

## CONTROLLED SUBSTANCES & ALCOHOL TESTING POLICY

This policy follows Department of Transportation and Federal Motor Carrier safety Administration regulations found in 49CFR Parts 40 & 382 (See Note).

If you have questions about this controlled substances & alcohol testing contact CANDACE OR MARTY RUSHING, the designated company official to answer questions.

All drivers who drive Commercial Motor Vehicles (CMV) which require a Commercial Drivers License (CDL) are subject to the controlled substances & alcohol testing.

The definition of driver Safety Sensitive Function is found in 49 CFR Section 382.107 (See Note). Safety Sensitive Function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.

Safety Sensitive Function 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 by the employer;
2. All time inspecting equipment as required by '392.7 and '392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
3. All time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in sleeper berth (a berth conforming to the requirements of '393.76 of this subchapter);
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Driver conduct that is prohibited is found in 49 CFR Part 382 Subpart B (See Note).

- '382.201 No driver shall report for duty requiring the performance of a safety sensitive function with an alcohol concentration of 0.04 or greater.
- '382.205 No driver shall use alcohol while performing a safety sensitive function.
- '382.207 No driver shall perform a safety sensitive function within 4 hours after using alcohol.
- '382.207 No driver required to take a post accident alcohol test under 49 CFR '382.209 shall use alcohol for 8 hours following the accident.
- '382.211 No driver shall refuse to submit to any required alcohol or controlled substances test.
- '382.213 No driver shall report for duty requiring the performance of a safety sensitive function when the driver uses controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner, as define in 49 CFR '382.107. This must not interfere with the driver's ability to perform a safety sensitive function.
- '382.215 No driver shall report for duty or remain on duty requiring the performance of safety sensitive function, if the driver tests positive for controlled substances.



The circumstances in which the driver will be tested are incorporated and found in 49 CFR Part 382 Subpart C (See Note).

'382.301 - Pre-employment testing;	'382.307 - Reasonable Suspicion testing;
'382.303 - Post Accident testing;	'382.309 - Return to duty testing;
'382.305 Random testing, Per the prevailing rate as required by U.S. DOT;	'382.311 Follow up testing.

All definitions, regulations, and procedures used to test for controlled substances and alcohol in order to protect the integrity of the testing process, safeguard test validity, and insure results are attributed to correct driver are found in 49 CFR Parts 40 & 382. They are incorporated into this policy and can be referenced at: [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49tab_02.tpl)

All CDL drivers who drive CMVs are required to submit to alcohol & controlled substances testing.

Refusal to submit to an alcohol or controlled substances test is define in 49 CFR '382.107 (See Note).

Refusal to submit (to an alcohol or controlled substances test) means that a driver:

1. Fails 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;
2. Fails 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 on a pre-employment test is not deemed to have refused to test;
3. Fails to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen, because he or she has left the testing site before the testing process commences on a pre-employment test is not deemed to have refused to test;
4. In the case of directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;
5. Fails to provide a sufficient amount of urine specimen when directed, and it has been determined that there was no adequate medical explanation for the failure;
6. Fails or declines to take a second test the employer or the collector has directed the driver to take;
7. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under 49 CFR 40.193(d). 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;
8. Fails 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); or
9. Is reported by the MRO as having a verified adulterated or substituted test result.

Note: In reference to Item 1 for the FMCSA, immediate means that the employer shall ensure that the driver ceases to perform the safety sensitive function and proceeds to the testing site as soon as possible.

The consequences for violators of Subpart B are incorporated and found in 49 CFR Part 382 Subpart E (See Note).

1. All CDL drivers will be removed from any safety sensitive position.
2. The driver must see a Substance Abuse Professional to ever drive again anywhere.



The consequences for CDL drivers tested for Alcohol with results at .02, but below .04, are the driver will be removed from any safety sensitive position for 24 hours. 49CFR Section 382.505 (a) (See Note).

Information concerning the effects of drug use and alcohol abuse can be found at <https://www.niaaa.nih.gov/alcohol-health/alphahols-effects-body> and <https://www.niaaa.nih.gov/alcohol-health/alphahols-effects-body>

**Company Policy:** Any driver that violates 49 CFR Part 382 Subpart B shall be terminated for cause.

Specifically, it is the policy of the Company that the use, sale, purchase, transfer, possession or presence in one's system of any controlled substance (except medically prescribed drugs) by any driver while on company premises, engaged in company business, while operating company equipment, or while under the authority of the Company is strictly prohibited.

INFORMATION REGARDING SUBSTANCE ABUSE PROFESSIONALS CAN BE FOUND AT:  
<https://www.transportation.gov/odapc/sap>

**NOTE:** For reference of details to 49 CFR (All Parts & Sections) visit the web at:  
[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49tab_02.tpl)

This is to certify that I have received a copy of the company Alcohol and Controlled Substances policy. I certify that I understand the policy and provisions and that I have received resources of information regarding FMCSA/DOT testing requirements, drug and alcohol testing procedures, the name(s) of person(s) designated to answer questions about the testing policy and procedures, the effects of drugs and alcohol on an individual's health, work and personal life.

\_\_\_\_\_  
~~Driver Signature~~

\_\_\_\_\_  
~~Date~~

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

**ALCOHOL & DRUG USE POLICY:**

This information is provided as an example only. Companies are encouraged to use those portions of the attached draft policy applicable to their own operations, to add information specific to their company, and to confer with drug and alcohol enforcement specialists and/or legal counsel in drafting a policy. The sample policy and procedure are based upon accurate information available at the time it was prepared. This sample is not prepared or intended to meet any particular company's needs. A company alcohol and drug abuse policy may create legal rights or liabilities between the parties involved. Legal advice regarding the development or review of this or any employment policy should be obtained. No one should rely solely upon this sample policy outside

**M & K, INC**  
**SEAT BELT POLICY**

Federal Motor Carrier Safety Regulation §392-16 states that a commercial motor vehicle which has a seat belt assembly installed at the driver's seat shall not be driven unless the driver has properly restrained him/herself with the seat belt assembly. We value the lives and safety of our employees. Our company has adopted the following policy concerning employee seat belt usage. It is the policy of our company, and a condition of employment, that all employees who operate or ride in company vehicles, or operate or ride in personal vehicles on company business, wear properly fastened and adjusted seat belts, shoulder harnesses and other such similar equipment when provided in the vehicle in which they are operating or riding. Employees are required to report any malfunction of seat/shoulder belts and to have this equipment repaired or replaced as soon as possible after its discovery. Any employee found operating or riding in a company vehicle, or personal vehicle on company business, without seat belts/shoulder harnesses fastened will be subject to disciplinary action, up to and including suspension and possible termination. "Operating" and "riding in" are to be defined as occupying a moving vehicle.

X

\_\_\_\_\_  
Driver Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

**SEAT BELT USE POLICY**

NOTE: This information is provided as an example only. Companies are encouraged to use those portions of the attached draft policy applicable to their own operations, to add information specific to their company, and to confer with drug and alcohol enforcement specialists and/or legal counsel in drafting a policy. The sample policy and procedure are based upon accurate information available at the time it was prepared. This sample is not prepared or intended to meet any particular company's needs. A company alcohol and drug abuse policy may create legal rights or liabilities between the parties involved. Legal advice regarding the development or review of this or any employment policy should be obtained. No one should rely solely upon this sample policy outside its intended purpose without first obtaining the appropriate advice of legal counsel.



## HOURS OF SERVICE COMPANY POLICY

All drivers who drive Commercial Motor Vehicles (CMV) for M&K, INC must adhere to the following FMCSA's hours of service (HOS) regulations. NOTE: FMCSA may periodically update the HOS regulations, it is the driver's responsibility to adhere to this policy and any FMCSA updates.

### 11-Hour Driving Limit

A driver may drive a maximum of 11 hours after 10 consecutive hours off duty.

### 14-Hour Limit

A driver may not drive beyond the 14th consecutive hour after coming on duty, following 10 consecutive hours off duty. Off-duty time does not extend the 14-hour period.

### Rest Breaks

A driver may drive only if 8 hours or less have passed since end of driver's last off-duty or sleeper berth period of at least 30 minutes. This does not apply to drivers using either of the short-haul exceptions in 395.1(e). [49 CFR 397.5 mandatory "in attendance" time may be included in break if no other duties performed]

### Second Job

If a driver works more than one job of any kind, that time must also be included as on duty time.

### 60 & 70 Hour Limit Rules

A driver may not drive after a total of:

- 60 hours on duty in 7 consecutive days,

OR

- 70 hours on duty in 8 consecutive days, AND

an off duty period of 34 or more consecutive hours may restart a driver's 7 or 8 consecutive day period.

NOTICE: The Consolidated and Further Continuing Appropriations Act of 2015 was enacted on December 16, 2014, suspending enforcement of requirements for use of the 34-hour restart. For more information see FMCSA's Federal Register notice: [www.fmcsa.dot.gov/regulations/hours-service/hours-service-drivers](http://www.fmcsa.dot.gov/regulations/hours-service/hours-service-drivers)

### Sleeper Berth Provision

Drivers using the sleeper berth provision must take at least 8 consecutive hours in the sleeper berth, plus a separate 2 consecutive hours either in the sleeper berth, off duty, or any combination of the two.

This is to certify that I have received a copy of the company Hours of Service policy. I certify that I understand the policy and provisions.



\_\_\_\_\_  
Driver Signature

\_\_\_\_\_  
Date

### HOURS OF SERVICE POLICY:

This information is provided as an example only. Companies are encouraged to use those portions of the attached draft policy applicable to their own operations and to add information specific to their company. The sample policy and procedure are based upon accurate information available at the time it was prepared. This sample is not prepared or intended to meet any particular company's needs. A company hours of service policy may create legal rights or liabilities between the parties involved. Legal advice regarding the development or review of this or any employment policy should be obtained. No one should rely solely upon this sample policy outside its intended purpose without first obtaining the appropriate advice of legal counsel.

**M & K, INC.**  
**CELL PHONE POLICY**

In order to ensure the safety of our company drivers and to comply with state and federal regulations regarding hand held cell phone usage by commercial motor vehicle drivers. M&K, INC. has adopted the following policy while operating company vehicles in interstate and intrastate commerce.

1. All employees while driving a commercial motor vehicle (CMV), as defined in 49 CFR Part 390.5, are prohibited from holding, dialing, or reaching for a hand held cellular phone. This includes all push-to-talk type phones, such as Nextel.
2. A driver of a CMV is allowed to initiate, answer, or terminate a call by touching a single button on a mobile phone or headset provided it can be done while seated in a normal manner and seat-belted as required by law. Any such movement must be accomplished without removing the driver's eyes from the roadway. Thus hands-free technology is permissible provide the use does not cause distraction.
3. All employees, operating *any* type of vehicle, are prohibited from texting at all times while operating a company or personal vehicle while engaged in any activity on behalf of the company.
4. All drivers must minimize other distractions which take away from concentrating on driving, as driving while distracted constitutes a hazard, and will be a traffic infraction in all states. Distractions include, but are not limited to, eating, reading, talking to passengers, and performing other activities which tend to cause the driver to remove their eyes from the road or divert their attention from the task of driving.

**Driving is defined as:** operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, traffic control device, or other temporary delays. Driving would not include operating a CMV when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can remain stationary.

**Exemption:** The regulations and this policy do not prevent drivers of commercial motor vehicles from using a hand held mobile phone to communicate with law enforcement or other emergency services if necessary.

**Acknowledgement**

I acknowledge that I have received a written copy of the cell phone and distracted driving policy. I fully understand the policy and agree to abide by the terms, and that I am willing to accept the consequences of failing to follow the policy.

X

\_\_\_\_\_  
Signature

X

\_\_\_\_\_  
Date

**CELL PHONE POLICY**

NOTE: This information is provided as an example only. Companies are encouraged to use those portions of the attached draft policy applicable to their own operations, to add information specific to their company, and to confer with drug and alcohol enforcement specialists and/or legal counsel in drafting a policy. The sample policy and procedure are based upon accurate information available at the time it was prepared. This sample is not prepared or intended to meet any particular company's needs. A company alcohol and drug abuse policy may create legal rights or liabilities between the parties involved. Legal advice regarding the development or review of this or any employment policy should be obtained. No one should rely solely upon this sample policy outside its intended purpose without



**THE BELOW DISCLOSURE AND AUTHORIZATION LANGUAGE IS FOR MANDATORY USE BY ALL ACCOUNT HOLDERS**

**IMPORTANT DISCLOSURE**

**REGARDING BACKGROUND REPORTS FROM THE PSP Online Service**

In connection with your application for employment with M&K, INC. ("Prospective Employer"), Prospective Employer, its employees, agents or contractors may obtain one or more reports regarding your driving, and safety inspection history from the Federal Motor Carrier Safety Administration (FMCSA).

When the application for employment is submitted in person, if the Prospective Employer uses any information it obtains from FMCSA in a decision to not hire you or to make any other adverse employment decision regarding you, the Prospective Employer will provide you with a copy of the report upon which its decision was based and a written summary of your rights under the Fair Credit Reporting Act before taking any final adverse action. If any final adverse action is taken against you based upon your driving history or safety report, the Prospective Employer will notify you that the action has been taken and that the action was based in part or in whole on this report.

When the application for employment is submitted by mail, telephone, computer, or other similar means, if the Prospective Employer uses any information it obtains from FMCSA in a decision to not hire you or to make any other adverse employment decision regarding you, the Prospective Employer must provide you within three business days of taking adverse action oral, written or electronic notification: that adverse action has been taken based in whole or in part on information obtained from FMCSA; the name, address, and the toll free telephone number of FMCSA; that the FMCSA did not make the decision to take the adverse action and is unable to provide you the specific reasons why the adverse action was taken; and that you may, upon providing proper identification, request a free copy of the report and may dispute with the FMCSA the accuracy or completeness of any information or report. If you request a copy of a driver record from the Prospective Employer who procured the report, then, within 3 business days of receiving your request, together with proper identification, the Prospective Employer must send or provide to you a copy of your report and a summary of your rights under the Fair Credit Reporting Act.

Neither the Prospective Employer nor the FMCSA contractor supplying the crash and safety information has the capability to correct any safety data that appears to be incorrect. You may challenge the accuracy of the data by submitting a request to <https://dataqs.fmcsa.dot.gov>. If you challenge crash or inspection information reported by a State, FMCSA cannot change or correct this data. Your request will be forwarded by the DataQs system to the appropriate State for adjudication.

Any crash or inspection in which you were involved will display on your PSP report. Since the PSP report does not report, or assign, or imply fault, it will include all Commercial Motor Vehicle (CMV) crashes where you were a driver or co-driver and where those crashes were reported to FMCSA, regardless of fault. Similarly, all inspections, with or without violations, appear on the PSP report. State citations associated with Federal Motor Carrier Safety Regulations (FMCSR) violations that have been adjudicated by a court of law will also appear, and remain, on a PSP report.

The Prospective Employer cannot obtain background reports from FMCSA without your authorization.

**AUTHORIZATION**

If you agree that the Prospective Employer may obtain such background reports, please read the following and sign below:

I authorize M&K, INC. ("Prospective Employer") to access the FMCSA Pre-Employment Screening Program (PSP) system to seek information regarding my commercial driving safety record and information regarding my safety inspection history. I understand that I am authorizing the release of safety performance information including crash data from the previous five (5) years and inspection history from the previous three (3) years. I understand and acknowledge that this release of information may assist the Prospective Employer to make a determination regarding my suitability as an employee.

I further understand that neither the Prospective Employer nor the FMCSA contractor supplying the crash and safety information has the capability to correct any safety data that appears to be incorrect. I understand I may challenge the accuracy of the data by submitting a request to <https://dataqs.fmcsa.dot.gov>. If I challenge crash or inspection information reported by a State, FMCSA cannot change or correct this data. I understand my request will be forwarded by the DataQs system to the appropriate State for adjudication.

I have read the above Disclosure Regarding Background Reports provided to me by Prospective Employer and I understand that if I sign this Disclosure and Authorization, Prospective Employer may obtain a report of my crash and inspection history. I hereby authorize Prospective Employer and its employees, authorized agents, and/or affiliates to obtain the information authorized above.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Please Print)

NOTICE: This form is made available to monthly account holders by NIC on behalf of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA). Account holders are required by federal law to obtain an Applicant's written or electronic consent prior to accessing the Applicant's PSP report. Further, account holders are required by FMCSA to use the language contained in this Disclosure and Authorization form to obtain an Applicant's consent. The language must be used in whole, exactly as provided. Further, the language on this form must exist as one stand-alone document. The language may NOT be included with other consent forms or any other language.

NOTICE: The prospective employment concept referenced in this form contemplates the definition of "employee" contained at 49 C.F.R. 383.5.

LAST UPDATED 12/22/2015