

# TOWN OF DUXBURY



## Alcohol and Controlled Substances Use and Testing Policy for Safety - Sensitive Drivers

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## **I. Introduction**

This is the policy of the Town of Duxbury regarding alcohol testing and drug testing of those employees who operate motor vehicles, which require a commercial driver's license. This testing policy is issued in conjunction with the Department of Transportation regulations (attached.)

### **Terms and Abbreviations**

BAT	Breath Alcohol Technician
CDL	Commercial Driver's License
CMV	Commercial Motor Vehicle
DHHS	Department of Health and Human Services
DOT	Department of Transportation
EAP	Employee Assistance Program
EBT	Evidential Breath Testing
MRO	Medical Review Officer
SAP	Substance Abuse Professional

### **Definitions**

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, methyl, or isopropyl alcohol

Alcohol Concentration - Also called alcohol content, the alcohol volume of breathe as indicate by evidential breath test, such as a breathalyzer

Alcohol Use - The consumption of any beverage, mixture, or preparation, including medications, containing alcohol

Breath Alcohol Technician - An Individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing (EBT) device

Confirmation Test - In alcohol testing a second test with a result of 0.02 or greater that provides a quantitative measurement of alcohol concentration

Controlled Substances - In this policy, the terms *drugs* and *controlled substances* are interchangeable and have the same meaning. Unless otherwise provided, the terms refer to:

- Marijuana
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Amphetamines, including methamphetamines

Driver	<p>Any person who has a CDL and operates a motor vehicle including:</p> <ul style="list-style-type: none"> <li>• Full-time and part-time drivers</li> <li>• Temporary or occasional drivers</li> <li>• Leased drivers</li> <li>• Independent owner-operator contractors who are either directly or indirectly employed by the Town of Duxbury</li> </ul>
Evidential Breath Testing	A device used for alcohol breath testing that has been approved by the National Highway Safety Administration
Medical Review Officer	A licensed physician (M.D. or O.D.) responsible for interpreting lab results from the Town of Duxbury's drug testing program
Screening Test	<p>All testing records are confidential, and may only be released to the Employer, SAP, MRO or any arbitrator of a grievance filed in accordance with the policy.</p> <p><i>In alcohol testing:</i> the initial test to determine if a driver has a prohibited concentration of alcohol in his or her system.</p> <p><i>In controlled substances testing:</i> a screen to eliminate <i>negative</i> urine specimens from further consideration</p>
Substance Abuse	Refers to patterns of substance use that result in health consequences or impairment in personal, emotional, intellectual, social, psychological, and occupational functioning
Substance Abuse Professional	A licensed physician (M.D. or O.D.) or a licensed or certified psychologist, social worker, or addiction counselor with experience in the diagnosis and treatment of alcohol and substance problems

## **II. Who is covered by the alcohol and drug rule?**

The Federal Highway Administration, Department of Transportation Alcohol and Drug ruling applies to every person who operates a motor vehicle in interstate or intrastate commerce, and is subject to the commercial driver's license (CDL) requirements of part 383.

## **III. What is a safety-sensitive function?**

A safety-sensitive function includes any of the following functions or activities:

- at a carrier or shipper facility, or any public property, waiting to be dispatched, unless the driver is relieved from duty by the employer
- inspecting service brakes, including trailer brake connections, parking brake, steering mechanism, lighting devices, and reflectors, tires, horn, windshield wipers, rear vision mirrors, coupling devices, fire extinguisher, spare fuses, or warning devices for stopped vehicles
- Inspecting, servicing, or conditioning any CMV in operation, or at the driving controls of a CMV in operation
- While in or upon any CMV, except when resting in the sleeper berth
- Supervising or assisting in loading or unloading a vehicle
- attending a vehicle being loaded or unloaded
- While in readiness to operate the vehicle
- When giving or receiving receipts for shipments loaded or unloaded
- performing driver requirements of sections 392.40 and 392.41 of part 392, Driving Motor Vehicles, relating to accidents
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

## **IV. What are the alcohol and drug prohibitions?**

The DOT refers to the restrictions for the use of both alcohol and controlled substances as *prohibitions*.

## **V. Alcohol prohibitions:**

*A driver may not report for duty or stay on duty*

1. with a blood alcohol concentration of 0.02 or greater
2. if in possession of alcohol (unless it is being transported as cargo)
3. within four hours of using alcohol
4. if in possession of any medication containing alcohol unless that package seal is unbroken

A driver who has had an accident may not use alcohol until post-accident testing is done or for a period of eight hours, whichever comes first.

Drivers may not refuse to submit to alcohol testing. Doing so is considered a positive test result, detailed in Section X. “What happens if I refuse to be tested?”

## **VI. Drug prohibitions:**

Drivers may not report for or stay on duty while using any controlled substance, except when a physician has prescribed a substance which does not interfere with your ability to operate a vehicle in a safe manner.

Drivers may not report for duty or stay on duty if they have tested *positive* for a controlled substance.

Drivers may be required to report the use of any drugs prescribed by a physician.

## **VII. What tests are required and when will I be tested?**

There are five situations where testing can be done to determine the presence of alcohol and/or drugs.

- *Pre-employment* before a new hire can perform any safety-sensitive duties, or when a person transfers into a safety-sensitive function from elsewhere in the Town of Duxbury
- *Post-accident* following an accident involving a fatality, or when the driver was cited for a moving violation
- *Random* unannounced random testing is required on a certain percentage of drivers each year

How: the random selection process will ensure that each driver has an equal chance of being tested each time the selections are made.

When: Random testing for alcohol must be performed immediately before, during, or after performing safety-sensitive work. Random drug testing may be performed any time you are working for the Town of Duxbury. When you are notified that you have been selected for random testing, you must report immediately to the test site.

- Alcohol: 25% of all drivers must be randomly tested for alcohol during the first year of the testing program. The number to be tested in following years depends on the percentage of positive tests for the entire industry.
- Drug: 50% of all drivers must be randomly tested for controlled substances during each year of the testing program.

VIII. **Reasonable Suspicion:** If your employer believes that, your behavior or appearance may indicate alcohol or drug use. Observations by the employer must be made during working hours. Appearance, speech, behavior, and body odor are factors in determining reasonable suspicion.

1. The supervisor who determines that there is reasonable suspicion *may not conduct the test on the driver.*
2. Alcohol testing for reasonable suspicion should take place within two hours of the observation. Tests that cannot be done within eight hours of the observation should not be done.
3. You may not report for duty or stay on the job while under the influence of alcohol. The Town of Duxbury will not allow you to perform safety-sensitive duties until:
  - Your alcohol concentration is less than 0.02
  - OR
  - 24 hours have passed from the time of the initial observation
4. The Town of Duxbury will not take action against you regarding alcohol misuse on the job unless an alcohol test was administered.

IX. **Return to duty and follow-up:**

1. Return to duty testing is required for drivers who have violated prohibitions before they return to work. In order to return to work, an alcohol concentration of less than 0.02 or a negative drug test is required.
2. Follow-up testing is required after the driver returns to safety-sensitive function. The ruling calls for a minimum of six tests during the first year back in a safety-sensitive position. Follow-up testing may continue for up to five years.

X. **What happens if I refuse to be tested?**

You must submit to alcohol and drug testing. If you refuse to be tested, it is considered a positive test result, the consequences detailed in Section VIII. “What are the consequences of violating the alcohol or drug prohibitions?” Refusal to test is considered to be any time you either fail to provide enough breath for alcohol testing or enough urine for controlled substances testing (without a valid medical excuse) after being notified of the test, or if you otherwise obstruct the testing process.

## **XI. How is alcohol testing done?**

- All alcohol testing will be done in accordance with FMCSA Drug & Alcohol Testing Guidelines by a Breath Alcohol Technician (BAT) in a private setting. No other party will see or hear the test results. An evidential breath testing device (EBT) must be used.
- The BAT will ask you for identification. You may ask for the BAT's identification as well.
- To complete the test, you must blow forcefully into the mouthpiece of the testing device. The BAT must show you the test result on the testing device.
- A screening test is done first. If the reading is less than 0.02, you will sign and date the certification. The test will be reported as negative.
- If the reading is 0.02 or greater, a confirmation test must be done (after 15 minutes but within 20 minutes of the first test). You will be asked not to eat, drink, belch or put anything in your mouth. These steps prevent the buildup of mouth alcohol, which could lead to an artificially high test result.
- If screening and confirmation test results are not the same, the confirmation result is used.

*If you refuse to be tested or sign the testing form, the BAT will immediately notify your employer or manager.*

## **XII. How is drug testing done?**

- Drug testing is done in accordance with FMCSA Drug & Alcohol Testing Guidelines by analyzing a urine sample, which is collected in a private location.
- Urine specimens are divided into two containers by the collection site person *in your presence*. These two samples, called *primary* and *split*, are sent to a testing laboratory certified by the DHHS.
- At the laboratory, a screening test is performed on the primary sample. If the test is positive for drugs, a confirmation test is required.
- The confirmation test must use a specialized procedure called gas chromatography/mass spectrometry, to ensure that over-the-counter drugs are not reported as positive.
- If the first test is positive, the MRO will contact you to find out if there is a medical reason for drug use. If the MRO determines a legitimate medical excuse, the test may be reported as negative.
- After being notified that the first test was positive, you have **72 hours** to request a test of the split specimen. If you make the request, and the second test is positive, you are responsible for the cost of the second test. If you make this request, the split specimen is sent to another DHHS-certified lab for the test. If you do not contact the MRO within 72 hours, but can prove a legitimate reason for not doing so, the MRO may order the split specimen to be tested.

*Removal from safety sensitive duty is required by the DOT following the first positive drug test. If the analysis of the split sample does not confirm the presence of a drug, the MRO shall cancel the test and report this to the DOT, the Town of Duxbury, and you.*

### **XIII. What are the consequences of violating the alcohol or drug prohibitions?**

#### **Random, Return to Duty & Follow-up**

- First positive: Automatic 5 day unpaid suspension for *first positive drug and/or alcohol testing result*. Vacation, personal and compensatory time may be used following the suspension. Return to duty only after mandatory referral to the Town's Employee Assistance Provider (EAP) for evaluation by the EAP's Substance Abuse Professional (SAP) and successful completion of a program identified by the SAP and negative result on the Return to Duty Drug and/or Alcohol test. Probationary employees will be discharged.
- Second positive: Will result in termination from employment

#### **Post-Accident, as defined in the DOT regulations:**

- Positive: Discharge

#### **Reasonable Suspicion**

- First positive: Automatic 5 day unpaid suspension for *first positive drug and/or alcohol testing result*. Vacation, personal and compensatory time may be used following the suspension. Return to duty only after mandatory referral to the Town's Employee Assistance Provider (EAP) for evaluation by the EAP's Substance Abuse Professional (SAP) and successful completion of a program identified by the SAP and negative result on the Return to Duty Drug and/or Alcohol test. Probationary employees will be discharged.
- Second positive: Termination from employment

#### **Pre-employment (includes transfer and promotion to a safety sensitive positions)**

- First positive: Conditional offer of employment, transfer or promotion subject to drug and alcohol screening results will be rescinded with no appointment to position.

Payment of recommended programs may be covered by the employee's health insurance, however, deductibles, co-payments or any other costs are the responsibility of the employee.



#### **XIV. Where can I go for help?**

The alcohol and drug rule requires that the Town of Duxbury provide you with an opportunity for treatment. The ruling does not, however, require the Town to hold a job open for you or to pay for your rehabilitation. If you violate an alcohol or drug prohibition, you must be evaluated by a Substance Abuse Professional to determine what help is needed, and you are subject to disciplinary action up to and including termination, as specified above. Below is a list of available resources:

*Employee Assistance Provider (EAP)*, AllOne Health, 800/451-1834 (available 24/7)

*Substance Abuse Services Hotline*, MA Dept. of Public Health, 800/327-5050 (available weekdays 8AM-10PM and weekends 8AM-6PM)

#### **XV. Before you can return to a safety sensitive job, you must:**

- Have an alcohol concentration of less than 0.02, or a verified negative drug test, depending on the violation
- Complete the treatment recommended by the SAP
- Complete a minimum of six follow-up tests within the first year back to work (follow-up testing may be done for up to five years after return to work)

#### **XVI. Manager enforcement**

All managers will be expected to enforce this policy consistent with its terms and conditions. Any manager found to ignore this policy will be subject to the Town's progressive disciplinary procedure.

#### **XVII. Refill of position**

The Town of Duxbury reserves the right to temporarily refill positions as necessary, from either within or without the union.

#### **XVIII. Related consequences**

Any employee who requires their license for their job, loses his or her license for driving under the influence of either drugs or alcohol, is required to immediately report this information to their supervisor and department head. He or she may be required by management to accept a demotion to a non-driving position as long as one is available, as long as it does not adversely affect the operation of the department, for up to a maximum of ninety (90) days. A related consequence of a loss of license for more than (90) days may result in termination of employment at the discretion of the Town Manager. In addition, he or she will be required to meet with a Substance Abuse Professional (SAP) and successfully complete any recommended programs. A second incident will result in termination from employment. If the employee's behavior involves

unbecoming conduct or criminal behavior, which goes beyond driving under the influence, the Town reserves the right to impose more severe discipline, up to and including termination.

### **XVIII. What are the effects of alcohol and drugs on the body?**

*Alcohol*, a nervous system depressant, is the most widely abused drug. About half of all automobile accident fatalities in this country are related to alcohol abuse. A 12 oz. can of beer, a 5 oz. can of wine, and a 1 ½ oz. shot of hard liquor all contain the same amount of alcohol. The average person takes about one hour to process and eliminate one half ounce of alcohol. Coffee, cold showers, or exercise do not speed up the process. Alcohol first acts on the parts of the brain that affects self-control and learned behaviors. This explains the aggressive behavior of some people who drink. In large doses, alcohol can impair muscular coordination, memory, and judgment. Taken in larger quantities over a long period of time, alcohol can damage the liver heart, and can cause permanent brain damage. On average, heavy drinkers shorten their life span by about ten years.

Other effects:

Impaired driving ability

Reduced coordination and reflex action

Impaired vision and judgment

Inability to divide attention

Lowering of inhibitions

Hangover (headaches, nausea, dehydration, unclear thinking, aching muscles)

*Marijuana*, also known as pot, weed, grass, and other street names, alters the user's sense of time and reduces the ability to perform tasks which require concentration. The drug has a significant effect on judgment, caution, and sensory/motor functions. Marijuana stays in the body for 28 days, unlike alcohol, which dissipates in a few hours.

Other effects:

Impaired driving for at least 4-6 hours

Restlessness

Inability to concentrate

Increased pulse rate and blood pressure

Rapidly changing emotions and erratic behavior

Altered sense of identity

Dulling of attention

Hallucinations, fantasies and paranoia

Reduction or temporary loss of fertility

*Cocaine* is a stimulant drug, which increases heart rate and blood pressure. As a powder, Cocaine is inhaled, ingested or injected. Cocaine is also used as free-base cocaine known as *crack* or *rock*, which is smoked. Some people think that, because it is smoked, crack is safer than other forms of cocaine use. It is not. Crack cocaine is one of the most addictive drugs known. Cocaine causes rapid heartbeat, tremors, and even convulsions. Due to the extreme demand for oxygen, cocaine use can directly cause a heart attack. High doses can depress brain functioning, breathing, and heartbeat, which can cause death.

Other effects:

Heightened, but momentary, feeling of confidence, strength, endurance, accelerated pulse, blood pressure, respiration

Impaired driving ability

Paranoia, which can trigger mental disorders

Irritation and bleeding of nostrils

Mood swings and anxiety

Reduced sense of humor

Compulsive behavior such as teeth grinding or repeated hand washing

*Amphetamines* are drugs that stimulate the central nervous system and promote a feeling of alertness and an increase in speech and general physical activity.

Street names for amphetamines are *speed*, *uppers*, *black beauties*, *bennies*, *wake-ups*, *footballs*, and *dexies*. People who use amphetamines become addicted quite often, believing that they need the drug to get by. They use the drug frequently to avoid the “down” mood, which they experience when the drug wears off. Even small, infrequent doses can produce restlessness, anxiety, mood swings, panic, heart rhythm disturbances, paranoid thoughts, hallucinations, convulsions, and coma. Long-term users often have acne, trouble with teeth, gums and nails, and hair. Frequent use can produce brain damage and speech problems.

Other effects:

Loss of appetite

Irritability, anxiety

Increased heart rate and blood pressure

Difficulty in focusing eyes

Exaggerated reflexes

Distorted thinking

Perspiration, headaches, dizziness

Insomnia

*Opiates* include heroin, morphine, codeine, and other narcotics used to relieve pain and reduce sleep. Heroin, also called *junk* or *smack* accounts for 90% of the narcotic abuse in this country. Sometimes narcotics found in medicines are

abused: this includes pain relievers containing opium and cough syrups containing codeine. Heroin is illegal, and cannot be obtained even with a doctor's prescription. Most medical problems are caused by uncertain dosage level, use of unsterile needles (which transmit the AIDS virus), contamination of the drug, or dangerous combination with other drugs.

Other effects:

- Short lived euphoria
- Impaired driving ability
- Drowsiness, followed by sleep
- Constipation
- Decreased physical activity
- Reduced vision
- Change in sleeping habits
- Possible death

*Phencyclidine or PCP*, also known as *angel dust*, was developed as a surgical anesthetic in the late 1950's. Later, due to its bad side effects, it was restricted to use as a veterinary anesthetic and tranquilizer. Today, it has no lawful use and is no longer legally manufactured. PCP is a very dangerous drug. It can produce violent and bizarre behavior. More people die from accidents caused by erratic and unpredictable behavior produced by the drug than from the drug's direct effect on the body. PCP scrambles the brain's internal connections and changes how users see and deal with their environment. Routine activities such as driving and walking become very difficult. Low doses produce a rush, sometimes associated with a feeling of numbness. Increased doses produce an excited, confused state including any of the following: muscle rigidity, loss of concentration and memory, visual disturbances, delirium, feelings of isolation, and convulsions.

Other effects:

- Impaired driving ability
- Drowsiness
- Perspiration
- Repetitive or incomplete speech patterns
- Blank stare
- Thick, blurred speech
- Involuntary eye movement

**XX. The following person should be contacted for assistance with drug and/or alcohol problems:**

Rene J. Read, Town Manager, 781-934-1100, ext. 5400

Jeannie R. Horne, Human Resources Director, 781-934-1100, ext. 5410