



DEPARTMENT OF CORRECTIONS DRUG-FREE WORKPLACE STATEMENT

It is the policy of the Florida Department of Corrections (FDC) to ensure a drug-free workplace. This drug-free workplace statement has been adopted in accordance with Executive Order 11-58 and Section 112.0455, Florida Statutes, known as the Drug-Free Workplace Act and is to be posted in a location that is easily accessible to all employees. Chapter 59A-24, F.A.C. was established to implement the requirements of Section 112.0455, Florida Statutes.

Drug means alcohol (including distilled spirits, wine, malt beverages, intoxicating liquors, and liquid medications containing ethyl alcohol), amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or metabolite of any of the above substances.

Unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and is subject to discipline in accordance with the Department's disciplinary actions outlined in Rule 33-208, F.A.C.

Accordingly, FDC employees shall not use illegal drugs on or off duty. The Department also does not allow the use of medical marijuana by its employees or on its premises. Department employees are further prohibited from using over the counter or prescription medications containing alcohol while on duty.

The Department currently conducts job applicant drug testing and reasonable suspicion drug testing authorized under the Drug-Free Workplace Act, section 112.0455, Florida Statutes, and Random Drug Testing under Executive Order 11-58, Drug-Free Workplace Act, section 112.0455, Section 944.474, Florida Statutes, and Rule 33-208.403, F.A.C.:

- **JOB APPLICANT DRUG TESTING** – The Department requires all job applicants offered positions to submit to a drug test and will use a refusal to submit to a drug test or a positive confirmation drug test as a basis for refusal to hire the job applicant.
- **REASONABLE SUSPICION DRUG TESTING** – The Department may require an employee to submit to drug testing when there is a reasonable suspicion of drug use. Reasonable suspicion drug testing means drug testing based on a belief that an employee is using or has used drugs in violation of the Department's rules drawn from specific objectives and articulable facts and reasonable inferences drawn from those facts in light of experience. Reasonable suspicion drug testing shall not be required except upon the recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question. Among other things, such facts and inferences which may lead to a reasonable suspicion are: (1) 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; (2) abnormal conduct or erratic behavior while at work or a significant deterioration in work performance; (3) a report of drug use (provided by a reliable and credible source) which has been independently corroborated; (4) evidence that an individual has tampered with a drug test during his or her employment with the current employer; (5) information that an employee has caused or contributed to an accident while at work; and (6) evidence that the employee has used, possessed, sold, solicited, or transferred drugs while working or while on the Department's premises or while operating the Department's vehicle, machinery, or equipment.

- **RANDOM DRUG TESTING** – The Department may conduct random drug testing on all employees pursuant to Executive Order 11-58, Section 944.474, Florida Statutes, and 33-208.403 F.A.C. The selection of employees for random drug testing shall be made by a scientifically valid method such as a computer generated random number table. Each employee shall have an equal chance of being selected each time selections are made.

An employee in a position requiring certification by the Criminal Justice Standards and Training Commission will be dismissed for a first positive confirmed drug test result when illegal use of drugs, pursuant to Section 893.13, Florida Statutes, is confirmed except as otherwise noted in applicable procedure. All other employees with a first positive confirmed drug test will be given the opportunity to participate in, at the employee’s own expense or pursuant to coverage under a health insurance plan, an employee assistance program or alcohol and drug rehabilitation program.

All information, interviews, reports, statements, memoranda, and drug test results (written or otherwise) received by the agency through a drug testing program are confidential communications and will not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with the Drug-Free Workplace Act.

As a condition of employment with the Department of Corrections, employees shall abide by the terms of this Drug-Free Workplace Policy Statement. In addition, an employee shall notify the Department in writing, within five calendar days of his or her conviction for a violation of a criminal drug statute.

If an employee or job applicant refuses to submit to a drug test, the Department shall not be barred from discharging or disciplining the employee or from refusing to hire the job applicant.

The name, address, and telephone number of the State’s employee assistance program will be provided to employees upon request.

An employee or job applicant who receives a positive confirmed drug test result may contest the drug test result as provided by Sections 112.0455(14) and (15), Florida Statutes.

It is the responsibility of the employee or job applicant to notify the laboratory of any administrative or civil actions brought pursuant to the Drug-Free Workplace Act.

The following is a list of all drugs for which the Department may test, described by brand names or common names, as applicable as well as by chemical names.

DRUGS	TRADE OR COMMON NAMES
<u>Alcohol</u>	Distilled spirits, wine, malt beverages, intoxicating liquors, liquid medications containing ethyl alcohol
<u>Narcotics</u>	
Opium	Dover’s Powder, Paregoric, Parepectolin
Morphine	Morphine, Pectoral Syrup
Codeine	Tylenol with Codeine, Empirin Compound with Codeine, Robitussin A-C
Heroin	Diacetylmorphine, Horse, Smack
Hydromorphone	Dilaudid
Meperidine (Pethidine)	Demerol, Mepergan
Methadone	Dolophine, Methadone, Methadose
Other Narcotics	LAAM, Leritine, Numorphan, Percodan, Tussionex, Fentanyl, Darvon, Talwin, Lomotil

<u>Depressants</u>	
Chloral Hydrate	Noctec, Somnos
Barbiturates	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate
Benzodiazepines	Ativan, Azene, Klonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril
Methaqualone	Quaalude
Glutethimide	Doriden
Other Depressants	Equanil, Miltown, Noludar, Placidyl, Valmid
<u>Stimulants</u>	
Cocaine	Coke, Crack, Flake, Snow
Amphetamines	Biphedamine, Delcobese, Desoxyn, Dexedrine, Mediatric
Phenmetrazine	Preludin
Methylphenidate	Ritalin
Other Stimulants	Adipex, Bacarate, Cylert, Didrex, Ionamin, Plegine, Pre-Sate, Sanorex, Tenuate, Tepanil, Voranil
<u>Hallucinogens</u>	
LSD	Acid, Microdot
Mescaline and Peyote	Mesc, Buttons, Cactus
Amphetamines Variants	2,5-DMA, PMA, STP, MDA, MDMA, TMA, DOM, DOB
Phencyclidine	PCP, Angel Dust, Hog
Phencyclidine Analogs	PCE, PCPY, TCP
Other Hallucinogens	Bufotenine, Ibogaine, DMT, DET, Psilocybin, Psilocyn
<u>Cannabis</u>	
Marijuana	Pot, Acapulco Gold, Grass, Reefer, Sinsemilla, Thai Sticks
Tetrahydrocannabinol	THC
Hashish	Hash
Hashish Oil	Hash Oil

An employee or a job applicant who receives a positive confirmed drug test result may contest or explain the result to the Department within five working days after written notification of the positive test result. If the Department deems the employee's/job applicant's explanation or challenge unsatisfactory, the employee/job applicant may contest the drug test result as follows:

- An employee who is disciplined or who is a job applicant for a position requiring certification by the Criminal Justice Standards and Training Commission and is not hired pursuant to the Drug-Free Workplace Act, may file an appeal with the Public Employees Relations Commission within 30 calendar days of receipt by the employee of the notice of discipline or refusal to hire. The notice shall inform the employee of the right to file an appeal, or if available, the right to file a collective bargaining grievance pursuant to Section 447.401, Florida Statutes.
- Employees and job applicants have the right to consult the testing laboratory for technical information regarding prescription and non-prescription medication. The names, addresses, and telephone numbers of the Drug Testing Laboratories used by this Department are available in each Department of Corrections Facility and will be provided to employees on request.
- Any person alleging a violation of the Act that is not remediable by the Public Employees Relations Commission or an arbitrator and is seeking relief must institute civil action for injunctive relief or damages (or both) in a court of competent jurisdiction within 180 days of the alleged violation.

In addition, **FOR EMPLOYEES REQUIRED TO POSSESS A COMMERCIAL DRIVER LICENSE:**

The Federal Motor Carrier Safety Administration (FMCSA) requires the Florida Department of Corrections, as a state agency engaged in intrastate transport, to have in place an alcohol use and controlled substance abuse testing program for employees who operate a commercial motor vehicle and are required to be in possession of a CDL. Controlled substance and alcohol use testing for CDL drivers shall be conducted under and in compliance with the provisions of the United States Department of Transportation Regulation 49 CFR Part 40, and Federal Motor Carrier Safety Administration Regulation 49 CFR 382, et al., and any subsequent amendments to the aforementioned federal law or regulations.

Definitions:

- **Commercial Motor Vehicle (CMV)** – means a motor vehicle or combination of motor vehicles used to transport passenger or property if the motor vehicle:
 - Has a gross vehicle weight rating of 26,001 or more pounds;
 - Has a gross combined weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
 - Is designated to transport 16 or more passengers, including the driver; or
 - Transports hazardous material requiring the vehicle to be placarded.
- **Safety-Sensitive Functions** – means, essentially, driving a commercial motor vehicle; specifically, any on-duty-time spent in the operation, maintenance or attendance of a commercial motor vehicle (CMV) as specified in Subsections 49 CFR 382.107 and 49 CFR.2(a).

Tests Required:

- **Pre-Employment** – All applicants for positions required to possess a CDL shall undergo testing for controlled substances. Applicants applying for certified positions will continue to be drug tested in accordance with this Drug-Free Workplace Policy Statement and the Pre-Employment/Employment Drug and Medical Exam Testing Program.
- **Post-Accident** – As soon as practicable following an accident involving a commercial motor vehicle, the Department shall test (both for alcohol and controlled substances) the CDL driver if:
 - The accident resulted in a loss of human life; or
 - The Department’s CDL driver was issued a moving vehicle violation citation arising from the accident, if the accident involved:
 - Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- **Random** – The selection of CDL drivers for random alcohol and controlled substance testing shall be made by a scientifically valid method, such as a computer-generated random number table. Each CDL driver must have an equal chance of being tested each time selections are made. The Department must randomly select a sufficient number of CDL drivers each calendar year as follows:
 - For random alcohol testing, a minimum of the percent of the average number of CDL driver positions as specified by the Federal Department of Transportation.
 - For random controlled substances testing, a minimum of the percent of the average number of CDL driver positions as specified by the Federal Department of Transportation.
 - A CDL driver may only be tested for alcohol just before, while performing, or just after performing the safety-sensitive function. Random controlled substances testing may be performed at any time while the CDL driver is at work for the Department.

- **Return-to-Duty** – The Department must ensure that any CDL driver who violates any of the FMCSA prohibitions (listed below) has been evaluated by a substance abuse professional (SAP), treated (where indicated), and successfully passed a retest for alcohol and/or controlled substances before returning to a safety-sensitive function. A certified officer will be disciplined, up to and including discharge, for the first positive confirmed drug test result when illicit drugs, pursuant to Chapter 893.13, Florida Statutes, are confirmed.
- **Follow-up** – Following a determination that a CDL driver is in need of assistance in resolving alcohol misuse and/or drug abuse problems, the Department must ensure that the CDL driver is subject to unannounced follow-up alcohol and/or controlled substances testing as directed by the SAP. A certified officer will be disciplined, up to and including discharge, for the first positive confirmed drug test result when illicit drugs, pursuant to Chapter 893.13, Florida Statutes, are confirmed.
 - The “recovering” CDL driver shall be subject to a minimum of 6 unannounced follow-up and controlled substances tests in the first 12 months following the CDL driver’s return to duty. The SAP can direct additional tests during this period or for an additional period up to a maximum of 60 months from the CDL driver’s return to duty.

FMCSA Prohibitions:

1. Alcohol Concentration:

- a. No CDL driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.
- b. No supervisor or manager, having actual knowledge that a CDL driver has an alcohol concentration of 0.02 or greater, shall permit the CDL driver to perform or continue to perform safety-sensitive functions.

2. Alcohol Possession:

- a. No CDL driver shall be on duty or operate a commercial motor vehicle while the CDL driver is in the possession of alcohol.
- b. No supervisor or manager, having actual knowledge that a CDL driver is in possession of alcohol, may permit the CDL driver to drive or continue to drive a commercial motor vehicle.

3. On-Duty Alcohol Use:

- a. No CDL driver shall use alcohol while performing safety-sensitive functions.
- b. No supervisor or manager, having actual knowledge that a CDL driver is using alcohol while performing safety-sensitive functions, shall permit the CDL driver to perform or continue to perform safety-sensitive functions.

4. Pre-Duty Alcohol Use:

- a. No CDL driver shall perform safety-sensitive functions within four hours after using alcohol.
- b. No supervisor or manager, having actual knowledge that a CDL driver has used alcohol within four hours, shall permit such driver to perform or continue to perform safety-sensitive functions.

5. Alcohol Use Following an Accident:

- a. No CDL driver, required to take a post-accident alcohol test, shall use alcohol for eight hours following the accident or until he or she undergoes a post-accident alcohol test, whichever occurs first.

6. Controlled Substances Use:

- a. No CDL driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the CDL driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the CDL driver that the prescribed substances do not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- b. No supervisor or manager, having actual knowledge that a CDL driver has used a controlled substance, shall permit the CDL driver to perform or continue to perform a safety-sensitive function.
- c. The Department may require a CDL driver to inform the Department's designee of any therapeutic drug use.

7. Controlled Substances Testing:

- a. No CDL driver shall report for duty, remain on duty or perform a safety-sensitive function if the CDL driver tests positive for controlled substances.
- b. No supervisor or manager, having actual knowledge that a CDL driver has tested positive for controlled substances, shall permit the CDL driver to perform or continue to perform a safety-sensitive function.

8. Refusal to Submit to a Required Alcohol or Controlled Substances Test:

- a. No CDL driver shall refuse to submit to:
 - A post-accident alcohol or controlled substances test;
 - A random alcohol or controlled substances test; or
 - A follow-up alcohol or controlled substances test.
- b. Refusal to submit to a drug test by an employee or any evidence of an attempt to defeat the validity of the test shall result in the employee being disciplined up to and including dismissal.
- c. No supervisor or manager shall permit a CDL driver who refuses to submit to such required alcohol and/or controlled substances tests to perform or continue to perform safety-sensitive functions.

Any questions regarding this drug testing policy statement should be directed to Central Office Personnel.



Mark S. Inch
Secretary

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Date

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