



Idealease Safety Bulletin

November 2, 2007

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Question of the Week?

I have a driver with a CDL that has tested positive for a drug or alcohol test. Am I required to report the positive test to anyone?

Currently, the FMCSA regulations do not require that positive tests be reported to the FMCSA or any federal agency when they occur. However, states have enacted regulations that require an employer of a CDL employee who tests positive to report it. WA and NC are states that require the reporting and take enforcement action with a CDL driver that has tested positive for drugs or alcohol under the FMCSA regulations and either suspends or revokes the license. TX, WI, OR, AR and CA have varying requirements for reporting of positive tests and how the information is used.

DO NOT FORGET that you as the motor carrier are required to provide the positive information per FMCSA regulation to a perspective employer of a driver who has tested positive or refused to test when the inquiry from the perspective employer is within three years from the date of the positive test or refusal, CFR 391.23.

It is no secret to the industry that there are drivers who test positive for pre employment drug tests and are not hired and then go on to another employer without any tracking of the positive test and the completion of the mandatory return to duty process. This week the Government Accountability Office (GAO) released a report that undercover federal investigators discovered that it was surprisingly easy to cheat on random drug tests designed to catch truck drivers who use drugs, NBC News reported Wednesday night. Undercover investigators with GAO, the investigative arm of Congress, used bogus truck driver's licenses to gain access to 24 drug-testing sites. They found that 75 percent "failed to restrict access to items that could be used to adulterate or dilute the [urine] specimen, meaning that running water, soap, or air freshener was available in the bathroom during the test."

The American Trucking Associations Thursday urged Congress to help the trucking industry keep drug and alcohol abusers off the road by supporting efforts to enhance drug and alcohol testing for the nation's 3.4 million truck drivers to be in a nationwide data base reporting program. ATA urged Congress to authorize and fund a centralized clearinghouse for positive drug and alcohol testing results of commercial drivers to ensure that motor carrier employers are aware of previous positive test results during the hiring process.

The association also asked Congress to encourage the Department of Transportation to implement an incentive-based random testing rate requirement and focus on motor carriers with above average positive test results.

Recommendations further included banning the manufacture, sale and distribution of products that help drivers evade drug tests and penalizing those who use them; directing the Substance Abuse and Mental Health Services Administration and the U.S. DOT to initiate a rulemaking that allows the testing of hair as an alternative to urine, and improving oversight of specimen collection facilities and practices.

Yesterday, the Federal Motor Carrier Safety Administrator John Hill spoke to the House Committee on Transportation and Infrastructure Subcommittee on Highways and Transit describe how the FMCSA is working to improve oversight of drug and alcohol testing of commercial motor vehicle (CMV) drivers. Hill said a number of strategies are being evaluated to deal with those testing positive for drugs and/or alcohol. FMCSA has begun a compliance initiative to identify drivers who fail to comply with the return-to-duty process — the process of being evaluated by a substance abuse professional (SAP) and undergoing the counseling or follow-up testing the SAP prescribes.

NEWS

Hazmat Fingerprint Fee Reduced
Drivers who undergo a fingerprint background check in the process of securing a hazardous materials endorsement for their commercial driver's license now are paying a lower fee. The FBI has reduced its fee for the search of its database, and as a result, the cost to the driver has been reduced from \$94 to \$89.25.

The price reduction became effective Sept. 27. CA raises the fine on the Anti-Idling law effective Jan 1, 2008. The fine for a driver of a commercial vehicle over 10,000 lbs will increase from \$100.00 to \$300.00.

All truck carriers now are required to submit manifests electronically to U.S. Customs before arriving at Maine and Minnesota land border entry ports.

The e-manifests detailing cargo and carrier information became mandatory at these ports Oct. 16. During initial enforcement, Customs will issue "informed compliance" warnings to violators.

On Dec. 16, Customs will begin to deny admittance to any carrier that arrives without submitting or attempting to submit an e-manifest. An e-manifest cover sheet may be accepted as initial proof of the attempt. Attempts no longer will be good enough, and maximum penalties of \$10,000 will begin to be issued, no sooner than Jan. 16.

As an Employer of drivers, illegal drugs should not be your only concern. With the growing use of prescription drugs in our society, abuse has increased dramatically which can affect a driver's performance and safety. Take a look at the number of emergency room visits for prescription drugs.

In a SAMSHA survey last year from 417 hospitals and nearly two million emergency-room visits, they reported the following.

Of the 1.3 million drug-related emergency-room visits surveyed:

- 495,732 involved prescription and over-the-counter drugs;
- 383,350 involved cocaine;
- 215,665 involved marijuana;
- 162,137 involved heroin;

Driver Tip: If you are using prescription drugs and must take them with you in a CMV keep them in the bottle in which the pharmacist dispensed them to you. If the event you are questioned by a law enforcement official you can prove that they are prescribed drugs versus having them in a Tupperware or zip lock bag. Also, in the event of a medical emergency or accident, emergency personnel will be able to determine the medications you are taking.