

## Alcohol and Substance Abuse Policy

\_\_\_\_ (Company name) \_\_\_\_\_ is a drug and alcohol-free workplace. The use of or being under the influence of illegal drugs and/or alcohol is inconsistent with the behavior expected of employees. The use of illegal drugs and alcohol and misuse of prescribed and over the counter drugs subjects employees and visitors to unacceptable safety risks that undermine the Company's ability to operate safely, effectively and efficiently.

The use, possession, distribution or sale of controlled substances such as drugs or alcohol, being under the influence of such controlled substances (drugs and alcohol) or testing positive for alcohol or any drug including, but not limited to, inactive components or metabolites associated with the use of such drugs is strictly prohibited while on duty, while on Company premises or work sites or while operating the Company's equipment or vehicles.

Our Company participates in post-offer, random and post-accident drug and alcohol testing. If injured on the job you may be expected to participate in a drug and alcohol test immediately following the injury. Any employee testing positive for illegal drugs will have the opportunity to confirm the results of the positive test by having the positive sample retested by a certified laboratory of the employee's choosing and at their own expense.

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CEO's Signature

THIS IS PROVIDED AS A SAMPLE ONLY AND

SHOULD BE REVIEWED BY YOUR LEGAL COUNSEL

## EMPLOYEE CONSENT FORM

(APPENDIX A)

I hereby acknowledge receipt of (company name), Drug-Free Workplace Policy regarding drugs and alcohol. I have read and understand this policy. I understand that the refusal to submit to any drug testing required by this policy or a positive test result is grounds for disciplinary action up to and including termination. Furthermore, I authorize the release of the test results to my employer, and/or on post-accident tests, the Company's workers compensation insurance carrier and understand that refusal to release these results is grounds for disciplinary action up to and including termination. I understand that if I test positive for alcohol or drugs including, but not limited to, inactive components or metabolites associated with the use of such drugs following an on the job accident, I may be ineligible for workers compensation benefits or have benefits reduced by 50 percent as allowed by Missouri law.

I recognize that the Company's policy on drugs and alcohol does not constitute an expressed or implied contract of employment.

As a condition of continued employment, employees must sign the attached consent form and comply with the policy.

I have read and understand this policy and will abide by it as a condition of my employment.

EMPLOYEE NAME: \_\_\_\_\_

SOCIAL SECURITY NUMBER: \_\_\_\_\_

EMPLOYEE SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

WITNESS SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

## Overview of Sample Drug and Alcohol Abuse Policy

All employees should have a vital interest in maintaining a safe, healthy, and efficient work environment. Employees under the influence of drugs or alcohol on the job poses serious safety and health risks to the user and to all those who work with the user. The use, sale, purchase, transfer, or possession of an illegal drug in the workplace, and the use, possession, or being under the influence of alcohol also poses unacceptable risks for safe, healthy, and efficient operations

While a written policy is not required under Missouri Workers Compensation Law, Missouri Employers Mutual (MEM) strongly urges you have a written policy as it is easily the best way to prove that a policy exists.

A well-written policy can help protect you from litigation and, in the event of litigation, may serve as a defense. If you have a written policy that is ill-conceived or poorly enforced, or do not have a written policy at all, you may be more susceptible to claims of personal injury to intoxicated employees, their coworkers and the public, claims of negligent hiring or retention, wrongful termination, disability discrimination, and claims from injured third parties. A well-written policy may serve as a defense to these claims.

**MEM highly recommends that you review your program with competent labor and employment law counsel prior to implementing any substance abuse policy or drug-testing program in the workplace.**

This sample policy is meant only as a starting point. ***The documentation and sample policy MEM provides are for informational purposes only. The sample policy is not meant to be used without consultation with your employment law attorney. These policies need to be tailored by your attorney to fit your situation. MEM assumes no liability for the use of sufficiency of the information provided.*** In addition, please note the testing facility that you designate may require individuals to sign additional consent forms authorizing testing and/or release of test results.

There are many resources available to help companies develop drug-free workplace programs, including the Drug-Free Workplace Policy provided by the United States Drug Enforcement Administration on the DEA website. In addition, the National Institute on Drug Abuse can provide information on creating and implementing a prevention and treatment program for your employees by calling their Center for Substance Abuse Prevention Workplace Helpline at 1.800.843.4971. Your initial cost in establishing a drug-free workplace may be low if readily available resources are used. Again, you should always engage appropriate legal counsel to review any and all personnel policies prior to their implementation.

## **Drug-Free Workplace Written Policy: Basic Guidelines**

Whether your organization tests employees for drug and alcohol use or not, you should have a written workplace substance abuse policy. While a written policy is not required under Missouri Workers Compensation Law, MEM strongly urges you have a written policy as it is easily the best way to prove that a policy exists.

A well-written policy can help protect you from litigation and, in the event of litigation, may serve as a defense. If you have a written policy that is ill-conceived or poorly enforced, or do not have a written policy at all, you may be more susceptible to claims of negligent hiring or retention, wrongful termination, disability discrimination, and claims from injured third parties. A well-written policy may serve as a defense to these claims.

MEM highly recommends that you review your program with competent labor and employment law counsel prior to implementing any substance abuse policy or drug-testing program in the workplace.

In addition to the recommendation to review with your labor and employment law counsel, consult the numerous available resources to further help you in launching your drug-free workplace program and policy. Both material and human resources are available to guide your efforts. Many of these services are free. Good use of these resources will help implement a drug-free workplace program at minimum costs.

287.120.6. (1) Where the employee fails to obey any rule or policy adopted by the employer relating to a drug-free workplace or the use of alcohol or non-prescribed controlled drugs in the workplace, the compensation and death benefit provided for herein shall be reduced fifty percent if the injury was sustained in conjunction with the use of alcohol or non-prescribed controlled drugs.

(2) If, however, the use of alcohol or non-prescribed controlled drugs in violation of the employer's rule or policy is the proximate cause of the injury, then the benefits or compensation otherwise payable under this chapter for death or disability shall be forfeited.

(3) The voluntary use of alcohol to the percentage of blood alcohol sufficient under Missouri law to constitute legal intoxication shall give rise to a rebuttable presumption that the voluntary use of alcohol under such circumstances was the proximate cause of the injury. A preponderance of the evidence standard shall apply to rebut such a presumption. An employee's refusal to take a test for alcohol or a non-prescribed controlled substance, as defined by section 195.010, at the request of the employer shall result in the forfeiture of benefits under this chapter if the employer had sufficient cause to suspect use of alcohol or a non-prescribed controlled substance by the claimant if the employer's policy clearly authorizes post-injury testing.