

## **Regulation: Drug and Alcohol Testing for Bus Drivers**

Bus drivers who operate a motor vehicle requiring a commercial driver's license are subject to a drug and alcohol testing program that fulfills the requirements of the federal regulations.

This regulation reflects several requirements of the federal drug testing regulations but are not intended in any way to modify or limit the procedures for drug and alcohol testing specifically addressed in federal regulation. District personnel will adhere to the detailed provisions of federal regulation in administering the District's drug and alcohol program.

References to *tests* in these regulations include both drug and alcohol tests unless the context specified otherwise. The terms *drugs* and *controlled substances* are interchangeable and have the same meaning and include marijuana (THC), cocaine, opioids, phencyclidine (PCP), and amphetamines (including methamphetamines). The term "opioids" includes hydrocodone, hydromorphone, oxycodone, oxymorphone, opium, opiate, or an opium derivative such as morphine, codeine, or heroin.

### **Pre-Employment Tests**

Tests will be administered before a driver performs any safety-sensitive functions for the District.

The tests will be required of an applicant only after he/she has been offered the position. Employment with the District is conditional upon the applicant receiving a negative alcohol and drug test result.

Exceptions may be made if the driver has had an alcohol test administered in accordance with federal regulations within the previous six months and the District ensures that no prior employer of whom the District has knowledge has records showing a violation of the alcohol use rules within the past six months.

An employee may also be exempt from the pre-employment drug test if he has participated in a drug testing program within 30 days prior to the application for employment and while participating in that program either was tested for drugs within the last six months (from the date of application) or participated in a random drug testing program in the previous 12 months, provided that the District has been able to make all verifications required by law.

### **Post-Accident Tests**

Alcohol and controlled substance tests will be conducted as soon after an accident as practicable on any driver who:

1. Was performing safety-sensitive functions with respect to the vehicle if the accident involved loss of human life; or
2. Received a citation under State or local law for a moving traffic violation arising from the accident.

No driver involved in an accident may use alcohol for eight hours after the accident or until after he/she undergoes a post-accident alcohol test, whichever occurs first.

If an alcohol test is not administered within two hours, or if a drug test is not administered within 32 hours after the accident, the District will prepare and maintain records explaining why the test was not conducted.

Tests conducted by authorized federal, State, or local officials will fulfill post-accident testing requirements provided they conform to applicable legal requirements and are obtained by the District. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations.

Before any driver operates a commercial motor vehicle, the District will provide the driver with post-accident procedures that will make it possible to comply with post-accident testing requirements.

### **Random Tests**

Tests will be conducted on a random basis at unannounced times throughout the year. Random tests for alcohol will be conducted just before, during, or just after the performance of safety-sensitive functions. Random tests for drugs do not have to be conducted in immediate time proximity to performing safety sensitive functions. Once notified of selection for drug testing, the driver must proceed to a collection site to provide a urine specimen and breath analysis.

Drivers will be selected by a scientifically valid random process, and each driver will have an equal chance of being tested each time selections are made. The number of bus drivers selected for random testing will be in accordance with federal regulations.

### **Reasonable Suspicion Tests**

Reasonable suspicion tests will be conducted when a properly trained supervisor or District official has reasonable suspicion that a driver has violated the District's alcohol or drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech, or body odors. The observations may include indications of chronic and withdrawal effects of

controlled substances.

Alcohol tests will be authorized for reasonable suspicion only if the required observations are made during, just before, or just after the period of the workday when the driver must comply with alcohol prohibitions. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the District will prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests will terminate after eight hours.

An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test.

A supervisor or District official who makes a finding of reasonable suspicion also must make a written record of his/her observations leading to a reasonable suspicion drug test within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier. Employees whose conduct involved the misuse of drugs or alcohol may not return to performing safety sensitive duties.

### **Records**

Employee drug and alcohol test results and records will be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver will receive copies of any records pertaining to his/her use of drugs or alcohol, including any records pertaining to his/her drug or alcohol tests. Records will be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

### **Notifications**

Each driver will receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the District's policy and regulations for meeting these requirements. Representatives of employee organizations will be notified of the availability of this information. The information will identify:

1. The person designated by the District to answer driver questions about the materials;
2. Categories of drivers who are subject to the drug and alcohol testing requirements;
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear for what period of the workday driver compliance is required;
4. Specific information concerning driver conduct that is prohibited;
5. Circumstances under which a driver will be tested for drugs and/or alcohol;

6. Procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results and insure that test results are attributed to the correct driver;
7. The requirement that a driver submit to drug and alcohol tests administered in accordance with federal regulations;
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendance consequences;
9. Consequences for drivers found to have violated the drug and alcohol prohibitions, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation and treatment;
10. Consequences for drivers found to have a blood-alcohol concentration of 0.02 or greater but less than 0.04; and
11. Information concerning the effects of drugs and alcohol on an individual's health, work and personal life; external and internal signs and symptoms of a drug or alcohol problem, and available methods of intervening when a drug or alcohol problem is suspected including confrontation, referral to an employee assistance program and/or referral to administrative officials.

Each driver must sign a statement certifying that he/she has received a copy of the above materials.

The District will notify a driver of the results of a pre-employment drug test if the driver requests such results within 60 calendar days of being notified of the disposition of his/her employment application.

The District will notify a driver of the results of random, reasonable suspicion, and post-accident drug tests if the test results are verified positive. The District will also tell the driver which controlled substances were verified as positive.

Drivers will inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect his/her ability to safely operate a commercial motor vehicle.

### **Enforcement**

Any driver who refuses to submit to post-accident, random, reasonable suspicion, or follow-up tests will not be allowed to perform or continue to perform safety-sensitive functions.

A driver who in any other way violates District prohibitions related to drugs and alcohol will receive from the District the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems. The employee will be evaluated by a substance abuse professional who will determine what help, if any, the driver needs in resolving such a problem.

Any substance abuse professional who determines that a driver needs assistance will not refer the driver to a private practice, person or organization in which he/she has a financial interest except under circumstances allowed by law.

Before the driver is returned to safety-sensitive duties, if at all, the District must ensure that the employee:

1. Has been evaluated by a substance abuse professional;
2. Has complied with any recommended treatment;
3. Has taken a return-to-duty drug and alcohol test with a result indicating an alcohol concentration level of less than 0.02; and
4. Is subject to unannounced follow-up drug and alcohol tests. The number and frequency of such follow-up testing will be as directed by the substance abuse professional and consist of at least six tests in the first 12 months following the driver's return to duty.

*Approved November 7, 2018.*