

REASONABLE SUSPICION TESTING -ALCOHOL (49 CFR 382.307)

- Reasonable suspicion of alcohol use must be based on specific, contemporaneous, articulable observations concerning:
 - Appearance;
 - Behavior;
 - Speech; or
 - Body odors of the driver.
- Required observations shall be made by a supervisor or company official trained in accordance with 49 CFR 382.603. This person cannot conduct the alcohol test.
- Test must be administered within two hours or a record must be prepared and maintained stating why it was not properly administered.
- If not administered within eight hours, all attempts to administer the test will cease and a record prepared and maintained stating why it was not properly administered.

REASONABLE SUSPICION TESTING – CONTROLLED SUBSTANCES (49 CFR 382.307)

- Employer must keep a written record of the observations leading to a controlled substances test.
- It must be signed by the supervisor or company official who made the observation within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier.

RETURN TO DUTY TESTING (49 CFR 382.309)

- Each employer shall ensure that before an employee returns to duty after violating:
 - Any of the alcohol misuse provisions -
 - Employee has undergone a return to duty alcohol test with a result of less than 0.02%.
 - Any of the controlled substances provisions -
 - Each employee has undergone a return to duty controlled substances test with a negative result.

FOLLOW-UP TESTING (49 CFR 382.311)

- Each employee identified as needing assistance in resolving problems associated with alcohol misuse or controlled substances use shall be subject to at least six unannounced follow-up tests in the first 12 months following the employee's return to duty.
- Substance abuse professional (SAP) can direct additional testing during this period or for an additional period of time up to a maximum of 60 months from the date the employee returns to duty.
- If SAP has cause, both alcohol and controlled substances testing can be administered during follow-up testing.
- Requirements regarding safety-sensitive functions are in effect.

ACCESS TO FACILITIES AND RECORDS (49 CFR 382.405(f))

- Records shall be made available to a subsequent employer upon receipt of a written request from a driver.

RECORD RETENTION AND CONFIDENTIALITY OF TEST RESULTS (49 CFR 382.401)

Each employer is required to maintain records of its alcohol misuse and controlled substances use prevention program.

- Five year retention includes:
 - Records of driver alcohol test results indicating an alcohol concentration of 0.02 or greater,
 - Records of driver verified positive controlled substances test results,
 - Documentation of refusals to take required alcohol and/or controlled substances tests,
 - Driver evaluation and referrals,
 - Calibration documentation,
 - Records related to the administration of the alcohol and controlled substances testing programs, and
 - A copy of each annual calendar year summary required by 49 CFR 382.403.
- Two year retention includes:
 - Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).
- One year retention includes:
 - Records of negative and canceled controlled substances test results (as defined in 49 CFR 40) and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.
- Indefinite retention includes:
 - Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by the employer while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

For information regarding US DOT alcohol and drug testing requirements go to www.fmcsa.dot.gov/rules-regulations/topics/drug/engtesting.htm



**Illinois Department
of Transportation**

Division of Traffic Safety
1340 N. 9th Street
P.O. Box 19212
Springfield, Illinois 62794-9212
217/785-1181
www.dot.il.gov/safety.html



State of Illinois
Illinois Department of Transportation

Federal Alcohol & Drug Testing Requirements

Information For Motor Carriers



**Illinois Department
of Transportation**
Division of Traffic Safety

CONTROLLED SUBSTANCES AND ALCOHOL USE TESTING

- 49 CFR Part 382(Controlled Substances and Alcohol Use Testing) requires employers to test drivers who are required to obtain a CDL for the illegal use of alcohol and controlled substances.

APPLICABILITY

- Part 382 applies to operators of commercial motor vehicles as defined in 49 CFR 383 (Commercial Driver's License Standards; Requirements and Penalties). Part 382 applies to both interstate as well as intrastate commercial motor vehicles.
- Commercial motor vehicle (at 49 CFR 383.5) is defined as a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle
 - Has a gross combination weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit(s) with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
 - Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 pounds or more); or
 - Is designed to transport 16 or more passengers, including the driver; or
 - Is of any size and is used in the transportation of hazardous materials as defined in 49 CFR 383.5.
- Parts 383 and 382 apply to drivers and employers not currently covered by all or some of the Federal Motor Carrier Safety Regulations (FMCSR) such as:
 - Federal, state & local governmental agencies and
 - Church and civic organizations.
- Certain exceptions may apply for specific industries. A state may, at its discretion, exempt farmers, firefighters, emergency response vehicle drivers, and drivers removing snow and ice from the requirements. The use of this waiver is limited to the driver's home State unless there is a reciprocity agreement with adjoining states. (See 625 ILCS 5/6-500(6)(B)(iii) and 6-507(c) and (c-5) for exceptions in Illinois.)
- Each state must exempt individuals who operate commercial motor vehicles for military purposes.

PROHIBITIONS

- A driver is prohibited from performing safety-sensitive functions:
 - After a positive alcohol test of 0.02% BAC or a positive drug test; or
 - Within four hours of using alcohol.
- Drivers are prohibited from using alcohol or illegal drugs while on duty.
- Before performing a test, employer must notify the employee being tested that the test being administered is required by federal regulation.

IF TEST RESULTS INDICATE ALCOHOL CONCENTRATION OF 0.02% OR GREATER, BUT LESS THAN 0.04%

- Driver not permitted to perform safety-sensitive functions for at least 24 hours.
- No further action required under 49 CFR 382.
- This does not prohibit an employer with authority independent of this Part from taking any action otherwise consistent with law. (49 CFR 382.505(b))

IF TEST RESULTS INDICATE ALCOHOL CONCENTRATION OF 0.04% OR GREATER

- Driver must be removed from, and cannot be returned to, a safety-sensitive function until driver:
 - Is advised by employer of the resources available in evaluating and resolving problems associated with alcohol or controlled substances.
 - At this point, the driver may be terminated.
 - Is evaluated by a substance abuse professional to determine what assistance is necessary.
 - Undergoes a return to duty test with a result of less than 0.02% Alcohol Concentration.
- A substance abuse professional determines the employee has successfully complied with any required rehabilitation.

IF TEST RESULTS INDICATE POSITIVE CONTROLLED SUBSTANCES TEST

- Driver must be removed from, and cannot be returned to, a safety-sensitive function until driver:
 - Is advised by employer of the resources available in evaluating and resolving problems associated with alcohol or controlled substances.
 - At this point, the driver may be terminated.
 - Is evaluated by a substance abuse professional to determine what assistance is necessary.
 - Undergoes a return to duty test with a verified negative result.
- A substance abuse professional determines the employee has successfully complied with any required rehabilitation.

DEFINITION OF SAFETY-SENSITIVE POSITION

- Any function listed in paragraphs (1) through (7) in the definition of On Duty Time at 49 CFR 395.2.

OTHER ISSUES

- Who pays for assessment and evaluation?
 - USDOT does not regulate.
- No CDL suspensions or disqualifications are included in Part 382.

- The only driving prohibition period for a controlled substances violation is completion of rehabilitation requirements and a return to duty test with a negative result.
- The only driving prohibition period for an alcohol violation is completion of rehabilitation requirements and a return to duty alcohol test with a result of less than 0.02%.
- An employee may be assigned to a non safety-sensitive function until complying with requirements for returning to duty.

REFUSAL TO TEST

- The consequences for refusal are the same as for a 0.04% or greater alcohol test (i.e., a positive drug test).

DRUG & ALCOHOL POLICY REQUIREMENTS

- Each employer must ensure that, prior to the start of testing:
 - Each covered employee receives educational materials that explain the alcohol and drug misuse prevention requirements and
 - The employer's policies and procedures with respect to meeting those requirements. (49 CFR 382.601)
- Notice regarding the availability of this information must:
 - Be in writing; and
 - Be given to each covered employee and any representatives of his/her employee organization. (49 CFR 382.601(a)(2))

PRE-EMPLOYMENT TESTING (49 CFR 382.301)

- Employer has the flexibility to test at any time during the hiring process.
 - Including before or after the employee receives a conditional offer of employment.
 - FMCSA expects employers to conduct pre-employment testing of drivers each time a driver returns to work after a layoff period when the driver does not continue to be subject to random testing.

POST-ACCIDENT TESTING (49 CFR 382.303)

- After an accident (as defined in 49 CFR 390.5) involving a commercial motor vehicle, an employer must test each surviving driver for alcohol and controlled substances who:
 - Was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - Receives a citation under state or local law for a moving traffic violation arising from the accident.
- An employer shall provide drivers with necessary post-accident information, procedures and instructions prior to the driver operating a CMV, so that drivers will be able to comply with these requirements

POST-ACCIDENT TESTING - ALCOHOL (49 CFR 382.303)

- Tests must be administered as soon as possible to determine if there was any alcohol misuse.
 - If not administered within two hours, the employer must prepare and maintain a file or record stating why the test was not properly administered.
 - If not administered within eight hours, the employer shall cease attempts to administer an alcohol test and shall prepare the same record.

ALCOHOL USE FOLLOWING AN ACCIDENT (49 CFR 382.209)

- No driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until undergoing a post-accident alcohol test.

POST-ACCIDENT TESTING – CONTROLLED SUBSTANCES (49 CFR 382.303)

- If the test is not administered within 32 hours following the accident:
 - The employer shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons why the test was not properly administered.

RANDOM TESTING (49 CFR 382.305)

- The employer must select employees for testing through a scientifically valid method, such as a:
 - Random number table; or
 - Computer-matched random number generator matched with SSN, payroll ID numbers or other comparable ID numbers.
- Alcohol random testing rate is 10%.
- Controlled substances testing rate is 50%.
- Random alcohol testing is limited to the following time periods:
 - During the performance of safety-sensitive functions;
 - Just before performing safety-sensitive functions; or
 - Just after ceasing to perform safety-sensitive functions.
- Random controlled substances testing may be performed at any time the driver is at work for the employer.
- A company with one or two drivers must insure there is no time during which the employees knew testing is complete for that testing period.
- Owner-operators must belong to a consortium.