

BLACK HAWK COUNTY DRUG AND ALCOHOL POLICY FOR DOT DRIVERS

Policy:

It is the policy of Black Hawk County to establish and maintain a drug and alcohol policy to comply with Department of Transportation (DOT) requirements.

Scope:

All employees and applicants for employment that perform duties covered by DOT regulations are covered by these policies and procedures in addition to any and all Black Hawk County policies and procedures related to alcohol and drug use. Employees performing duties requiring the possession of a Commercial Driver's License (CDL) are covered by these regulations.

Drivers who are affected by the Federal Highway Administration (FHWA) regulations effective January 1, 1996, are those employees who are required to have a Commercial Driver's License (CDL). This includes, but is not limited to the Black Hawk County Engineer's and Secondary Roads Department, and Conservation. The Human Resources Director and their designated representative are the County's DOT Alcohol and Drug Testing Program Administrators, responsible for the DOT Alcohol and Drug Testing Policy and Program, and are authorized to answer questions with respect to the program.

Drug and Alcohol Clearinghouse Compliance:

Effective January 6, 2020 Black Hawk County is required to comply with 49 CFR (Code of Federal Regulations) Ch. III, Subpart G, §382.701. The Clearinghouse is a secure, online database that will give employers and other authorized users real-time information about commercial driver's license (CDL) and commercial learner's permit (CLP) holder's drug and alcohol program violations.

The Clearinghouse will contain records of violations of drug and alcohol prohibitions in 49 CFR Part 382, Subpart B, including positive drug or alcohol tests results, test refusals, and information regarding the completion of return-to-duty and follow-up plans. Employees who register themselves in the Clearinghouse will have access to their electronic record. They may request a correction to their record if there are errors, however, they may not challenge the accuracy or validity of test results or refusals.

Beginning January 6, 2020, employers of CDL drivers must query the Clearinghouse to verify that a current or prospective driver is not prohibited from operating CMVs or performing other safety sensitive functions due to an unresolved drug and alcohol program violation. The employer is required to obtain consent from current and prospective employees before they can run the required queries. There are two types of queries; Limited, which can be conducted with paper consent form, and Full, which requires electronic consent through the database. If the result of the limited query indicates there is information in the database about the employee, a full query will be required.

Employees hired prior to January 6, 2020, who refuse to provide appropriate consent, will not be able to continue in a safety sensitive position. All new hires will be required to

provide electronic consent to be considered for employment in an FMSCA safety sensitive position.

For more information about the Clearinghouse please contact Human Resources or visit the DOT website at: <https://clearinghouse.fmcsa.dot.gov/>.

Training:

Black Hawk County is responsible for providing DOT-required training to supervisors before the DOT Alcohol and Drug Testing Program becomes effective January 1, 1996. Training for supervisors will consist of at least one (1) hour on alcohol misuse and one (1) hour on controlled substance abuse, and will cover the physical, behavioral, speech and performance indicators of probably alcohol misuse and use of controlled substances. Black Hawk County will instruct employees with Commercial Drivers Licenses (CDLs) on all information as required by the Department of Transportation, as set forth in 49 CFR, Ch. III., Subpart F, §382.601. Written material will be given to each employee, who will sign a statement that they have received and understand the information.

Testing Provisions:

Black Hawk County will test individuals for alcohol and drug use, using procedures in the situations and circumstances outlined in this policy. Under DOT rules, an applicant or employee is required to submit to the following drug and alcohol testing situations:

1. **Pre-employment (Post Job Offer):** Conducted before applicants are hired or after and offer of hire, but before actually performing safety-sensitive functions for the first time. Also required when employees transfer to safety-sensitive positions.

2. **Post-Accident:**

The County requires post-accident drug and alcohol testing as outlined in Policy 405: Drug and Alcohol – Free Workplace Policy and Testing Program for Individuals Not Required to Possess a Commercial Driver’s License and also the Black Hawk County Policy for DOT Drivers.

Post-Accident drug and alcohol testing will be conducted after accidents where an employee’s performance could have contributed to the accident. An accident is defined as:

- (1) An incident involving the loss of human life;
 - (2) A driver receives a citation under State or Local Law for a moving violation arising from an incident;
 - (3) An injury is treated away from the scene of an incident or as pursuant to Iowa Code Chapter 88.6(b) Occupational Health and Safety.
 - (4) A vehicle must be towed away from the scene of an incident; or
 - (5) An incident results in property damage to an apparent extent of \$1,500 or more pursuant to Iowa Code Chapter 321.266.
3. **Reasonable Suspicion:** Conducted when a trained supervisor observes behavior or appearance that is characteristic of drug or alcohol abuse.
 4. **Random:** Conducted on a random, unannounced basis just before, during or just after performance of safety-sensitive functions.
 5. **Return-To-Duty and Follow-Up:** Conducted when an individual who has violated the prohibited drug or alcohol conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six (6)

tests just be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to sixty (60) months following return to duty.

All DOT alcohol and drug testing will be in accordance with required DOT procedures. These include the use of special testing forms, trained personnel, and special processes and handling, to insure the integrity and accuracy of the testing process. Information related to testing will be treated as confidential except as required by comply with DOT requirements, safeguard the safety of personnel and the public, or as otherwise legally required.

DOT drug testing includes taking urine samples which are sent to federally certified testing laboratories to test for the presence of amphetamines, cannabinoids (marijuana), cocaine, opiates (codeine and morphine), MDMA (Ecstasy), and phencyclidine (PCP). Positive test results will be reviewed by a qualified physician, a Medical Review Officer (MRO), to determine if the individual has a legitimate medical explanation for a positive test result.

DOT alcohol testing includes taking breath samples (and, if authorized by future regulation, blood samples), to test for alcohol concentration. Breath testing equipment used is approved by the National Highway Traffic Safety Administration (NHTSA). An initial breath test will be performed; if any alcohol is detected in a concentration of 0.02 or greater, a second test is performed. Individuals with an alcohol concentration of 0.02 or greater are advised not to perform safety-sensitive duties or operate a vehicle or heavy equipment. Individuals should arrange alternate transportation home from a testing site when alcohol is detected in a concentration of 0.02 or greater.

No individual may perform DOT-covered safety-sensitive functions if the individual has engaged in conduct prohibited by DOT alcohol/drug rules.

Employees will undergo alcohol testing as described in this policy. When alcohol tests are performed, if a confirmed alcohol test result indicates as alcohol concentration of 0.02 or greater, in addition to the consequences described in this policy and any other consequences described in other Black Hawk County policies, personnel at the testing site will:

1. Suggest and/or arrange for alternate transportation for the employee.
2. Contact law enforcement officials if the employee refuses such alternate transportation.

The service provider will contact a representative to report test results.

Certain positive drug test results or other violations of this policy will result in the consequences required by DOT, but also may result in disciplinary action up to and including discharge, as described in other Black Hawk county policies and procedures.

Testing Procedures:

An employee required to have a CDL, who is driving a company vehicle, is considered to be performing a safety-sensitive function, and is required to submit to alcohol and drug testing as set forth by DOT regulations. An employee performing a safety-sensitive function cannot use or be under the influence of alcohol, or have the general appearance or conduct, or by other substantiating evidence appear to have used

alcohol, within four (4) hours before going on duty or operating, having physical control of, or being on duty to operate a motor vehicle.

An employee cannot use or possess alcohol (including medications, foods, mouthwashes, sprays, or any other substances which contain alcohol, even with a doctor's prescription for four (4) hours before duty, while on duty, or eight (8) hours after an accident, unless alcohol testing has been performed after the accident. The employee must not perform safety-sensitive duties if aware of any medical condition or alcohol or drug use that may adversely affect the employee's ability to perform such duties.

Under DOT rules, an employee is required to submit to the following drug and alcohol testing situations:

1. Pre-employment (Post Job Offer)
2. Post-Accident
3. Reasonable suspicion
4. Random
5. Return-to-duty and follow-up

Refusal to submit to taking a required alcohol or drug test is viewed as failing the test, and can result in severe disciplinary actions, up to and including discharge.

The Department of Transportation (DOT) requires random testing of employees with Commercial Drivers Licenses (CDL) at the rate of fifty percent (50%) for drug testing, and twenty-five percent (25%) for alcohol. When so directed, employees will proceed immediately to the testing site for random drug and/or alcohol testing. Random testing can be done at the beginning, during, or at the end of the employee's shift.

The approved service provider will use an Evidential Breath Testing (EBT) device approved by NHTSA for the alcohol breath test. A urine sample will be taken for controlled substance testing. Maximum safeguards will be taken to ensure the validity of the test results and to ensure that they are attributed to the correct employee. Confidentiality of those written test results will be assured. Test results will be reviewed by the Medical Review Officer (MRO).

If a Breath Alcohol Test indicates 0.02 or greater, a second test for verification will be given. The employee will be released from employment for twenty-four (24) hours without compensation, and will be given a return-to-work duty test to ensure that the affected employee tests under 0.02 before returning to work. If an employee test 0.04 or greater on an alcohol test, tests positive for controlled substance, or refuses to take a test, they will be suspended immediately without pay, and will be referred to the County's designated Substance Abuse Profession (SAP), who will evaluate the employee. Return to duty will be based on recommendations of the SAP, the policies of Black hawk County, and the affected employee's compliance with applicable policies and/or recommendations. Before returning to work after engaging in conduct prohibited by this policy, the employee will undergo a return-to-duty test, with a verified negative result. Failure to do so will result in termination of employment.

Following a determination that a driver is in need of assistance associated with alcohol or controlled substance misuse, the employee shall be subject to unannounced follow up testing as directed by law.

Post-Accident testing: Post-Accident drug and alcohol testing will be conducted after accidents where an employee's performance could have contributed to the accident. An accident is defined as:

- (1) An incident involving the loss of human life;
- (2) A driver receives a citation under State or Local Law for a moving violation arising from an incident;
- (3) An injury is treated away from the scene of an incident or as pursuant to Iowa Code Chapter 88.6(b) Occupational Health and Safety.
- (4) A vehicle must be towed away from the scene of an incident; or
- (5) An incident results in property damage to an apparent extent of \$1,500 or more pursuant to Iowa Code Chapter 321.266.

If an alcohol test is not administered within two (2) hours following the accident, the employer shall prepare and maintain a record stating why the test was not promptly administered. If a test is not administered within eight (8) hours following the accident, attempts to test shall cease, and shall maintain the same record.

If a controlled substance test is not administered within thirty-two (32) hours, the same records required above shall be maintained.

A driver who is subject to post-accident testing shall remain available for such testing, or they may be deemed to have refused the test.

Reasonable Suspicion Testing:

Black Hawk County shall require a driver to submit to an alcohol or substance abuse test when the employer has reasonable suspicion that the driver has violated the prohibitions outlined in this policy. Reasonable suspicion is determined by observations concerning the employer's appearance, behavior, speech or body odors. They may include indications of chronic and withdrawal effects of the alcohol or drug. A written record shall be made of the observations leading to the reasonable suspicion testing, signed by the supervisor or county official who made the observation, within twenty-four (24) hours or before the results of the test are released, whichever is earlier.

Pre-Employment Testing:

If an applicant tests positive for alcohol or controlled substances, they will not be hired by Black Hawk County for a safety-sensitive position.

Employees are reminded of the possible consequences of alcohol and drug use. Both alcohol and drugs have proved to affect performance adversely, even in low concentrations. When performing safety-sensitive job duties, or participating in any other activity in which the performance of the person may affect the safety or health of that person or others, **no amount of alcohol or drug use is "safe."** An Employee Assistance Program (EAP) is available for evaluation and treatment for employees with alcohol or controlled substance abuse problems.

Self-Identification by Employee:

Black Hawk County will not take any adverse employment action against an employee who voluntarily admits to misuse of alcohol or controlled substances provided that:

1. The employee does not self-identify in order to avoid testing under the requirements of this policy; and
2. The admission is made prior to the employee performing a safety sensitive function (i.e., prior to reporting for duty); and
3. The employee does not perform a safety sensitive function until the employer is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

An employee who makes a voluntary admission will be allowed the opportunity to seek evaluation, education or treatment to establish control over their drug or alcohol problem and may request a confidential leave of absence.

Black Hawk County may permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor.

In addition, prior to participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02 and/or;

Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty controlled substance test with a verified negative test result for controlled substances use; and

The return to work may incorporate employee monitoring and include non-DOT follow-up testing as recommended by the substance abuse professional.

ALCOHOL AND DRUG MISUSE:

Employees **must not:**

1. Use or be under the influence of alcohol, or have the general appearance or conduct, or by other substantiating evidence appear to have used alcohol, within four (4) hours before going on duty or operating, having physical control of, or being on duty to operate a commercial motor vehicle or performing other DOT-covered safety-sensitive duties.
2. Report for duty or remain on duty requiring performance of safety-sensitive functions with a breath alcohol concentration (BAC) of 0.02 or greater.
Employees may need to abstain from drinking alcohol for a longer period than four (4) hours prior to duty to be below 0.02 BAC.
3. Use any controlled substance unless specifically authorized by a physician, and then only if the physician tells the employee that use of the controlled substance will not affect the performance of safety-sensitive functions.

4. Refuse to submit to a DOT or law enforcement post-accident alcohol or drug test, a DOT random, reasonable suspicion, return to work, or follow-up alcohol or drug test. Refusal included:
 - a. Refusal to be present at the testing location immediately upon request of Black Hawk County.
 - b. Refusal to comply with any testing procedures, included but not limited to:
 - i. Refusal to provide specimens (breath or urine), unless medically incapable,
 - ii. Refusal to provide identification or sign forms,
 - iii. Refusal to provide necessary information,
 - iv. Refusal to submit to medical or other examinations as considered necessary by Black Hawk County or its authorized agents.
 - c. Refusal also consists of attempts to falsify or interfere with the testing process, including failure to comply with instructions or attempting to substitute or otherwise change specimens to be tested.
5. Use or possession of alcohol, **including medications, foods, mouthwashes, sprays or any other substances which contain alcohol, even with a doctor's prescription**, for four (4) hours before duty, while on duty, or eight (8) hours after an accident, or until alcohol testing has been performed after the accident.
6. Perform safety-sensitive duties if aware of any medical condition or alcohol or drug use that may adversely affect the individual's ability to perform such duties.

Employees **must**:

1. Inform Black Hawk County of alcohol or drug use that may affect safety of employees or the public.
2. Submit to and pass a DOT alcohol or drug test prior to performing safety-sensitive job duties (post job offer), and after a violation of any DOT alcohol or drug rules.
3. Submit to evaluation and follow any treatment plan recommended by a substance abuse professional prior to performing safety-sensitive job duties after a violation on any DOT alcohol or drug rule (payment for such evaluation or treatment is not covered by the County, except by any applicable and available health insurance), and submit to random follow-up DOT alcohol and/or drug testing for a minimum of six (6) tests (alcohol, drugs, or both) within one year, but more frequently and for up to five (5) years, as recommended by the substance abuse professional, after a violation of any DOT alcohol or drug rule. Such unannounced testing is in addition to any other applicable random alcohol or drug testing. The employee must authorize the release of any and all information related to evaluation, treatment, rehabilitation, testing, counseling and/or group participation for alcohol or drug use, by signing consent for such release to Black Hawk County.
4. Contact the Black Hawk County alcohol and drug testing program administrator (Human Resources Director) or other authorized County representative immediately following any on-the-job accident to make sure that required alcohol and drug testing procedures are followed. Whether or not the employee is able to contact a County representative, the employee must make sure that they are tested with a DOT or law enforcement post-accident alcohol test as soon as possible, but always within eight (8) hours of the accident, and drug test within thirty-two (32) hours of the accident. An accident is defined as an incident in which a fatality or physical injury occurs, significant damage occurs to property, a traffic citation has been issued, or in which the employee's possible contribution

to the accident cannot be ruled out, and in which a DOT regulation required testing.

All applicants for employment to positions that require a commercial drivers license (CDL), or current employees of the County that apply for such jobs must sign the appropriate Consent and Release of Alcohol and Drug Use and testing Information for clearinghouse records and each and every employer that the person has worked for in the previous three years. The County is required to investigate the driver's record by contacting all of their employers within the three previous years.

Employees are reminded of the possible consequences of alcohol and drug use. Both alcohol and drugs have proven to affect performance adversely, even in low concentrations. When performing job duties or participating in any other activity in which the performance of the person may affect the safety or health of that person or others, **no amount of alcohol or drug use is "safe."**

If an employee tests positive for a controlled substance drug test, has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test, the employee will be suspended immediately without pay, and will be referred to a Substance Abuse Professional (SAP). Return to duty will be based on the recommendations of the SAP, the policies of Black Hawk County, and the affected employee's compliance with applicable policies.

In the event of a negative "dilute" test result, the County retains the right to send the employee for a second test pursuant to Title 49 of the Federal Code of Regulations (CFR) 40.197. Upon receiving a negative "dilute" test result, the County will direct the employee to submit to a second test immediately. If the result of the second test is also negative "dilute," the County is not permitted to make the employee submit to an additional test based on the second test being dilute. If, however, the employee declines to take a test as directed, the employee has refused the test for purposes of 49 CFR 40.197 and DOT agency regulations.

BLACK HAWK COUNTY
INFORMED CONSENT STATEMENT

I have read and understand Black Hawk County's DOT Alcohol and Drug Testing Policy and Procedures. I understand that any violation of this policy may result in disciplinary action up to and including discharge from my employment.

In addition, I have received information concerning the affects of alcohol misuse and controlled substance use, on an individual's health, work and personal life; signs and symptoms of alcohol or a controlled substance problem, as outlined in 49 CFR 382.601 (10), Subpart F of the Federal Register.

Employee Signature

Date