



12-15-1994

Hot Topic: Drug Testing Deadline Looms for Employees with Commercial Drivers' Licenses

MTAS

Follow this and additional works at: https://trace.tennessee.edu/utk_mtastop



Part of the [Public Administration Commons](#)

The MTAS publications provided on this website are archival documents intended for informational purposes only and should not be considered as authoritative. The content contained in these publications may be outdated, and the laws referenced therein may have changed or may not be applicable to your city or circumstances.

For current information, please visit the MTAS website at: mtas.tennessee.edu.

Recommended Citation

MTAS, "Hot Topic: Drug Testing Deadline Looms for Employees with Commercial Drivers' Licenses" (1994). *MTAS Publications: Hot Topics*.
https://trace.tennessee.edu/utk_mtastop/182

This Bulletin is brought to you for free and open access by the Municipal Technical Advisory Service (MTAS) at TRACE: Tennessee Research and Creative Exchange. It has been accepted for inclusion in MTAS Publications: Hot Topics by an authorized administrator of TRACE: Tennessee Research and Creative Exchange. For more information, please contact trace@utk.edu.

Hot Topics for Tennessee cities and towns

Dec. 15, 1994 #10

Drug Testing Deadline Looms for Employees with Commercial Drivers' Licenses

The Jan. 1, 1995, federal deadline is approaching for all cities with 50 or more employees required to have commercial drivers' licenses (CDLs) to institute drug and alcohol testing programs for those employees. Cities with fewer than 50 employees with CDLs have until Jan. 1, 1996, to have their programs in place.

The new federal mandates, issued by the U.S. Department of Transportation through the Federal Highway Administration, are rooted in drug and alcohol testing requirements established several years ago to regulate interstate truck drivers. The updated requirements now encompass *intrastate* drivers as well, including federal, state, and local government employees.

Employees who drive the following must be tested:

- ▶ vehicles with a gross weight of more than 26,000 pounds (either the weight registered for the vehicle or the manufacturer's weight, whichever is greatest);
- ▶ trailers with a gross weight in excess of 10,000 pounds;
- ▶ vehicles designed to transport more than 15 passengers, including the driver; or
- ▶ any vehicles that haul placarded hazardous materials.

The definition of "driver" under the regulations includes regular city employees, part-time and occasional drivers, leased drivers, and independent contractors. Emergency vehicle drivers are exempted.

Cities are responsible for instituting and carrying out programs that include urine drug testing at laboratories, breath alcohol testing, and drug and alcohol abuse awareness education for supervisors and employees. To administer the tests, cities may use their own employees, contract with private companies, or join a consortium of governments and businesses pooled together for such services.

MTAS can provide cities with a list of organizations that perform substance abuse testing. The MTAS list is by no means comprehensive, and MTAS neither encourages nor discourages cities from engaging any of the listed companies. The information is only intended as a starting point for cities considering which testing agency to retain.

-over-



Drivers must have a copy of the city's testing policies and material explaining the regulations before any testing program begins. MTAS consultants are preparing an extensive model policy that will be available to Tennessee cities in late January. In the meantime, MTAS would appreciate input from cities that are either working on or have completed their policies. MTAS encourages cities to have their drug and alcohol testing policies reviewed by their city attorney, MTAS, or another knowledgeable source. For an accurate count of the number of cities with more than 50 employees required to have CDLs, MTAS would like to be notified by those cities. Please call MTAS Personnel Consultant Rick Stokes, (615) 532-6827, with that information.

Cities must conduct the following alcohol and drug tests on employees required to have CDLs:

Pre-employment — These are performed before a new CDL employee goes to work for a city or when an employee is transferred to a position requiring a CDL.

Post-accident — If an employee is ticketed after an accident, he or she must be tested. If a city driver is involved in a fatal collision but isn't ticketed, he or she must still be tested.

Reasonable suspicion — Tests are conducted when a trained supervisor or city official suspects alcohol or drug use based on an employee's behavior. All supervisors must receive at least two hours of training on the signs and symptoms of drug and alcohol abuse.

Random — Such unannounced and unexpected tests are performed just before, during, or right after an employee drives. Each year, 25 percent of the drivers must be randomly tested for alcohol, and 50 percent must be randomly checked for drugs.

Return-to-duty and follow-up — Employees who previously tested positive for drugs or alcohol must pass another test before they can drive again. They are then subjected to at least six random tests during the next year. Follow-up testing may continue for five years.

The new regulations don't require cities to provide rehabilitation, pay for treatment, or reinstate a driver who tests positive for drugs or alcohol. However, if a city returns such an employee to driving duties, the city must make sure the driver:

- ▶ has seen a substance abuse counselor;
- ▶ complies with treatment;
- ▶ takes a return-to-duty test; and
- ▶ is subject to random follow-up tests.

Cities must keep detailed records about drug and alcohol infractions, their policies and testing requirements, and resources for employees with drug or alcohol problems.

A strong word of caution: There's an immense liability risk attached to testing government employees for drugs and alcohol, and lawsuits springing from violating an employee's Fourth Amendment rights can break a city. The Supreme Court says that to avoid such constitutional breaches, cities must follow established policies and engage qualified personnel to properly conduct drug and alcohol tests.

Call your MTAS consultant for more detailed information on meeting the federal requirements for drug and alcohol testing of city employees with CDLs.

Clip and Post by Your Phone

The University of Tennessee Municipal Technical Advisory Service

600 Henley Street, Suite 120
Knoxville, TN 37996-4105
(615) 974-0411
Fax (615) 974-0423

226 Capitol Boulevard, Suite 402
Nashville, TN 37219-1804
(615) 532-MTAS (6827)
Fax (615) 532-4963

605 Airways Boulevard, Suite 109
Jackson, TN 38301
(901) 423-3710
Fax (901) 425-4771

P.O. Box 100
Martin, TN 38238
(901) 587-7055
Fax (901) 587-7059

208 Sunset Drive, Suite 408
Johnson City, TN 37604
(615) 854-9882
Fax (615) 854-9223

The University of Tennessee does not discriminate on the basis of race, sex, color, religion, national origin, age, handicap, or veteran status in provision of admission opportunities or employment opportunities and benefits.
 The University does not discriminate on the basis of sex or handicap in the education programs and activities, pursuant to regulations of Title IX of the Education Amendments of 1972, Public Law 92-318, and Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, and the Americans with Disabilities Act of 1990, Public Law 101-336, respectively. This policy extends to both employment by and admission to the University.
 Inquiries concerning Title IX, Section 504, and the Americans with Disabilities Act of 1990 should be directed to Gary W. Beckett, director of business services, 109 Student Services and Administration Building, Knoxville, Tennessee 37996-0212, (615) 974-6622. Charges of violation of the above policy should also be directed to Mr. Beckett.
 TM

The University of Tennessee
 Municipal Technical Advisory Service
 600 Henley Street
 Suite 120
 Knoxville, Tennessee 37996-4105



The Municipal Technical Advisory Service (MTAS) is a statewide agency of The University of Tennessee's Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League in providing technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, communications, ordinance codification, and wastewater management.

MTAS *Hot Topics* are information briefs that provide a timely review of current issues of interest to Tennessee municipal officials. *Hot Topics* are free to Tennessee local, state, and federal government officials and are available to others for \$2 each. Photocopying of this publication in small quantities for educational purposes is encouraged. For permission to copy and distribute large quantities, please contact the MTAS Knoxville office at (615) 974-0411.