

**RESOLUTION OF THE BOARD OF SUPERVISORS
FOR
JACKSON TOWNSHIP, PENNSYLVANIA
ESTABLISHING A DRUG AND ALCOHOL TESTING POLICY**

The Policy set forth herein is established by Resolution of the Board of Supervisors of Jackson Township, adopted November 30, 1995. This Policy shall be effective January 1, 1996, and shall continue in effect until amended or terminated by resolution of the Board of Supervisors.

I. PURPOSE:

- A. The purpose of this policy is that Jackson Township may comply with federal legislation and regulations thereto concerning commercial drivers licenses (CDL) in its employ.
- B. To conform the employment policies of the Township with the requirements of said law and regulations.

II. DEFINITIONS:

"Commercial Driver's License" or "CDL" - the operating license given to an individual allowing that individual to operate a motor vehicle or combination of motor vehicles that has or have a gross weight rating of 26,001 or more pounds.

"Township" shall mean Jackson Township, Cambria County, Pennsylvania.

"Consortium" shall mean the group of Cambria County Association of Township Officials that acts on behalf of Jackson Township in the alcohol or controlled substances testing.

III. APPLICATION:

- A. This policy shall apply to only those employees and applicants for employment of the Township who are required to have a CDL license for their employment and who are assigned to operate vehicles or equipment requiring CDL licensure.

IV. FEDERAL REGULATIONS:

- A. The regulations of the Federal Highway Management Administration are hereby adopted by reference insofar as they apply to this Township and this Policy.

V. POLICY ESTABLISHED:

- A. Employees shall not use, sell, possess, consume or receive alcohol or illegal drugs, or distribute or sell prescription drugs while on duty.

1. Violation of this policy will subject the employee to discipline and/or dismissal, subject to any applicable provisions and procedures of the collective bargaining agreement in effect, if any.

- B. Prescription Drugs.

1. Prescription drugs must be kept in their original container identifying the drug, dosage, date of prescription and physician.

2. Employees are required to notify their supervisor if they are taking a prescription drug that could impair their working ability or alertness.

- a. The term "illegal drugs" shall include drugs for which the employee does not have a valid prescription.

- C. Testing Programs.

1. The testing programs will cover the following substances present in the body:

- a. alcohol;
 - b. cocaine;
 - c. phencyclidine (PCP);
 - d. marijuana;
 - e. opiates (including Heroin);
 - f. amphetamines; and
 - g. such other illegal drugs as may be identified from time to time.

VI. TESTS ESTABLISHED

- A. Tests will be conducted by a licensed facility and will be analyzed by a Medical Review Officer.

1. The Medical Review Officer who is appointed shall be a doctor of medicine or osteopathy with knowledge of drug and alcohol abuse disorders and who is employed by the Township, or the Consortium which the Township has joined, to conduct alcohol and drug testing in accordance with the federal regulations.
- B. The following drug and alcohol test procedures shall be applicable to all employees and applicants for employment to whom this Policy applies:
1. Pre-Employment.
 - a. All applicants for employment shall be tested for drugs prior to acceptance for employment by the Township.
 - b. Any applicant testing positive shall not be considered for employment.
 - c. Any refusal for failure by the applicant to submit to such test shall be deemed to be a positive result.
 2. Random.
 - a. The Township through the Consortium will implement a random testing procedure which meets the requirements of the federal regulations.
 - b. This testing procedure shall include tests of affected employees on a random basis and shall be conducted without any advance notice; but shall be done not less than a quarterly basis.
 - c. The number of affected employees of the Consortium members selected shall be at least 50% of the employees of the Consortium for drug testing and 25% of the employees of the Consortium for alcohol testing annually.
 3. Reasonable Cause.
 - a. Any employee giving reasonable cause to believe that he or she is in violation of the Policy Established herein shall be subjected to testing immediately upon observation of such reasonable cause by trained supervisory personnel.

(1) Reasonable cause shall be limited to behavior or conduct observed at the workplace or enroute to a workplace during working hours.

(a) Observation shall be by supervisory personnel who have received at least one hour of training in drug use detection and one hour of training in alcohol use detection.

(b) Supervisory personnel making reasonable cause observations shall make and file with the Township a written report of the attendant circumstances.

(2) All reports filed by Supervisory personnel making reasonable cause observations shall be confidential.

4. Post Accident

a. Any employee involved in an accident as defined herein shall be tested for drugs as soon possible after an accident occurs, but no later than thirty-two (32) hours, and for alcohol as soon as possible after an accident occurs, but no later than eight (8) hours.

(1) Post Accident testing should not take precedence over needed medical treatment or other needed emergency measures;

b. An accident shall include any occurrence involving a CDL vehicle where the following occur:

(1) there is a fatality regardless of fault;
or

(2) (a) bodily injury requiring transportation of the injured person away from the accident scene for treatment; or

(b) vehicular damage requiring the vehicle to be towed; and

(c) issuance of a citation to the Township employee for a moving violation arising from the accident.

2. If for any reason the tests cannot be obtained within the times provided, the tests shall not be administered;
3. No employee shall consume alcohol or illegal drugs between the time of the accident and the test administration;

VII. RETURN TO DUTY

- A. Any employee whose drug or alcohol test results are positive shall subject the employee to either:
 1. disciplinary action or
 2. dismissal by the Township at the Township's discretion or in accordance with such other, further policy as the Township may adopt in the future.
- B. If re-employment is offered to the employee, the employee shall, prior to returning to duty:
 1. Consult such drug and alcohol abuse professional to whom the employee has been referred at the employee's expense;
 2. Undergo drug and alcohol tests at the employee's expense and obtain negative results.

VIII. FOLLOW-UP:

- A. Any employee returning to duty after a positive drug and/or alcohol test shall be subject to unannounced follow-up tests for a period of sixty (60) months following return to duty.
 1. At least six (6) unannounced follow-up tests shall be conducted in the twelve (12) months following return to duty.

IX. EMPLOYEE ASSISTANCE PROGRAM

The Township shall establish the following:

- A. A list of consultative and treatment services available in the area for drug and alcohol abuse problems.
 1. The list of consultative and treatment services shall be posted at a place readily accessible to employees.

- B. A list of educational and training resources available in the area for drug and alcohol abuse problems.
 - 1. The list of educational and training resources shall be posted at a place readily accessible to employees.
- C. A place or service for referring employees who test positive for drugs or alcohol for consultation and treatment.
- D. A one hour training and education program for employees.
- E. On hour training each in drug and alcohol detection and related matters for supervisory personnel.
 - 1. Supervisory training programs shall include the following components:
 - a. Effects of drug and alcohol abuse on health and safety;
 - b. Manifestations of abuse and abuse detection;
 - c. Documentation of training and implementation of this Policy.

X. TEST RESULTS

- A. Employees will be notified if their drug or alcohol test result is positive.
- B. Test results shall be retained by the Medical Review Officer responsible for testing.
 - 1. Test results shall be held in strictest confidence and shall be accessible only to the employee, the employer, and such other persons authorized by law and shall not be released to any other person except with the written consent to the employee.
 - a. The results of tests made known to the Township may be released to future employers in accordance with the federal regulations.

XI. CONFIDENTIALITY OF DOCUMENTS

- A. All files, documents, and records of the Township related to the application of this Policy to individual employees shall be deemed and kept confidential by the Township.

XII. RECORD KEEPING

- A. All of the records relating to the administration and results of the Township's alcohol and drug testing program for its CDL drivers will be maintained for a minimum period of five (5) years, except that individual negative test results will be maintained for a minimum of twelve (12) months.
- B. The Medical Review Officer shall be the sole custodian of individual test results.
 - 1. The Medical Review Officer shall retain the reports of individual test results for a minimum of five (5) years.
- C. The Township shall retain in the employee's personnel file information indicating only the following:
 - 1. The employee submitted to a drug and/or alcohol test;
 - 2. The date of such test;
 - 3. The location of such test;
 - 4. The identity of the person or entity performing the test; and
 - 5. Whether the test finding was "positive" or "sub-negative."
- D. The Township will also maintain an annual (calendar) year summary of the records related to the administration and results of the testing program for its drives under the federal regulations.

XIII. ACCESS TO TEST RESULTS AND FINDINGS

- A. No person may obtain the individual test results retained by the Medical Review Officer.
- B. No Medical Review Officer shall release the individual test results of any employee to any person, without first obtaining written authorization from the tested individual, unless otherwise requested by law.

XIV. MISCELLANEOUS

- A. This Policy shall be implemented with the constitutional and legal rights of the employees subjected to it.

- B. This Policy shall not be deemed to be a covenant of employment or other form of covenant or contract between the Township and any employee.
- C. Any collective bargaining agreement entered by the Township subsequent to the adoption of this Policy shall conform with the provisions of this Policy.
- D. Any agreement for the sharing, leasing, lending, or other transfer of CDL employees between the Township any other municipality of private enterprise shall address in writing the status of said employees as to whether they are employees of the receiving entity during the period of the transfer.
- E. Any contract for services involving CDL employees shall expressly state whether the contracting party is an independent contractor or employee/agent of the Township.
- F. The definition of terms shall be as contained in the relevant federal regulations.
- G. A copy of this Policy shall be delivered to every employee and applicant for employment who is subject to it and to all supervisory personnel.
 - 1. All employees shall sign an acknowledgment of receipt of the Policy.
- H. A copy of the controlling law and federal regulations shall be maintained in the Township offices and shall be accessible to employees, upon requested.
- I. This Policy will be limited by any applicable federal or state law or municipal ordinance, and by any applicable collective bargaining agreements.
 - 1. Any portion of this Policy which directly conflicts with such a law, ordinance, or agreement will not be implemented in that jurisdiction or bargaining unit, but shall be severable and shall not affect the validity and enforcement of the remainder of the Policy.
- J. Employees agree to waive any liability against the Township or the Consortium arising out of the Township's administration of this Policy and its administration of the program established pursuant to the federal law or regulations regarding the Township's responsibility for CDL drivers.

NOW THEREFORE, the Board of Supervisors for Jackson Township hereby adopt the foregoing Drug and Alcohol Testing Policy this 30th day of November, 1995.

ATTEST:

George E. Burkey
George E. Burkey, Secretary

JACKSON TOWNSHIP SUPERVISORS

David B. Somogyi
David Somogyi, Chairman

Donald B. Dugan
Donald Dugan, Member

David L. Bracken
David Bracken, Member