

Drug Free Workplace Program

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The Problem: Substance Abuse in the Workplace

- + 60% of the world's production of illegal drugs is consumed in the U.S.
- + Nearly 70% of current users of illegal drugs are employed.
- + Nearly 1 in 4 employed Americans between the ages of 18 - 35 have illegally used drugs.
- + 1/3 of employees know of the illegal sale of drugs in their workplace.
- + 20% of young workers admit using marijuana on the job.

Consider this.....

90% of large businesses have drug free workplace programs in place today, while only 5 to 10% of small and medium sized businesses have implemented similar programs. The irony here is that about 75% of employed Americans work for these small and medium sized businesses. Workers who want to avoid substance abuse policies at the large companies take their job search to the smaller businesses, and that's where they are today!



The Cost: Substance Abuse Adversely Affects Your Balance Sheet

Even though many employers choose to ignore the problem, substance abuse in the workplace has a real impact on their bottom line. Substance abuse drains more than \$100 Billion from American businesses every year in ...

- + **WORKERS' COMPENSATION:** 38% to 50% of all Workers' Compensation claims are related to substance abuse in the workplace; substance abusers file three to five times as many Worker's Compensation claims.
- + **MEDICAL COSTS:** Substance abusers incur 300% higher medical costs than non-abusers.
- + **ABSENTEEISM:** Substance abusers are 2.5 times more likely to be absent eight or more days a year.
- + **LOST PRODUCTIVITY:** Substance abusers are 1/3 less productive.
- + **EMPLOYEE TURNOVER:** It costs a business an average of \$7,000 to replace a salaried worker.

Companies who have a Drug Free Workplace Program will find that an investment in education, prevention, and assistance programs pays dividends for both the employer & the employee.

* Source: 'Working Partners', National Conference Proceedings Report: sponsored by U.S. Dept. of Labor, the SBA, and the Office of National Drug Control Policy.



The Solution: A Drug Free Workplace Program

It's Good for Employees. Employees are more productive and have better morale when their health and safety is protected from the increased dangers and risks that substance abusers present in the workplace. Workers will appreciate your concern for their health, safety and well-being.

It's Good for Employers. The covered employers choosing to participate in this voluntary program will be entitled to the following,
(pursuant to T.C.A. 50-6-418, 50-9-100 et. seq., and 50-6-110):

- + Receive a 5% premium credit on their workers' compensation insurance policy.
- + Discharge or discipline of an employee, or refusing to hire a job applicant, who is found to be in violation of the covered employer's Drug Free Workplace Program will be considered done for cause.
- + If an employee suffers a workplace injury and receives a positive confirmed post-accident drug test for illegal use of drugs or alcohol, or refuses to submit to a post-accident drug or alcohol test, the burden of proof is shifted to the employee.

It's Not Difficult. Model policies and programs are available in the information kit (available by

request).

It's Not Expensive. Use existing materials and the information provided in the information kit, it's all you need to get started. This guide will assist you to develop a comprehensive program including; drug and alcohol testing, supervisor training, employee education and provide for employee assistance.

Covered employers should realize a cost savings that is sufficient to pay for most programs.

You don't have to do it alone.

A variety of resources are available to assist you; your Business Insurance agent, your industry trade association representative, the staff of the Tennessee Drug Free Workplace Program, or try calling the organizations listed in the information kit. You can even contract with a qualified Substance Abuse Program Administrator to do the job for you!



Preparing Your Drug Free Workplace Program

Important: *Study the Rules & Guidelines of the Tennessee Drug-Free Workplace Program (in the information kit), make certain you understand them.*

1. Plan and develop your drug free workplace program carefully.

Talk to employees and supervisors about the benefits of a drug free workplace.

Stress the positive aspects of a drug free workplace...management and workers meeting their shared responsibilities for a safe and healthy work environment. Case studies show a well-planned program to reduce substance abuse can increase productivity, reduce accidents, and avoid increased costs due to substance abuse related insurance claims.

Listen to employees' ideas.

Ask for their input: "We're going to implement a drug-free workplace program. What suggestions do you have for us as we do this?" Compliance with any change in company policy requires the understanding and acceptance of all employees. If your company's workers are represented by a union, the development of the policy will be a part of the collective bargaining process. A firm, compassionate program will help to provide a healthy and safe workplace for everyone.

2. Consider the resources available to you. Determine the best way to provide each of the following:

(Covered employers must meet minimum requirements and guidelines established in T.C.A. § 50-9-100 et. seq.)

A Drug and Alcohol Testing Program.

An Employee Assistance Program (EAP) for workplace substance abuse treatment. You may contract with a designated treatment provider or furnish a directory of local EAP/substance abuse treatment providers to employees.

A Workplace Substance Abuse Recognition Training Program for Supervisors.

A Workplace Substance Abuse Education/Awareness Program for All Employees.

Important: *Before taking the next step, employers should consult with an attorney concerning the legal aspects of your program.*

3. Write down your substance abuse policy then print it on your company letterhead.

The policy should expressly prohibit the illegal use of drugs and/or abuse of alcohol by any employee and spell out the consequences of policy violations. Sample policies are printed in the information kit. You may duplicate the sample policy word for word, customizing it with your company's name, or you may change portions of it to suit your specific needs.



Implementing and Maintaining Your Drug Free Workplace Program

4. Distribute the policy statement to all employees and post notifications of your drug free workplace program.

*Employees must be notified at least **60 days** before drug and alcohol testing can begin. (T.C.A. Section 50-9-105)*

Place notices in prominent locations throughout your business facilities as well as on your employment applications. All employees must be given a copy of your substance abuse policy statement and sign a drug and alcohol testing consent form .

5. Educate your employees and supervisors about the program.

Hold a meeting for all employees - labor and management - to explain the value of maintaining a drug free workplace. Try to answer all questions and make yourself available to meet privately with employees to discuss any concerns they may have.

6. Maintaining the certification of your program.

Last, but not least....make a long-term commitment to participate in the Tennessee Drug Free Workplace Program. Ultimately, your program will have a greater impact when everyone involved clearly understands that your company is serious about addressing the problems caused by substance abuse in the workplace.

Please Remember; covered employers must re-certify their compliance each year with the Tennessee Department of Labor and Workforce Development. A Tennessee Drug Free Workplace Application Form, (LB-0393 ed. 9-97), must be submitted at the renewal of the worker's compensation insurance policy or before the anniversary date of original Tennessee Department of Labor and Workforce Development certification.



Some Questions and Answers about Drug Free Workplaces

Q. When an employee/applicant is drug tested, is the employer required to utilize a Medical Review Officer (MRO)?

A. Yes. As defined in the Rules and Guidelines, "Medical Review Officer" or "MRO" means a licensed physician, employed with or contracted with a covered employer, who has knowledge of substance abuse disorders, laboratory testing procedures and chain of custody collection procedures; who verifies positive, confirmed test results; and who has the necessary medical training to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information. The MRO should be used to review all positive tests with the employee or applicant before the employer is advised of the test results. Using an MRO provides the employer with a medically qualified interpretation of a positive test result, which would be defensible in a court of law. The MRO helps to protect both the employer and the employee.

Q. How accurate are the drug testing methods that I will be required to use?

A. If testing is done in accordance with the Rules and Guidelines, (Chapter 0800-2), the results are highly accurate and reliable. Sometimes, you'll hear that urine drug tests can be "beaten". Once, this was true; people could add water, soap, ammonia, vinegar or even table salt to a specimen and produce a negative test result. Today, collection site and laboratory procedures make tampering nearly impossible.

At the collection site, employees must leave coats, purses and briefcases outside the cubicle where they provide the specimen. The person collecting the specimen adds a bluing agent to the toilet bowl and remains in the area directly outside the stall while the specimen is being given. Immediately afterward, the collector applies a temperature strip to the specimen to make sure that it matches body temperature. The collector also checks the specimen for unusual color and odor. Later, when the specimen arrives at the laboratory, technicians perform simple tests for gravity and acidity to detect adulterated specimens.

Another misconception is that drug testing is prone to inaccuracy with so-called "false" positives. Several years ago, some over-the-counter drugs such as ibuprofen or diet pills could cause false positives for illicit drugs. Today, tests have been refined to the point where this does not occur.

A more legitimate concern is that of true "false" positives. That is, where the laboratory accurately determined the presence of a drug, but its presence is not the result of abuse or illicit use. Certain foods and medicines do contain detectable amounts of "controlled" drugs. For example, poppy seeds used in bagels and other baked goods can sometimes contain enough morphine to produce a detectable level in urine. Over-the-counter drugs that are sold in countries outside the U.S. often contain codeine. Codeine is also found in commonly-prescribed cough and cold medicines, such as Tylenol with codeine, and can produce a positive result in drug tests. In all these cases, a Medical Review Officer (MRO) is able to determine if the drug is being properly and legitimately used.

While there have been some reports of errors, they can usually be traced to the fact that a confirmation test was not performed to verify an initial positive result.

Q. Could there be legal challenges?

A. Yes. The United States Constitution, which restricts governmental but not private actors from arbitrarily interfering with individual rights, prohibits the Government from unreasonably infringing on workers' rights relating to privacy and job security. With respect to workplace privacy, the Fourth Amendment to the U.S. Constitution prohibits unreasonable "searches." In 1989, the Supreme Court, considering the issue of workplace drug testing for the first time, concluded that a public employer taking

of blood, urine, or breath specimen for the purpose of alcohol and other drug testing, (or testing conducted by a private employer at the request of the Government), constitutes a search under the Fourth Amendment because it implicates significant privacy concerns. The Court further held that the determination of whether such testing is "reasonable" and therefore constitutionally valid, requires a balancing of the degree of invasion on the individual's privacy interest against the promotion of the employer's legitimate interests. Employment decisions based on a substance abuse test result can be contested. The Courts favor employee testing that is based on procedures that are clear, fair, consistent, and communicated in a written policy statement.



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For a copy of the Drug Free Workplace Information Kit, please download the information below.

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For comments, please contact the [Division of Workers' Compensation](#).