
800.4: OPERATORS OF CITY MOTOR VEHICLES AND EQUIPMENT

:1 OBJECTIVE

To reduce accidents and prevent injuries by establishing procedures to ensure that operators of City motor vehicles and equipment are qualified, competent, possess a valid and appropriate Florida classified driver's license, wear seat belts and follow all Federal, State and local motor vehicle operator's rules and regulations. This policy does not apply to Civil Service employees.

:2 AUTHORITY:

This procedure amended by City Council September 15, 2003.

:3 DIRECTION

City Clerk/General Administration Department Director, Health & Safety Manager, Risk Manager, City's Occupational Healthcare Provider, Office Heads, Department Directors, Division Managers, and Supervisors.

:4 METHOD OF OPERATION

A. Definitions

1. *Drugs* means alcohol, including distilled spirits, and intoxicating liquors; amphetamines; cannabinoids; cocaine; phencyclidine (PCP); hallucinogens, methaqualone; opiates; barbiturate; benzodiazepine; synthetic narcotics; designer drugs; or a metabolite of any of the substances listed herein and the use of any other drug which is illegal and or controlled substance not specifically listed above; misuse of one's own or another's prescription drug.
2. *Alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
3. *Driver* means any person who operates a City vehicle requiring a Florida driver's license Class A thru E including regularly employed drivers, occasional drivers, and persons applying to become drivers. All drivers are to be City employees and are assigned by supervision. Assigned drivers may not allow other individuals to operate City equipment without specific supervisory approval.
4. *Safety Sensitive Function* means any function performed by a driver while on duty including, but not limited to, driving, inspecting or servicing equipment, riding, loading or unloading a City vehicle or supervising such, remaining in readiness to operate a vehicle, repairing a City vehicle and attending a disabled vehicle.
5. *Performing a safety-sensitive function* means a driver is actually performing, ready to perform, or immediately available to perform a safety-sensitive function.
6. *Refuse to submit/Refuse to test* means: 1) failure to provide adequate specimen, including breath, blood or urine, for testing without valid medical explanations

after receiving oral or written notice of requirement; 2) engaging in conduct that clearly obstructs the testing process; 3) failure to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer; 4) failure to remain at the testing site until the testing process is complete; 5) failure to provide a specimen for any drug test required by this policy and procedure or DOT agency regulations; 6) in the case of a directly observed or monitored collection, failure to permit the observation or monitoring of your provision of specimen; 7) failure or decline to take a second test the employer or collector has directed you to take; 8) failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of “shy bladder” procedures; 9) failure to cooperate with any part of the testing process; or 10) a verified test result involving adulteration or substitution.

7. *Breath Alcohol Technician (BAT)* means an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath-testing device.
8. *City Vehicle* means a City-owned or leased motorized car, truck, or heavy equipment.
9. *Designated Employer Representative (DER)* – An employee authorized by the City to take immediate action(s) to remove employees from safety-sensitive functions and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for to the City related to this policy and procedure
10. *Medical Review Officer (MRO)*. A medical doctor who has received extensive training on drugs and drug abuse. It is the responsibility of the MRO to make the final determination of a positive test result. If an employee tests positive for drugs or alcohol, the MRO will contact the employee to set up an appointment for the purpose of reviewing the test results.
11. *Dilute Specimen* means a specimen with creatinine and specific gravity values that are lower than expected for human urine.
12. *Adulterated Specimen* means a specimen that contains a substance or condition that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high it is not consistent with human urine.
13. *Substituted Specimen* means a specimen with creatinine, temperature or specific gravity values that are not consistent with human urine.
14. *Verified test* means a drug test result or validity testing result that has undergone review and final determination by the MRO.

B. General

To establish requirements for operators of City vehicles. To obtain driving record information on City employees holding a position requiring the operation of a City-owned or leased vehicle, or a commercial driver's license.

C. Qualification Requirements

1. Pre-Employment
 - a) Each job applicant hired by the City shall be examined by the City's Occupational Healthcare Provider (OHCP) to determine whether there are any medical restriction(s). If the applicant is determined to have any medical restriction(s), the OHCP will forward the Post Conditional Offer Form with this information to Human Resources for further action as provided in Human Resources Internal Operating Procedure.
 - b) The applicant shall possess a current valid and appropriate Florida classified driver's license in order to operate a City vehicle.
 - c) An employee transferring to a job that requires operating a City vehicle shall be examined by the OHCP as in paragraph (a) above.
 - d) Human Resources will notify Risk Management to request a driver record transcript from the Department of Highway Safety and Motor Vehicles for new and transferred employees who will operate a City vehicle. The transcript will be reviewed by the Health & Safety Manager or designee in conjunction with the Office of Legal Affairs and the hiring department to determine whether the employee is qualified to operate a City vehicle. The Health & Safety Manager or designee will monitor employees' driver record transcripts periodically or upon request.
2. Operators of City Vehicles
 - a) City employees may operate City vehicles subject to acceptable findings on their driver record transcripts. Determination of an acceptable driving record will be at the City's discretion.
 - b) Any prospective or current City employee shall be disqualified from driving a City vehicle, should the transcript show;
 - (1) More than twelve (12) assessed points against an employee in the twelve (12) month period preceding the request or after becoming qualified to hold a position requiring the operation of a City-owned or leased vehicle; or
 - (2) A currently suspended license for any reason, or
 - (3) A fraudulent license, or
 - (4) Any reason deemed valid by the City including excessive City assessed points for driving violations.
 - c) Annual Physical Exam
3. Annual Physical Exam
 - a) Drivers who operate or are permanently assigned a City vehicle that requires a Florida driver's license, Class A to -E (excluding Civil Service) and/or operate equipment listed in Appendix A, will be required to submit to an annual physical examination which will include testing for drugs and/or alcohol.
 - b) Should the OHCP determine that an employee has medical restrictions which prevent the safe operation of a City vehicle or is otherwise unfit to

drive a City vehicle, the employee's Office Head/Department Director/Division Manager will be notified immediately. It shall be the responsibility of the Office Head/Department Head/Division Manager to immediately revoke, in writing, the employee's City driving privilege and to immediately notify the Safety Administrator.

D. Other Requirements

1. Employees who operate a City vehicle (over 8,000 pounds or having a vehicle width in excess of 80 inches) are required to have a Florida Class A to D Drivers License as appropriate.
2. Employees who operate a City vehicle will complete a satisfactory road test in the operation of such equipment, when required, which will be administered by the office/bureau supervisor. Supervisors who will administer such tests must have completed training provided by the Health & Safety Manager or designee.
3. Employees who operate a City vehicle shall report suspension or revocation of license or any other change of status in their license to their Office Head/Department Director/Division Manager or designee on the employee's next working day. The Office Head/Department Director/Division Manager shall report the changes to the Health & Safety Manager or designee. Failure to report such changes of license status will subject employee to disciplinary action up to and including termination.
4. Employees required to use privately owned vehicles for City business purposes and who receive a regular monthly stipend for said use will be required to comply with the terms and conditions of 4(B) through (D) of this policy except the requirement of the annual physical.
5. Employees who operate a City vehicle are subject to Policy 800.3, Damage Assessment.
6. Employees who operate a City vehicle and who cause or contribute to an accident causing bodily injury or physical damage to property estimated at \$1,000 or more will be required to submit to a drug and/or alcohol test administered by the investigating law enforcement agency and/or the Occupational -Healthcare-Provider. Refusal to submit to these tests will subject the employee to disciplinary action, up to and including discharge in accordance with Policy 808.4, Drug Free Workplace; Policy 808.20, Disciplinary Action; and appropriate collective bargaining agreement.

E. Licensed Drivers – Class A through E

1. Policy
 - a) Pursuant to Federal law, it is necessary to implement the Department of Transportation rules regarding drugs and alcohol use and testing. The purpose is to help prevent accidents and injuries resulting from misuse of alcohol and drugs by drivers of commercial and certain non-commercial motor vehicles.
 - b) Department of Highway Safety and Motor Vehicles issues the following classes of licenses (A, B, C, D, and E):

- (1) Classes A, B, and C are for drivers of commercial motor vehicles
 - (2) Class D is for drivers of non-commercial vehicles that weigh 8,000 pounds or more but less than 26,000 pounds
 - (3) Class E is the regular operators license
2. Prohibitions-No driver shall:
- a) Consume alcohol on the job or in uniform;
 - b) Consume alcohol four (4) hours prior to going on duty to perform a safety sensitive function;
 - c) Have an alcohol concentration of 0.02 or greater while reporting for or on duty;
 - d) Possess alcohol while on duty operate a City vehicle while in possession of alcohol;
 - e) Consume alcohol for 8 hours following an accident prior to taking a post-accident drug and alcohol test;
 - f) Report for duty or remain on duty when under the influence of drugs;
 - g) Report for duty or remain on duty or perform a safety sensitive function immediately after testing positive for drugs; or
 - h) Refuse to submit to testing for alcohol and/or drugs.
3. Types of Testing
- a) *Pre-employment test* means a test (Post employment offer) for alcohol or drugs administered prior to an applicant being formally assigned to a position that performs a safety-sensitive function(s).
 - b) *Post-accident test* means a test for alcohol or drugs administered following an accident caused or contributed to by a driver if: (1) the accident involved the loss of human life; or (2) if the driver receives a citation; or (3) if the accident resulted in bodily injury or property damage of \$1,000 or more.
 - c) *Random test* is an alcohol and drug test administered to drivers selected by a scientifically valid means as required by the Department of Transportation and which may occur on duty at any time.
 - d) *Reasonable suspicion test* means a drug or alcohol test that is based on a belief that an employee is using or has used drugs or alcohol in violation of the City's policy based on specific objective facts and reasonable inferences drawn from those facts in light of experience. See further definition at Section 808.4 (4)(A)⊕(7) Drug Free Workplace Policy.
 - e) *Return to duty test* means a test for alcohol or drugs administered before a driver returns to a position requiring the performance of a safety-sensitive function after engaging in conduct prohibited by this policy.
 - f) *Follow-up test* means a minimum of 6 alcohol and/or drug tests administered within a 12-month period after the successful completion of rehabilitation and a return to duty test. Unannounced testing may occur, on

duty at any time, for up to 60 months from the date of initial positive test upon the recommendation of the Substance Abuse Professional (“SAP”) or MRO.

- g) *Routine duty test* means a test for alcohol or drugs conducted as part of a scheduled employee fitness-for-duty medical examination, or for required annual physicals, or for annual driver's drug test, or prior to an inter-departmental transfer or for any promotion.

4. Handling of Test Results

Medical Review Officer (MRO) Procedure

- a) Dilute Specimens: A positive-dilute result will be treated as a verified positive result. If the result is a negative-dilute specimen, the employee will be required to take another test immediately. The result of the second test becomes the test of record. If employee declines to take another test immediately, the employee is determined to have refused to submit to testing.
- b) If the drug test is confirmed positive, the alcohol concentration is 0.04 or higher, or if there is an adulterated, substituted or otherwise invalid test:
 - (1) MRO shall contact driver;
 - (2) Driver shall be required to contact the MRO as directed within 72 hours after the MRO (or DER if MRO is unable to make contact) makes the initial contact and shall be required to see MRO;
 - (3) The MRO will schedule appointment with driver within three working days after receiving results;
 - (4) MRO will review circumstances and will notify DER (Human Resources Division Manager) or designee (Employee Relations Specialist) if test is verified positive or negative. The DER will then immediately notify Office Head/Department Director/Division Manager;
 - (5) If employee is not terminated, he/she will be required to seek appropriate counseling (including EAP) and/or medical treatment. Employee must attend and successfully complete required programs. Any subsequent confirmed positive drug test or any other confirmed use of illegal drugs or controlled substances, at any time during the employee's employment with the City, will subject the employee to immediate termination;
 - (6) If not terminated, the employee shall enter into a written continuing employment conditions agreement which outlines the requirement(s) to complete the recommended program as outlined by the MRO or SAP and to submit to a minimum of six unannounced alcohol and/or drug tests within a twelve-month period after return-to-duty. Unannounced testing may occur on duty at any time up to 60 months (5 years) after the initial positive test as directed by the MRO.

- (7) Failure to comply with the terms of the above shall be grounds for termination.
- (8) Employees are not eligible for promotion or voluntary transfer out of their department until all terms, conditions and time frames of the written agreement have been met.
- c) The employee is not allowed to operate a City vehicle while under a continuing employment conditions agreement or perform a safety-sensitive function until undergoing either a return-to-duty alcohol test with a concentration of less than 0.02 or a return-to-duty drug test with a verified negative result.
- d) If an employee tests positive for drugs or alcohol, cannot operate a City vehicle, and is not terminated, - the employee must be reassigned, demoted to another vacant position or be placed on paid leave (personal or compensatory) or leave without pay until successful completion of a return-to-duty test. The employee should be given work within his/her same department before being placed on leave. Any positive drug/alcohol test results related to an accident causing injury and/or property loss can be grounds for termination. The employee's Office Head/Department Director/Bureau Chief will send a disposition memo to Labor Relations.

5. Alcohol Testing Procedure

- a) If an employee tests 0.02 to 0.039 alcohol concentration, MRO will notify DER (Human Resources Division Manager) or designee (Employee Relations Specialist) and DER will notify Office Head/Department Director/Division Manager or designee immediately that the employee is not allowed to operate a City vehicle for at least 24 hours. The Office Head/Department Director/Division Manager will determine if the employee should be reassigned for 24 hours to a job, which does not involve performing a safety sensitive function. If the employee is relieved of duty, only vacation/personal leave, compensatory, floating holiday or unpaid leave may be used. Sick leave may not be used.
- b) If an employee tests 0.04 or above, the Office Head/Department Director/Bureau Chief will immediately notify the employee that he/she cannot operate a City vehicle and will be subject to Section 4,b(1) above.

6. Return to Duty and Follow-up Testing Procedure

Before a driver may return to duty after a positive confirmed drug test or an alcohol concentration of 0.04 or higher:

- a) Driver must report to the MRO to be informed of the resources available for evaluating and resolving problems associated with alcohol misuse and drug use.
- b) Driver will be evaluated by a Substance Abuse Professional who will determine if the employee needs assistance.

- c) If a driver has been identified as needing assistance, he/she must be evaluated by the Substance Abuse Professional to determine if the rehabilitation program was properly completed.
- d) Driver will undergo a return to duty alcohol or drug test after SAP has determined that the driver has successfully complied with prescribed education or treatment.
- e) Driver is subject to unannounced follow-up tests as directed with a minimum of 6 tests in the first 12 months following return to duty. -MRO will coordinate follow-up testing. The follow-up testing plan follows the employee from one job to another and through breaks in service.
- f) Driver may be subject to both return to duty and follow-up testing for both alcohol and drugs if recommended by the Substance Abuse Professional.
- g) Follow-up testing shall not exceed 60 month (5 years) from initial testing.
- h) Follow-up alcohol testing will be conducted just before or just after the driver has performed a safety sensitive function.

7. Reasonable Suspicion Drug and Alcohol Testing Procedure

When a supervisor has a reasonable suspicion to believe that an employee is using or has used drugs or alcohol, the Reasonable Suspicion Form must be completed to document observations, etc. The supervisor or designee must accompany the employee to the Occupational --Healthcare Provider site.

8. Post Accident Testing Procedure

- a) After an accident, as described in E.3.b, an alcohol test will be administered by the Occupational Healthcare Provider - or its designee within 2 hours following the accident. If not, the Office Head/Department Director/Division Manager or designee will prepare a record stating the reason the test was not administered. The City or its designee may attempt to administer the test up to 8 hours after the accident but will cease attempts thereafter. If the test is not administered, the Office Head/Department Director/Division Manager or designee will prepare a record stating the reason the test was not administered. Records stating the reason Post Accident Alcohol Tests were not administered shall be submitted to Risk Management's Health & Safety Manager or designee.
- b) After an accident, as described in E.3.b, a drug test will be administered within 32 hours or the Office Head/Department Director/Division Manager or designee shall cease attempts and prepare a record stating the reason the test was not administered. Records stating the reason Post Accident Drug Tests were not administered shall be submitted to Risk Management's Safety Administrator and the DER.
- c) The Office Head/Department Director/Division Manager will maintain these records and forward a copy to the Safety Administrator.
- d) If an accident, as described in E.3.b. occurs after normal business hours, the supervisor will contact the -Occupational Healthcare Provider for directions to the testing facility.

9. Random Testing Procedure

- a) As required by the Department of Transportation, the City must select a sufficient number of drivers each year and perform random drug and alcohol tests:
 - (1) The minimum annual percentage rate for random alcohol testing shall be –per Federal DOT Guidelines of the average number of CDL, A, B and C licensed driver positions.
 - (2) The minimum annual percentage rate for random drug or controlled substances testing shall be -per Federal DOT Guidelines of the average number of CDL, A, B and C licensed driver positions.
- b) The selection process shall give each driver an equal chance of being tested each time selections are made.
- c) The driver shall only be tested for alcohol just before, just after or while performing a safety-sensitive function.
- d) Random alcohol and drug tests must be unannounced and have dates spread throughout the calendar year.
- e) A driver who is notified of selection for random drug or alcohol test must proceed immediately to the test site.

10. Driver Reassignment

If a driver is reassigned to duties not involving a safety sensitive function, he/she is no longer part of the random drug and alcohol testing pool; however, upon such reassignment, the employee is subject to the Follow-up Testing Procedures in Section 6. Once the driver returns to the safety sensitive function, he/she is once again included in the pool and subject to random testing requirements. The driver will be tested if he/she is out of the testing compliance programs in excess of thirty calendar days.

11. Penalties

- a) Any driver who tests 0.02 to 0.039 alcohol concentration on more than three occasions in any twelve-month period will be terminated.
- b) Any driver who refuses or fails to submit to a drug or alcohol test as required by this policy shall be treated as having a verified positive drug test and is subject to immediate disciplinary action up to and including dismissal. The MRO will immediately notify the DER of any employee refusal and the DER will immediately notify the Office Head/Department Director/Division Manager.
- c) If any driver tests positive for drugs or has an alcohol concentration of 0.04 or higher, the driver shall be removed from the safety sensitive function and be evaluated by a Substance Abuse Professional to determine what assistance, if any, the driver needs. In addition, the driver is subject to immediate disciplinary action up to and including termination.

- d) An employee may be terminated if while at work the employee contributes to an accident that resulted in bodily injury or property damage of \$1,000 or more and tested positive for drugs or alcohol.

12. Confidentiality

- a) The City shall only release driver medical information upon specific written request from the driver.
- b) The City may disclose information regarding drug and alcohol tests to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee, and arising from the results of alcohol and/or drug tests or from the City's determination that the driver engaged in conduct prohibited by this section including, but not limited to a worker's compensation, arbitration, unemployment compensation, or other proceeding relating to a benefit sought by the employee.
- c) Records will be maintained, as required by the Department of Transportation regulations, at the Occupational Healthcare Provider's site.

13. Contesting Drug or Alcohol Test Results

- a) An employee may contest the results of a positive confirmed drug test as outlined in - - Section 808.4 Drug Free Workplace Policy, except that the MRO must be given written notice that the results are being challenged within seventy-two (72) hours after the employee receives notification of the positive test results.
- b) An employee may contest the results of an alcohol test result of 0.04 or more as outlined in Section 808.21 - Grievances, or the appropriate Bargaining Agreement Grievance Procedure.

:5 FORMS:

Post-Conditional Offer Form; Reasonable Suspicion Form.

:6 COMMITTEE RESPONSIBILITIES:

None.

:7 REFERENCES:

Operations Committee Minutes of September 22, 1969; City Council Minutes of October 2, 1969; Procedure Section 745.3, adopted by City Council June 8, 1970; amended March 6, 1972; Procedure 745.3 as amended, rescinded in entirety by Procedure 710.5; Procedure 710.5, approved by City Council May 5, 1975, Item 33, rescinded in its entirety and replaced by Section 735.7 approved by City Council March 28, 1977. Renumbered to 800.4, amended and approved by City Council, May 20, 1985, Item 9A-13; amended August 3, 1992, Item 2CC; amended by City Council June 21, 1993, Item 2-P; amended July 10, 1995, Item UU; amended March 11, 1996, Item 3KK; amended August 23, 1999, Item 9CCC; amended January 28, 2002; amended October 14, 2002, Item B23; amended September 15, 2003; re-formatted only April 2004.

:8 EFFECTIVE DATE:

This procedure effective September 15, 2003.