

Drug & Alcohol Program Bits & Pieces for 2021

The Federal Motor Carriers Safety Administration mandated on Jan. 1, 1996, requiring holders of a commercial driver's license (CDL) to undergo random drug and alcohol testing if he/she is operating a vehicle over 26,000 pounds, or a vehicle 26,001 or more pounds inclusive of a towed unit weighing 10,000 pounds. This is required whether the employee is full time or part time. Township employees operating off-road construction equipment on roads to remove snow and/or leaves are exempt from having a CDL and therefore, are exempt from the drug and alcohol program. This includes but is not limited to; trenches, rollers, pavers, cranes, graders, tractors and bulldozers. Non-CDL employees cannot be enrolled in the drug and alcohol program.

If a township has drivers that are operating a vehicle over 26,000 pounds and does not belong to a testing program, the township is subject to up to a \$10,000 fine. A drug and alcohol program protects the township. Members pay an annual slot fee of \$95 per driver and a \$100 fee for pre-employment testing required on enrollment **unless** the driver is currently in a program or has been in a certified program within 30 days of entering the new program. The annual \$95 slot fee is transferable; if a driver is removed and replaced by another driver, the new driver moves into the slot. The new driver would be required to take the pre-employment drug test unless he/she meets the exemption criteria.

It is recommended to have a file on each driver you have in the program, containing his/her policy, notices and results. In the event of an accident or audit, highway commissioners can have the information readily available. Officials should remember that drug and alcohol program files are township/road district property.

How the Drug & Alcohol Program works ...

Every month notices, through random selection, are sent to TOI members. Notices are sent to the members' contact person when a driver has been selected, from there a Mid-West Truckers test collector contacts the township's contact person to arrange a time for testing. The person selected is not to be notified about a test until it is time for the test to be performed. **This may cause a problem when the contact person is the driver to be tested.** The tester will come to the township site to perform the test unless the township chooses to use a walk-in facility. After a specimen is tested and verified by the medical review officer, a test result is sent to the contact person. The contact person should attach it to the notice and put in the drivers file. Negative test results and CCFs should be kept for 1 year and positive test results and CCFs should be kept for 5 years per the federal regulation, but township records are to be kept for 7 years and cannot be disposed of unless under the supervision of the Secretary of State's Archive Division.

Random Testing for Seasonal Drivers

If a driver is "seasonal" and not working at all that month he/she is chosen, is off on medical leave, is on active military duty, is off on workman's comp or laid off, then you must contact Pam at TOI and the driver will not have to be tested for that month. But, contact TOI immediately so the test can be cancelled, and you will be instructed what to do.

Depending upon the disciplinary action selected by the Contact Person (Highway Commissioner) in their drug and alcohol policy, the driver may, upon a return of a positive test; be immediately terminated or given another chance before termination. If a driver is given another chance before termination, he/she would be immediately removed from the DOT drug and alcohol testing program and any safety-sensitive work and required to seek professional counseling (a list of approved providers will be provided). Once the substance abuse professional determines the driver is ready to return to work, he would send a letter stating such to the contact person along with a required number of "follow-up" tests that is required to be taken. The driver will be required to take and pass a "return to duty test" before he is allowed to return to work in a safety-sensitive position. He will then be subject to regular random testing plus the "follow-up" testing. DOT-covered employees currently going through a follow-up test must be directly observed by a same gender collector/observer: The collector shall explain to the driver the reason for the direct observation test, except when the employer is required to do so. The collector or an observer must be the same gender as the driver. The same gender collector or observer must request the driver to raise his or her shirt, blouse, or dress/ skirt, as appropriate, above the waist; and lower his/her clothing and underpants to show the collector or observer, by turning around, that the driver does not have a prosthetic device. After the collector or observer has determined the driver does not have such a device, the driver may be permitted to return the clothing to its proper position for the observed urination. The collector or observer must watch the urine go from the driver's body into the collection container. An observer will continue to watch the specimen until it is given to the collector. Return to duty and follow up testing is not part of the fee paid to be in the program. These tests will be an additional charge to be paid by the township or the driver depending on what has been adopted in their policy.

(Over)

Reasonable Suspicion

It is mandatory that highway commissioners that have employees who drive trucks that weigh 26,001 lbs. or more, go through a reasonable suspicion (RS) supervisor training that includes 1 hour on alcohol misuse and 1 hour on controlled substances use. They can view a CD, listen on a webinar, or go to a classroom training if it covers the 2 hours as stated above. EXCEPTION: If the highway commissioner is the boss and the only driver, he or she does NOT have to go through the RS training.

Snow Emergency

An employee of a township or road district with a population of less than 3,000 operating a vehicle within the boundaries of the township or road district for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting may hire a driver who is not covered in the program to help with a particular snow emergency because the regular employee who is covered under the program is unable to operate the vehicle or is in need of additional assistance due to the snow emergency. This does not mean that every time there is a snow you may use this additional person. If you use this driver as an on-call when needed basis, they should be enrolled in the program even though they are not full-time employees. If they are called for a random test and they are not working that month, they may be excused from being tested that month. However, if they work just one hour/day of that month, they must be tested if called to do so. See page 141 and/or page 312 of the Laws and Duties Handbook (Revised 2017).

Share of vehicles and drivers

Townships can share vehicles/drivers if each township has a FMCSA drug & alcohol testing program. The drivers only need to be in the random pool for the township they are employed by. However, if a driver is a part-time employee of Township A and a part-time employee of Township B, then the driver must be in the random pool for both townships.

Post-Accident Testing Notice

IF your township is in the TOI/Midwest Truckers Random Drug & Alcohol Program and the township is involved in an accident, the township driver will be required to take a post-accident test if one of the following occurs:

1. Fatality
2. Township driver ticketed, and a vehicle HAS to be towed
3. Township driver ticketed, and someone is taken away by ambulance

Midwest Truckers has a 24-hour answering service. It is imperative that you call immediately as testing must be done within a limited amount of time. CALL 217.525.0310.

Clearinghouse Program

Effective January 6, 2020 the Federal Government mandated that CDL drivers in a drug and alcohol program must be registered in the FMCSA Clearinghouse. The Federal Government requires that full queries be run on new employees and a limited query on all CDL holders once a year. By query what will happen is that the driver's information will be entered into the database and it will whether or not there are any drug and/or alcohol violations that the township may not be aware of.

Registering for the Clearinghouse

To enroll in the program, you must go to the Clearinghouse website and register the township. When you register the township, you will need to purchase queries with a credit card. The charge for each query is \$1.25 each. You will want to purchase more queries than you have drivers in the case that you have a change in drivers, and you might want to order enough queries to last more than one year. The queries have no expiration date. You may also select a 3rd party administrator to perform your queries. Mid-West Truckers will be doing queries for our members if you so choose. They will bill us for performing the queries and in turn I will bill the township for \$10 a query. If you choose to have Mid-West Truckers do your queries, you will want to pick the following 3rd party administrator "mid-west truckers assn." (All lower case. Midwest is listed more than once so you must choose this one in all lower case.) You will also want to check the three boxes following that to give them permission to perform and report the queries and enter any violations that may occur.

Once you have done that, the drivers or you will need to go in and register themselves/each driver. If you require assistance, you may contact Mid-West Truckers (217.525.0310).