

This SAMPLE policy should be reviewed by your management and with the assistance of legal council prior to implementation. Laws vary from state to state.

(Company Name)

Drug-Free Workplace Policy

I. Purpose

As a part of its commitment to safeguard the health of its employees, to provide a safe place for its employees to work and to promote a drug-free community, _____, (the Company) has established this policy on the use or abuse of alcohol and drugs by its employees. This policy is set up pursuant to the Drug-Free Workplace Program under _____ (state) Workers' Compensation Law. Substance abuse, while at work or otherwise, seriously endangers the safety of employees, as well as the general public, and creates a variety of workplace problems including increased injuries on the job, increased absenteeism, increased health care and benefit costs, increased theft, decreased morale, decreased productivity and a decline in the quality of products and services provided. We have established this policy to detect users and to remove abusers of drugs and alcohol. It is also our policy to prevent the use and/or presence of these substances in the workplace and to assist employees in overcoming any dependence on drugs and/or alcohol in accordance with the following guidelines.

This policy provides that an employee who is injured in the course and scope of his employment and tests positive on a drug or alcohol test forfeits his eligibility for medical and indemnity benefits under _____ (state) Workers' Compensation. (Refusal to take a drug or alcohol test will result in the employee forfeiting his eligibility for medical and indemnity benefits under _____ (state) Workers' Compensation Law and automatic termination of the employee.)

The purpose of this policy is to communicate our position on drugs and alcohol in the workplace and provide guidance for the implementation of related programs.

II. Scope

All employees are covered by this policy and, as a condition of employment, are required to abide by the terms of this policy.

Because of state or federal laws and regulations, certain employees may be subject to additional requirements.

III. Drug-Free Workplace Policy Dissemination

- A. The Company will give a general one-time notice to all employees that it is a condition of employment for employees to refrain from reporting to work or working with the presence of drugs or alcohol in their bodies and that a drug testing program is being implemented. Sixty days will elapse between the notice and the actual drug testing.
- B. Prior to testing, all employees or job applicants for employment will be given a summary of the Drug-Free Workplace policy, a summary of the drugs which may alter or affect a drug test and a list of local employee assistance programs and local drug rehabilitation programs.

- C. A notice of drug testing will be included with all vacancy announcements for those positions where drug testing is required (want ads, job postings, etc.). A notice of our drug testing policy will also be posted in an appropriate and conspicuous location on Company premises and copies of the policies will be made available for inspection during regular business hours by the employee or job applicant in the personnel office of the Company.

IV. Definitions

The definitions of words and terms as set forth in _____ (state) statutes.

V. Alcohol Use Prohibitions

- A. The consumption of alcohol on the property of the Company or while on duty is prohibited and will result in disciplinary action, up to and including discharge.
- B. Off-duty abuse of alcohol which adversely affects an employee's job performance or adversely affects or threatens to adversely affect other interests of the Company is prohibited and may result in disciplinary action up to and including discharge.
- C. The personal possession (i.e., on the person, or in a desk or locker) of alcohol on Company property or on duty will result in disciplinary action, up to and including discharge.
- D. The possession of alcohol in a personal vehicle or Company-assigned vehicle on Company property is not prohibited provided such possession is in compliance with this policy as well as federal, state and local laws.
- E. It is against Company policy for an employee to report to work or to work under the influence of alcohol.
- F. For the purpose of this policy, an employee is presumed to be under the influence of alcohol if a blood test or other scientifically acceptable testing procedure shows a forensically acceptable positive quantum of proof of alcohol usage.
- G. An employee who is perceived to be under the influence of alcohol will be removed immediately from the workplace and may be evaluated by medical personnel, if reasonably available. The Company will take further action (i.e., removal from service, referral to counseling and/or disciplinary action) based on medical information, work history and other relevant factors. The determination of what action is appropriate in each case rests solely with the Company.
- H. Refusal to submit to, efforts to tamper with or failure to pass an alcohol test will result in disciplinary action, up to and including discharge.
- I. Employees arrested for an alcohol-related incident must immediately notify their supervisors, the manager of Human Resources or the general manager of the arrest if the incident occurs:
 - 1. During scheduled working hours.

2. While operating an Employer-owned vehicle on Company or personal business.
 3. While operating a personal vehicle on Employer Business.
- J. The Company may suspend employees without pay under this policy pending the results of an alcohol test or investigation.

VI. Drug Use Prohibitions

- A. The use, sale, purchase, possession, manufacture, distribution or dispensation of drugs on Company property or during working time is against Company policy and is cause for immediate discharge.
- B. It is also against Company policy to report to work or work under the influence of drugs. This includes prescription drugs which induce an unsafe mental or physical state. Employees who violate this policy are subject to disciplinary action up to and including discharge.
- C. For the purpose of this policy, an employee is presumed to be under the influence of drugs if a urine test, blood test or other accepted testing procedure shows a forensically acceptable positive quantum of proof of drug usage.
- D. Prescription drugs may also affect the safety of the employee or fellow employees or members of the public. Therefore, any employee who is taking any prescription drug which might impair safety, performance or any motor functions must advise his supervisor before reporting to work under such medication. A failure to do so may result in disciplinary action. If the Company determines that such use does not pose a safety risk, the employee will be permitted to work. If such use impairs the employee's ability to safely or effectively perform his or her job, the Company may temporarily reassign the employee or grant a leave of absence during the period of treatment. Improper use of "prescription drugs" is prohibited and may result in disciplinary action. Prescription medication must be kept in its original container if such medication is taken during working hours or on Company property.
- E. Refusal to submit to or efforts to tamper with a drug or alcohol test will result in discharge.
- F. The Company may suspend employees without pay under this policy pending the results of a drug test or investigation.

VII. Testing

- A. **Testing of Applicants**
 1. Applicants considered final candidates for a position will be tested for the presence of illegal drugs as a part of the application process (job applicant packet).
 2. The Company may elect to only test applicants who apply for certain classifications or job positions based on a reasonable classification basis. A list of classifications will be developed by the Company and kept on file in the office of the manager of Human Resources.
 3. The Company may allow the job applicant to begin work pending the results of the drug test. If the result is positive, the applicant will be subject to immediate discharge.

4. Any job applicant who refuses to submit to drug testing, refuses to sign the consent form, fails to appear for testing, tampers with the test or fails to pass the pre-employment drug test will be ineligible for hire.

B. Reasonable Suspicion Drug Testing

1. Employees must submit to a drug test if reasonable suspicion exists to indicate that their ability to perform work safely or effectively may be impaired. “Reasonable-suspicion testing” means drug testing based on a belief that an employee is using or has used drugs in violation of the policies of the Company drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:
 - A. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug.
 - B. Abnormal conduct or erratic behavior while at work, or a significant deterioration in work performance.
 - C. A report of drug use, provided by a reliable and credible source.
 - D. Evidence that an individual has tampered with a drug test during his employment with the Company
 - E. Information that an employee has caused, contributed to or been involved in an accident while at work. An accident is when there is injury which requires a report to the Division of Workers’ Compensation or a third party injury requiring medical treatment.
 - F. Evidence that an employee has used, possessed, sold, solicited or transferred drugs while working or while on Company premises or while operating an Employer-owned vehicle, machinery or equipment.
2. If a supervisor believes reasonable suspicion exists, the supervisor should report his or her findings and observations to the general manager and the manager of Human Resources. Upon approval by the general manager or an officer of the Company the employee will be asked to submit to a drug test and sign a form acknowledging his or her consent (employee packet). Factors which substantiate cause to test should be documented by the supervisor on the Substance Abuse Investigation Report Form. This must be done as soon as possible but no later than seven days after the employee has been drug tested. A copy of this report will be given to the employee upon request and the original documentation will be kept confidential by the Company and retained for at least one year.

C. Random Testing

1. Employees in “safety sensitive” positions, if any, will be required to submit to drug testing on a random basis. A list of those job classifications determined to be “safety sensitive” will be developed by the Company and kept on file in the office of the manager of Human Resources and will be periodically updated as needed. Covered individuals will be informed in writing that they are subject to random testing due to the sensitive nature of their jobs.
2. Selection of employees for random testing will be conducted through the use of a random number generator or other neutral selection process.

3. When an employee is selected for random testing, both the employee and the employee's supervisor will be notified on the day the test is scheduled to occur.
4. Testing may be postponed only when an employee's supervisor and the general manager agree that there is a compelling need for deferral (i.e., the employee is out on leave or is traveling).
5. An employee whose random drug test is deferred will be subject to an unannounced test within 60 days.

D. Routine Fitness For Duty

An employee will submit to a drug test if the test is conducted as part of a routinely scheduled fitness-for-duty medical examination that is part of the Company established policy or that is scheduled routinely for all members of an employment classification or group, and approved as a prerequisite by the Company

E. Follow-up Testing

If the employee, in the course of employment, enters an employee assistance program for drug-related problems, or an alcohol or drug rehabilitation program, the employee must submit to unannounced drug testing as a follow-up to such a program at least once a year for two years after completion of the program. Advance notice of follow-up testing will not be given to the employee being tested. If an employee voluntarily enters a program, the Company at its option may not require follow-up testing.

F. Additional Testing

Additional testing may also be conducted as required by applicable state or federal laws, rules or regulations, or as deemed necessary by the Company

G. Refusal to Test

Employees who refuse to submit to a drug test forfeit their eligibility for all workers' compensation medical and indemnity benefits and will be terminated from employment or otherwise disciplined as provided in this policy.

VIII. Testing Procedure

A. The Company may test for any or all of these drugs:

- Alcohol (booze, drink, distilled spirits, wine, malt beverages, beer, intoxicating liquors, alcoholic beverages, etc.)
- Amphetamines (Binhetamine, Desoxyn, Dexedrine)
- Cannabinoids (marijuana, hashish, hash, hash oil, pot, joint, roach, spleaf, grass, weed, reefer)
- Cocaine (coke, blow, nose candy, snow, flake, crack)
- Phencyclidine (PCP, angel dust, hog)
- Methaqualone
- Opiates (opium, dover's powder, paregoric, parepectolin)

- Barbiturates (Phenobarbital, Tuinal, Amytal)
- Benzodiazophines (Ativan, Azene, Klonopin, Dalmane, Diazepam, Halcion, Librium, Poxipam, Restoril, Serac, Tranxene, Valium, Vertron, Xanax)
- Methadone (Dolophine, Methadose)
- Propoxyphene (Darvocet, Darvon N, Dolene) Metabolites of any substances listed above.

- B. Job applicants and employees who are required to submit to drug or alcohol testing will be asked to sign a Consent to Testing form (see employee packet).
- C. Because of the potential adverse consequences of positive test results on employees, the Company will employ a very accurate testing program. Urine and blood samples will be analyzed by a highly qualified independent laboratory which has been selected by the Company licensed and approved by the Agency for Health Care Administration using criteria established by the U.S. Department of Health and Human Services.
- D. Applicants and employees will be given an opportunity prior to and after testing to provide any information to the medical review officer which they consider relevant to the test, including a list of all drugs they have taken recently, a list of prescribed drugs and an explanation of the circumstances of the use of these drugs in writing or other relevant medical information. This medical information is confidential and should be given only to the MRO. Applicants and employees will be provided with a notice of the most common medications by brand name or common name, as well as the chemical name which may alter or affect a drug test. Finally, applicants and employees will receive a summary of this policy and a list of local employee assistance programs and local drug rehabilitation programs.
- E. An employee injured at the workplace and required to be tested will be taken to a medical facility for immediate treatment of injuries. If the injured employee is not at a designated collection site, the employee will be transported to one as soon as it is medically feasible and specimens will be obtained. If it is not medically feasible to move the injured employee, specimens will be obtained at the treating facility under the procedures set forth in this policy and transported to an approved testing laboratory.
- F. No specimens will be taken prior to the administration of emergency medical care. Once this condition has been satisfied, an injured employee must release, to the Company, the results of any tests conducted for the purpose of showing the presence of alcohol or drugs.

G. **Body Specimens**

Urine, hair or blood will be used for the initial testing for drugs and alcohol. Samples shall be collected with due regard for the privacy of the individual providing the sample.

H. **Cost of Testing**

The Company will pay the cost of the initial and confirmation drug tests it requires of employees and job applicants. An employee or job applicant will pay the cost of any additional drug tests not required by the Company.

I. **Collection Site**

1. The Company will utilize a collection site designated by an approved laboratory which has all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, chain-of-custody procedures, temporary storage and shipping or transportation of urine and blood specimens to an approved drug testing laboratory. The Company may also utilize a medical facility as a collection site which meets the applicable requirements.
2. Security of the collection site, chain-of-custody procedures, privacy of the individual, collection control, integrity and identity of the specimen, and transportation of the specimen to the laboratory will meet state and federal rules and guidelines.

J. Collection Site Personnel

A specimen in an amount sufficient for two drug tests will be taken or collected by:

1. A physician, a physician’s assistant, a registered professional nurse, a licensed practical nurse, a nurse practitioner or a certified paramedic who is present at the scene of the accident for the purpose of rendering emergency service or treatment; or
2. A qualified person employed by a licensed or certified laboratory who has the necessary training and skills for the assigned tasks.

K. Testing Laboratory

1. The laboratory used to analyze initial or confirmation drug specimens will be licensed and approved by the agency for health care administration using criteria established by the united states department of health and human services.
2. All laboratory security, chain-of-custody, transporting and receiving of specimens, specimen processing, retesting, storage of specimens, instrument calibration and reporting of results will be in accordance with state laws and rules established by the _____ (state) Agency for Health Care Administration or the United States Department of Health and Human Services.
3. The laboratory will provide assistance to the medical review officer (MRO), the employee or job applicant for the purpose of interpreting any positive confirmed test results.

L. Initial Tests

Initial tests will be immunoassay except that the test for alcohol will be an enzyme oxidation methodology. The following cutoff levels will be used when screening specimens to determine whether they are positive or negative for these drugs or metabolites. All levels equal to or exceeding the following will be presumptively positive and submitted for confirmation testing:

Alcohol	.05g/dl%
Amphetamines	1000ng/ml
Cannabinoids	50ng/ml
Cocaine	300ng/ml
Phencylidine	25ng/ml
Methaqualone	300ng/ml

Opiates	300ng/ml
Barbiturates	300ng/ml
Benzodiazepines	300ng/ml
Synthetic narcotics:	
Methadone	300ng/ml
Propoxyphene	300ng/ml

M. **Confirmation Tests**

All specimens identified as positive on the initial test will be confirmed using gas chromatography/mass spectrometry (gc/ms) except that alcohol will be confirmed using gas chromatography. All confirmation will be done by quantitative analysis. All levels equal to or exceeding the following will be reported as positive:

Alcohol	.10g/dl%
Amphetamines	500ng/ml
Cannabinoids	15ng/ml
Cocaine	150ng/ml
Phencyclidine	25ng/ml
Methaqualone	150ng/ml
Opiates	300ng/ml
Barbiturates	150ng/ml
Benzodiazepines	150ng/ml
Synthetic narcotics:	
Methadone	150ng/ml
Propoxyphene	150ng/ml

IX. **Test Results**

A. **Reporting Results**

1. The laboratory will report all test results (both positive and negative) to the medical review officer (MRO). The medical review officer is employed by the Company and not the drug testing laboratory.
2. The laboratory will report as negative all specimens which are negative on the initial test or negative on the confirmation test. Only specimens confirmed positive on the confirmation test will be reported positive for a specific drug. A report will not disclose the presence or absence of any drug other than a specific drug and its metabolites listed in this policy.
3. The laboratory will transmit results in a manner designed to ensure confidentiality of the information. The laboratory and MRO will ensure the security of the data transmission and restrict access to any data transmission, storage and retrieval system.
4. The MRO will verify that positive **and** negative test results were properly analyzed and handled according to Agency for Health Care Administration rules. The MRO will have knowledge of substance abuse disorders and shall also be knowledgeable in the medical use of prescription drugs and in the pharmacology and toxicology of illicit drugs. The MRO shall evaluate the drug test result(s), which is reported by the lab, verify by checking the chain-of-custody form that the specimen was collected, transported and

analyzed under proper procedures, and determine if any alternative medical explanations caused the positive test result. This determination by the MRO can include conducting a medical interview with the individual, review of the individual's medical history or the review of any other relevant bio-medical factors. The MRO shall also review all medical records made available by the tested individual. The MRO may request the laboratory to provide quantitation of test results.

5. The MRO will contact the employee or job applicant of a confirmed positive test result within three days of receipt of the test results and inquire as to whether prescriptive or over-the-counter medications could have caused the positive test results. The MRO will follow the procedures set forth in the _____ (state) workers' compensation drug testing rules and the Agency for Health Care Administration, drug-free workplace standards for providing the applicant or employee the opportunity to present relevant information regarding the test results. After following the appropriate procedures, the MRO will notify the Company of any verified, confirmed positive test results.
6. Within five working days after receipt of a positive confirmed test result from the MRO, the Company will inform the employee or job applicant in writing of such positive test results, the consequences of such results and the options available to the employee or job applicant, including the opportunity to contact the MRO and the right to file an administrative or legal challenge.
7. The Company will provide, to the employee or job applicant upon request, a copy of the test results.
8. Unless instructed by the Company in writing, all written records pertaining to a given specimen will be retained by the drug testing laboratory for a minimum of two years. The drug testing laboratory shall retain, (in properly secured refrigerated or frozen storage) for a minimum of 210 days, all confirmed positive specimens. Within this period, the Company, the employee, the job applicant, the MRO or the Department of Health and Human Services may request in writing that the laboratory retain the specimen for an additional period of time. If no such request is received, the laboratory may discard the specimen.
9. Within seven days for all tests based on reasonable suspicion, the Company will detail in writing the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant the testing. A copy of the report will be given to the employee upon request. The original report will be kept confidential and retained by the Company for at least one year.

B. Challenges to Test Results

1. Within five working days after receiving notice of a positive confirmed test result, the employee or job applicant may submit information to the MRO explaining or contesting the test results, or to the Company explaining why the result does not constitute a violation of this policy. The employee or job applicant will be notified in writing if the explanation or challenge is unsatisfactory. The written notice will be given to the employee or job applicant within fifteen days of receipt of the explanation of challenge and will include why the employee's or job applicant's explanation is unsatisfactory, along with the report of positive results. All such documentation will be kept confidential and will be retained for at least one year.

2. When an employee or job applicant undertakes an administrative or legal challenge to the test results, he or she will be responsible to notify the Company and laboratory in writing of such challenge and such notice shall include reference to the chain-of-custody specimen identification number. After such notification, the sample shall be retained by the laboratory until the case or administrative appeal is settled.
3. The Agency for Health Care Administration, the Company or the MRO detecting a false positive error shall immediately notify the laboratory and the department of any such error.

C. Employee Protection

1. During the 180-day period after written notification of a positive test result, the employee will be permitted by the Company to have a portion of the specimen retested at the employee's expense. Any additional tests, however, must be conducted on the same specimen as the original test. The retesting must be done by a licensed and approved laboratory. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory which performed the test for the Company will be responsible for the transfer of the portion of the specimen to be retested and for the integrity of the chain-of-custody for such transfer.
2. The drug testing laboratory will not disclose any information concerning the health or mental condition of the tested employee.
3. The Company will not request or receive from the testing facility or the MRO any information concerning the personal health, habit or condition of the injured employee including, but not limited to, the presence or absence of HIV antibodies in the injured worker's body fluids.
4. The Company will not discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation of an employee or job applicant on the sole basis of a positive test result that has not been verified by a confirmation test and by a medical review officer.
5. The Company will not discharge, discipline or discriminate against an employee solely upon the employee's voluntarily seeking treatment, while under the employ of the Company for a drug-related problem, if the employee has not previously tested positive for drug use, entered an employee assistance program for drug-related problems, or entered an alcohol and drug rehabilitation program. The Company retains the right to select an EAP or drug rehabilitation program when the Company pays the cost of the employee's participation in the program.
6. All authorized treatment of an injured employee prior to reasonable notice of the denial of benefits will be paid to the health care provider by the carrier or self-insurer. Prior to denying medical and indemnity benefits based upon a positive test result, the Company's workers compensation carrier or self-insurer will give reasonable notice to all affected health care providers that payment for treatment, care and attendance provided to the employee after a future date will be denied.

X. INVESTIGATION

- A. To ensure that illegal drugs and alcohol do not enter or affect the workplace, the Company reserves the right to search all vehicles, containers, lockers or other items on Company property or job site in furtherance of this policy. Individuals may be requested to display personal property for visual inspection upon the Company's request.
- B. Searches will be conducted only where the Company has reason to believe that the employee has violated this employer's substance abuse policy.
- C. Failure to consent to a search or display personal property for visual inspection will be grounds for discharge or denial of access to Company premises or job sites.
- D. Searches of an employee's personal property will take place only in the employee's presence. All searches under this policy will occur with the utmost discretion and consideration for the employee involved.
- E. Individuals may be required to empty their pockets, but under no circumstances will an employee be required to remove articles of clothing or be physically searched.
- F. Because the primary concern is the safety of its employees and their working environment, the Company will not normally prosecute the employee in matters involving illegal substances. However, the Company will turn over all confiscated drugs to the proper law enforcement authorities. Further, the Company reserves the right to cooperate with or enlist the services of proper law enforcement authorities in the course of any investigation.

XI. Arrest or Conviction for Drug-Related Crime

- A. If an employee is arrested for or convicted of a drug-related crime, the Company will investigate all of the circumstances and may utilize the drug testing procedure if cause is established by the investigation. In most cases, an arrest for a drug-related crime constitutes reasonable suspicion of drug use under this policy. The following procedures will apply:
 - 1. During investigation, an employee may be placed on leave without pay. After the investigation is completed, the leave may be converted to a suspension or the employee may be reinstated depending upon the facts and circumstances.
 - 2. If convicted of a drug-related crime, an employee will be terminated.
 - 3. If an employee has been suspended and the case has been dismissed or otherwise disposed of, the Company will make a determination as to whether to authorize the employee's return to work based on its investigation. If the employee is authorized to return to work, the employee must agree in writing to unannounced, periodic testing for a period of up to two years.
 - 4. Because of the seriousness of such situations, the Company reserves the right to alter or change its policy or decisions on a given situation depending upon its investigation and the totality of the circumstances.

- B. As a condition of employment, an employee will notify the Company manager of Human Resources of any criminal drug statute conviction for a violation which occurred on Company premises or job site. The employee must give notice to the Company within five days of such conviction.

XII. Confidentiality

All information, interviews, reports, statement memoranda and drug test results, written or otherwise, received by the Company as a part of this drug testing program are confidential communications. Unless authorized by state laws, rules or regulations, The Company will not release such information without a written consent form signed voluntarily by the person tested. This right to confidentiality does not apply when the information is used by the Company as a defense in a civil or administrative matter.

XIII. Records and Training

- A. The Company will maintain a current resource file of providers of employee assistance including alcohol and drug abuse programs, mental health providers and various other persons, entities or organizations designed to assist employees with personal or behavioral problems. The Company will inform employees and new hires about various employee assistance programs that the Company may have available. The information shall be made available at a reasonable time convenient to the Company and shall be discreetly reviewed by the employees.
- B. The Company will provide an annual education course to assist the employees in identifying personal and emotional problems which may result in the misuse of alcohol or drugs. This course will also include a presentation on the legal, social, physical and emotional consequences of the misuse of alcohol or drugs.

XIV. Conclusion

The Company's drug-free workplace policy has been prepared so as not to conflict with public policy and, further, not to be discriminatory or abusive. A drug-free workplace should be the goal of every employer in America. Drug and alcohol testing is only one of the several steps that must be taken to achieve this objective. When incorporated into a comprehensive anti-drug effort, testing can go a long way in combating drug and alcohol abuse in the workplace.

This policy supersedes any information provided to applicants and/or employees, either written or oral. The Company reserves the right to change the provisions of this policy and testing program at any time in the future.

Date Revised: _____