-to-duty and follow-up tests must be negative.
- The employee must pay for his or her return-to-duty and follow-up tests.

5. Specimen Collection Procedures

- All urine specimens will be collected by a laboratory that is certified and monitored by the Federal Department of Health and Human Services (DHHS).
- Drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory.
- If the analysis of the primary specimen confirms the presence of drugs, the employee has 72 hours to request sending the split specimen to another DHHS certified laboratory for analysis. The towing operator will be required to pay for his or her split specimen test(s).
- For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the company.
- The company must notify TDLR of the positive test result within 3 days of receipt of the confirmed test results from the MRO. The notification must include the:
 - a. employee's name;
 - b. employee's license number;
 - c. date of the positive test;
 - d. substance detected by the drug test; and
 - e. disciplinary action imposed.

6. Reporting and Reviewing of Drug Testing Results

- The company must designate a medical review officer (MRO) to receive, report, and store testing information transmitted by the laboratory. This person must be a licensed physician with knowledge of substance abuse disorders.
- The laboratory must report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the Federal Department of Transportation.
- Reports from the laboratory to the MRO must be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.
- Neither the company, the laboratory, nor the MRO will disclose any drug test results to any other person except under written authorization from the employee, unless the results are necessary in the process of resolution of an accident, an incident investigation, a request by court order, or required to be released to parties having a legal right-to-know as determined by state and federal law.

7. Distribution of Information to Employees

Companies must display the following information for all of their employees:

- Material on the physical and mental effects of drugs;
- A community services hotline number, available drug counseling, rehabilitation, and assistance program;
- The company's policy regarding the use of prohibited drugs and/or alcohol;
- The consequences or disciplinary action that may be imposed upon employees for violating the drug policy.

8. Consequences of a Confirmed Positive Drug Test

- New applicants will be denied employment if their positive drug test results have been confirmed.
- If an employee's positive drug test result has been confirmed, the employee will stand down from his/her duties and may be subject to disciplinary action, up to and including termination.
- The company may consider the following factors in determining the appropriate disciplinary action: the employee's work history, length of employment, current work assignment, current job performance, and any past disciplinary actions.
- No disciplinary action may be taken against employees who voluntarily identify themselves as drug users, obtain counseling, rehabilitation, and comply with return-to-duty and follow-up drug testing.

9. Independent Drug Testing Policy

- A company may file an independent drug testing policy.
- The filing must describe how the independent drug testing policy is as stringent as each provision of the TDLR Model Drug Testing Policy.

10. This policy applies to all towing operators, vehicle storage facility (VSF) employees, and job applicants, with the following exceptions:

- Towing operators subject to random drug testing under Title 49, Code of Federal Regulation, Part 40 who have been randomly tested in the 12-month reporting period are exempt from the annual test requirement, provided that the towing operator's tested negative and the negative test results are submitted to and verified by the MRO.
- Towing operators holding a valid Towing Operator License issued by the department who are tested for drugs in accordance with 16 Texas Administrative Code Chapter 85.

For more specific information on Drug Testing Policy rules and regulations, please see Section 86.710 (tow companies) and Section 85.725 (VSFs) of the Administrative Rules at: www.tdlr.texas.gov/towing/towing.htm