

# TOWN OF TREMONT

## ALCOHOL AND CONTROLLED SUBSTANCES TESTING POLICY

### STATEMENT OF POLICY;

The safety and well being of our drivers, employees and the general public requires that our Drivers perform their duties free from the effects of alcohol and/or drugs. A driver who uses or abuses alcohol and/or drugs is a hazard to Town of Tremont, its residents, other employees and himself/herself.

### Designated Employer Representative/PROGRAM ADMINISTRATORS

Designated Employer Representative (DER)/Program Administrator for the Town of Tremont:  
Debbi Nickerson  
DER Alternate: Millard Billings

In this function the DER will be responsible to answer any questions from the drivers or the public in general.

The DER will handle all information on all tests of covered drivers as confidential. The DER may provide such information as necessary to the Town Manager to enable him to take proper disciplinary action as warranted. The DER may also release test information to the Town of Tremont's substance abuse professional to use to evaluate and recommend appropriate follow-up.

### DRIVERS SUBJECT TO TESTING;

All drivers who must have a commercial driver's license to perform their duties, which are considered as safety-sensitive, will be subject to the alcohol and/or drug testing as outlined in this policy and required by title code of federal regulations CFR Parts 40 and part 382.

### DRIVERS COMPLIANCE WITH REGULATION;

All drivers subject to alcohol and drug testing must be in compliance with regulations and this policy at all times while in a working status for the Town of Tremont. This will include all time spent performing safety-sensitive functions or just before or just after performing safety-sensitive functions.

**Safety-Sensitive Function** means all time from the time the driver begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- 1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty from employer;
- 2) All time inspecting equipment as required by Sect. 392.7 and 392.8 of 49 C.F.R. otherwise inspecting, servicing, or conditioning any Town of Tremont motor vehicles at any time;
- 3) All time spent at the driving controls of a Town of Tremont motor vehicle in operation;
- 4) All time, other than driving time, in or upon any Town of Tremont motor vehicle.
- 5) All time loading or unloading a Town of Tremont motor vehicle, supervising or assisting in the loading or unloading, attending a Town of Tremont motor vehicle being loaded or unloaded. Remaining in readiness to operate the Town of Tremont motor vehicle or in giving or receiving receipts of shipments loaded or unloaded.
- 6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled Town of Tremont vehicle.

#### **SUBSTANCES TESTED FOR;**

The following substance will be tested to determine their presence:

- 1) Alcohol
- 2) Marijuana
- 3) Cocaine
- 4) Amphetamines
- 5) Phencyclidine (PCP): and
- 6) Opiates

#### **PROHIBITED CONDUCT;**

During the time that drivers are performing safety-sensitive functions, they shall not:

- 1) Report to and/or remain on duty with an alcohol concentration of 0.04 or greater;
- 2) Possess any alcohol;
- 3) Use any alcohol;
- 4) Perform safety-sensitive functions within four hours after using alcohol.
- 5) Use any alcohol for eight hours after an accident which will require the driver to be tested for alcohol or until tested.
- 6) Refuse to submit to a required alcohol and/or controlled substance test;
- 7) Report to or remain on duty when using any controlled substance, except when under physician's orders and the physician has informed the driver that the used will not effect the safe operations of a Town of Tremont vehicle;
- 8) Report to or remain on duty if he has tested positive for controlled substance.

#### **TEST REQUIRED;**

All drivers who are required to be tested for alcohol and/or controlled substances use or miss-use will be tested under the following circumstances;

- 1) **Pre-employment or pre-use.** All applicants for jobs requiring a commercial driver's license will be required to be tested for the use of controlled substances.
- 2) **RANDOM:** All drivers are subject to random alcohol and controlled substance testing. The Town has entered into a consortium pool including drivers from other companies/Towns.
- 3) **Post Accident.** Drivers will be alcohol and controlled substance tested in all accidents involving a fatality. If the accident is one where one or more vehicles were towed from the scene of the accident, and/or if the accident involves somebody being injured to the degree that the injury must be treated immediately away from the scene of the accident then the Town of Tremont vehicle driver must also receive a summons for a "moving traffic violation" as a result of the accident before a test will be directed.
- 4) **Reasonable suspicion.** All drivers who exhibit signs and/or symptoms of alcohol and/or controlled substance use or miss-use, which are observed by the DER, Town Manager, or the Snowplow Coordinator, while performing safety sensitive functions will be required to submit to an alcohol and/or controlled substance test, the collection of the urine specimen will follow the DOT procedures for direct observation.
- 5) **Return to Work.** A driver, who previously tested positive for alcohol and/or controlled substance, must submit to a return to duty alcohol and/or controlled substance test, the result must be negative to be enabled to return to duty. Observed collections are required.
- 6) **Follow up.** A driver who previously tested positive and has returned to duty must submit to at least six alcohol and/or controlled substance tests during the first 12 months after returning to work. Follow-up tests will be announced and the collection of the urine specimen will follow the DOT procedures for direct observation. They may continue for up to sixty months after returning to work. Any additional over and above the required six follow up tests will be at the direction of the substance abuse professional. Observed collections are required.

#### **TESTING PROCEDURES;**

The Town of Tremont has contracted with Affiliated Healthcare Systems to administer/manage the alcohol testing and collection of the urine specimen(s) for controlled substance testing.

Once a driver has been directed to submit to an alcohol and/or controlled substance test, he/she will proceed immediately to the testing area. Drivers must comply with the lawful request to the technician doing the alcohol and/or controlled substance test.

The selected driver will be required to provide a urine specimen for controlled substance testing and/or a breath or saliva sample of analysis of alcohol concentration.

The driver will be required to provide photo identification prior to testing. The privacy will be ensured at the facility by means of voiding in private enclosure. A split sample will be procured and both samples will be sent to the lab.

Proper chain of custody procedures will be followed to ensure that the specimen submitted is indeed the specimen that belongs to the selected driver. The specimen will be sealed to prevent tampering during transport to the laboratory. Federal certified laboratories will be utilized for testing (drugs) and two separate methodologies will be performed to verify all specimens as positive prior to controlled substances reporting to the medical review officer.

All tests results are treated confidentially and no results will be released to outside parties without the drivers express consent or when required by law, rule or regulation or expressly authorized.

Only testing devices, which have been approved by the national highway traffic administration and conducted by trained breath alcohol technicians or trained screening test technicians will be accepted.

#### **REQUIREMENT DRIVERS MUST SUBMIT TO TESTS:**

All drivers who are required by FMCSA 49 CFR Parts 40 and 382 regulations and this policy to be subjected to alcohol and/or controlled substances tests must fulfill that requirement when so directed by the alcohol/drug testing DER, Town Manager or Snowplow Coordinator.

#### **REFUSAL TO TEST:**

The following circumstances will be construed as refusing to submit to an alcohol and/or controlled substance test:

1. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee to appear for a test when called by a C/TPA;
2. Fail to remain at the testing site until the testing process is complete; provided that an employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
3. Fail to provide a urine specimen for any drug test required by this part of DOT agency regulations; provided that an employee who does not provide a urine specimen because he/she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
4. In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provisions of a specimen;
5. Fail to provide a sufficient amount of urine when directed and it has been determined through a required medical evaluation that there was no adequate medical explanation for the failure;

6. Fail or decline to take an additional drug test the employer or collector has directed you to take;
7. Fail to undergo a medical examination or evaluation as directed by the MRO as apart of the verification process or as directed by the DER under 401.193. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test; or
8. Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);
9. For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
10. Possess or wear a prosthetic or other device that could be used to interfere with the collection process;
11. Admit to the collector or MRO that you adulterated or substituted the specimen;

As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations

### **CONSEQUENCES FOR DRIVERS FOUND TO HAVE VIOLATED SUBPART B OF CFR PART 382:**

The driver will be immediately removed from safety-sensitive functions and referred to a DOT qualified substance abuse professional (SAP).

NOTE: No driver who has engaged in conduct prohibited by subpart B of Part 382 shall perform safety-sensitive functions, including driving a Town of Tremont motor vehicle, unless the driver has met the requirements of part 40 subpart O.

### **SELF-IDENTIFICATION:**

The Town encourages employees who recognize that they may have a problem with drugs and/or alcohol to seek assistance for resolving that problem before they have a DOT violation due to a positive test result or because they engaged in other DOT prohibited conduct.

An employee who admits to a drug and/or alcohol problem will not have a DOT violation. He/she will be given an opportunity to obtain a chemical use assessment from the Town's Employee Assistance Program (EAP). Prior to the assessment, however, the Town will require the employee to sign a release of information that will enable its DER to receive the results of the assessment, and to receive subsequent reports related to the assessment, and the employee's successful completion of all recommendations for assistance.

The following conditions must apply to the employee's self-admission:

- The employee's admission cannot be made during his/her on-duty time. It must occur prior to the employee's reporting for duty on any particular day.
- The employee's admission cannot be made in an attempt to avoid a required DOT drug test.
- Under 49 CFR Part 382.121, DOT requires this Town to remove the driver from safety-sensitive functions, including driving.  
When the Town is satisfied that the driver has complied with the EAP's recommendations for assistance, it will return the employee to safety-sensitive functions provided that a negative DOT drug and/or alcohol test result on a Return-To-Duty test.
- An employee who self-identifies under this policy and who then fails to comply with the EAP's recommendations will be considered to have engaged in conduct prohibited by the DOT in 49 CFR Part 382, Subpart B, and will not be permitted to return to safety-sensitive functions until he/she has successfully complied with the SAP return-to-duty process.

## **DISCIPLINARY ACTION;**

Any driver who violates either the FMCSA safety regulations or this policy may be subject to disciplinary action up to and including dismissal.

Any driver who tests positive for either alcohol and/or controlled substance for the first time will be offered an opportunity for rehabilitation, at the employee's own expense, as required under Maine law. This will not apply to job applicants.

Drivers who are found to have an alcohol concentration of 0.02 or greater but less than 0.04 will be taken out of duty for a minimum of 24 hours. It is the Town's policy that such time out of duty will be without pay.

## **INFORMATION**

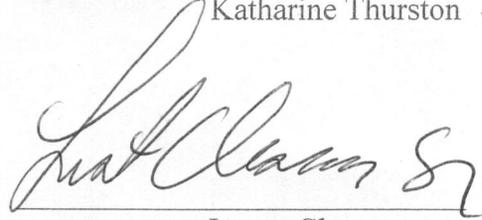
Town of Tremont will provide each driver subject to the federal motor carrier safety regulations a copy of this policy.

In addition the Town will provide to each employee information concerning the effects of alcohol and controlled substances use on an individual's health, work and personal life; signs and symptoms of an alcohol or a controlled substances problem and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referrals to the Town Manager.

  
Charlie Dillon

  
Katharine Thurston

  
Chris Eaton

  
Lester Closson

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Robert Lee III

**ACKNOWLEDGMENT;**

I certify that I have received and read a copy of my Town's alcohol and controlled substances testing policy,

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Driver's Name Printed

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Driver's Signature

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Date