

**DRUGS  
DON'T  
WORK**  
IN GEORGIA

A Step by Step Guide  
To a Drug-Free Workplace



Is substance abuse a major issue for American business and labor?



Yes!

### The Problem of Illegal Drugs

- 66% of the world’s production of illegal drugs is consumed in the U.S.
- Nearly 77% of current users of illegal drugs are employed.
- Nearly 1 in 4 employed Americans between the ages of 18-35 have used illegal drugs in the past year.
- 1/3rd of employees know of the sale of drugs in their workplace.
- 20% of young workers admit using marijuana on the job.

90% of large businesses have drug-free workplace programs in place, 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 of Substance Abuse

Even though many employers choose to ignore the problem, substance abuse in the workplace has a real impact on their bottom line. As a matter of fact, substance abuse drains more than \$100 Billion from the 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 workers’ compensation claims.
- **MEDICAL COSTS:** Substance abusers have 300% higher medical costs and benefits.
- **ABSENTEEISM:** Substance abusers are 2.5 times more likely to be absent eight or more days a year.
- **LOST PRODUCTIVITY:** Substance abusers are 1/3rd less productive.
- **EMPLOYEE TURNOVER:** It costs a business an average of \$7000 to replace a salaried worker.

Companies are finding that investment in education, prevention, and assistance programs pays dividends for both employer and employee.

Source: ‘Working Partners’, National Conference Proceedings Report: sponsored by the U.S. Department of Labor, the Small Business Administration, and the Office of National Drug Control Policy.



Can you make a difference?



Yes!

**It’s Not Difficult.** Model policies and programs are available. Some sample forms are in this booklet.

**It’s Not Expensive.** Using existing materials, you can get started at virtually no cost. If you want to develop a comprehensive program to include employee assistance, supervisor training, employee education and/or testing – you can join a consortium through your local Chamber to negotiate favorable rates.

**You don’t have to do it alone.** There are a variety of resources available to assist you: your local Chamber of Commerce, the staff of DRUGS DON’T WORK at the Georgia Chamber of Commerce, and the national and state organizations listed in the back of this booklet. DRUGS DON’T WORK in Georgia is funded by the Department of Behavioral Health and Developmental Disabilities, Division of Addictive Diseases, Office of Prevention Services and Programs.

**Take advantage of Georgia’s law creating 7.5% discount in workers’ compensation premiums based on a certified drug-free workplace.**



**How can I make my workplace drug-free?**



**Begin with careful planning.**

■ **Develop your drug-free workplace program carefully.**

**Talk to employees & supervisors about the benefits of a drug-free workplace.**

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

**Listen to employees' ideas**

Ask for input: “We’re going to implement a drug-free workplace program. What is the best way to do this?” Compliance with any change in company policy requires the understanding and acceptance of the 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 can provide a healthy and safe workplace for all.

■ **Consider the resources available and decide if you wish to offer a more comprehensive program including:**

- An employee assistance program (EAP)
- Training for supervisors
- Education/awareness for employees
- A drug-testing program

■ **Write your policy and print it on company letterhead.**

The policy expressly should prohibit employees’ illegal use of drugs and abuse of alcohol and spell out the consequences of policy violations. Model policies are printed in this booklet. You may duplicate the policy word for word, customizing it with your company’s name, or you may change portions of it to suit your specific needs. You may wish to consult your company’s attorney for assistance.



**Once I’ve planned my program, how do I implement it?**



**Take these important steps.**

**1. Distribute the policy to all employees.**

**2. Educate your employees about the program.**

Hold a meeting for all employees – labor and management – to explain the value of the drug-free workplace. Answer all questions and make yourself available to meet privately with employees.

**3. Post notifications of your drug-free workplace program. Give notice well in advance of policy implementation.**

Place notices in prominent locations throughout your business facilities as well as on your employment applications. New employees must be given a copy of your drug-free workplace policy.

**To join other businesses in your area in a statewide effort to spread drug-free workplace programs in every community, contact your local chamber of commerce to find out more about becoming a DRUGS DON’T WORK member and about receiving [1] technical assistance in policy writing, [2] discount drug testing and Employee Assistance Program (EAP) services, [3] localized employee assistance resource lists, [4] supervisor training and employee education, [5] workshops on the latest drug-free workplace issues, and much, much more!**

# SAMPLE DRUG ABUSE POLICY STATEMENT

## COMPANY LETTERHEAD

### SUBSTANCE ABUSE POLICY STATEMENT

(Company Name) is committed to providing a safe work environment and to fostering the well being and health of its employees. That commitment is jeopardized when any (Company Name) employee illegally uses drugs on or off the job, comes to work under the influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job. Therefore, (Company Name) has established the following policy:

- (1) It is a violation of company policy for an employee to use, possess, sell, trade, offer for sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on or off the job.
- (2) It is a violation of company policy for any employee to report to work under the influence or while possessing in his or her body, blood or urine illegal drugs in any detectable amount.
- (3) It is a violation of company policy for any employee to report to work under the influence of or impaired by alcohol.
- (4) It is a violation of the company policy for any employee to use prescription drugs illegally, i.e. to use prescription drugs that have not been legally obtained or in a manner or for a purpose other than as prescribed. (However, nothing in this policy precludes the appropriate use of legally prescribed medications.)
- (5) Violations of this policy are subject to disciplinary action up to and including termination.

It is the responsibility of the company's supervisors to counsel employees whenever they see changes in performance or behavior that suggest an employee has a drug problem. Although it is not the supervisor's job to diagnose personal problems, the supervisor should encourage such employees to seek help and advise them about available resources for getting help. Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug problem to seek help.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment at (Company Name).

If your company is subject to the requirements of the **Drug-Free Workplace Act of 1988** (By Nature of grant/contract with the Federal Government) you should add the following statement to your drug policy:

As a condition of employment, employees must abide by the terms of this policy and must notify (The Company) in writing of any conviction of a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

(See page 11 for more information on the Drug-Free Workplace Act of 1988.)

# BASIC INFORMATION ON EMPLOYEE ASSISTANCE: EAP'S & OTHER

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Emotional problems, marital and family discord, financial or legal difficulties, alcoholism and drug abuse are usually considered “personal” problems until they affect the individual’s job performance. Then they become your company’s problem, and you need an effective solution.

For many employers, that solution is an Employee Assistance Program or EAP, a resource to which employees and their families can turn for confidential, professional assistance.

An EAP establishes a way for troubled employees to seek help directly or for supervisors to refer those employees whose problems are affecting job performance. The employee assistance professional conducts a thorough, confidential assessment and then provides a short-term therapy or refers the employee to an appropriate therapist, treatment program or community agency.

As a component of your drug-free workplace program, the EAP should provide training for supervisors and managers, as well as education to make your employees aware of the assistance program and how it works.

- See the EAP Insert for your local EAP Providers.
- See the Employee Assistance Resource List for other means of employee assistance in the community.
- See the back pages of this booklet for national and statewide resources.

**If you are including an EAP in your company’s program, add the following paragraph to your policy:**

1.

The company offers an Employee Assistance Program (EAP) benefit for employees and their dependents. The EAP provides confidential assessment, referral and short-term counseling for employees who need or request it. If an EAP referral to a treatment provider outside the EAP is necessary, costs may be covered by the employee’s medical insurance; but the cost of such outside services are the employee’s responsibility.

Confidentiality is assured. NO information regarding the nature of the personal problem will be made available to the supervisors, nor will it be included in the permanent personnel file.

Participation in the EAP will not affect an employee’s career advancement, nor will it protect an employee from disciplinary action if substandard job performance continues. The EAP is a process used in conjunction with discipline, not a substitute for discipline.

The EAP can be accessed by an employee through self-referral or through referral by a supervisor.

**If you are not including an EAP, but instead are providing other means of employee assistance, add the following paragraph to your policy:**

2.

The company offers resource information on various means of employee assistance in our community, including but not limited to drug and alcohol abuse programs. Employees are encouraged to use this resource file, which is located [insert where]. In addition, we will distribute this information to employees for their confidential use.

# BASIC INFORMATION ON DRUG TESTING AND RESOURCES

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According to a study released by the American Management Association (AMA) in April 1994, 9 out of 10 large companies conducting drug testing in the workplace. Drug testing is primarily intended to protect employees' health and safety through the early identification and treatment of alcohol and other drug abuse problems.

Policies regarding pre-employment and employee testing are often determined by the risks associated with safety, security and health. Many employers test job applicants after an offer of employment has been made, and employees when there is "reasonable suspicion" or "probable cause" to believe an individual is using drugs, or when employees have been involved in an accident on-the-job. Others conduct routinely scheduled testing. Still others feel that random testing is warranted.

Many unions have negotiated testing agreements and have taken a strong position condemning drug use by union members.

If you choose to test applicants/employees, you should use a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) (formerly called the National Institute on Drug Abuse (NIDA)). SAMHSA/HHS certified laboratories are listed in the Federal Register on or about the first of every month. Strict procedures should be followed for supervising the chain of custody of samples and, if required, the medical review of test results.

- See the Drug Testing Insert for the SAMHSA/HHS (formerly NIDA) certified laboratories and the local collection centers in your community.
- See the back pages of this booklet for national and statewide resources.

**Add these paragraphs below and paragraphs #1 and #2 on page 5**

## **General Procedures**

An employee reporting to work visibly impaired will be deemed unable to properly perform required duties and will not be allowed to work. If possible, the employee's supervisor will first seek another supervisor's opinion to confirm the employee's status. Next the supervisor will consult privately with the employee to determine the cause of the observations, including whether substance abuse has occurred. If, in the opinion of the supervisor, the employee is considered impaired, the employee will be sent home or to a medical facility by taxi or other safe transportation alternative – depending on the determination of the observed impairment – and accompanied by the supervisor or another employee if necessary. A drug test may be in order. An impaired employee will not be allowed to drive.

## **Opportunity to Contest or Explain Test Results**

Employees and job applicants who have a positive confirmed test result may explain or contest the result to the Company within five (5) working days after the Company contacts the employee or job applicant and shows him/her the positive test result as it was received from the laboratory in writing.

## **Confidentiality**

The confidentiality of any information received by the employer through a substance abuse testing program shall be maintained, except as otherwise provided by law.

# BASIC INFORMATION ON DRUG TESTING AND RESOURCES

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**Add paragraphs #1 and #2 to your policy statement.**

**Pre-employment drug testing paragraph:**

1. All job applicants at this Company will undergo testing for the presence of illegal drugs as a condition of employment. Any applicant with a confirmed positive test will be denied employment.

Applicants will be required to submit voluntarily to a specimen test at a laboratory chosen by the Company, and by signing a consent agreement will release this Company from liability.

If the physician, official or lab personnel has reasonable suspicion to believe that the job-applicant has tampered with the specimen, the applicant will not be considered for employment.

This Company will not discriminate against applicants for employment because of a past history of drug abuse. It is the current abuse of drugs, preventing employees from performing their jobs properly, that this Company will not tolerate.

Individuals who have failed a pre-employment test may initiate another inquiry with the company after a period of not shorter than; six (6) months; but they must present themselves drug-free as demonstrated by urinalysis or other test selected by this Company.

**Employment testing paragraph:**

2. This Company has adopted testing practices to identify employees who use illegal drugs on or off the job or who abuse alcohol on the job. It shall be a condition of employment for all employees to submit to substance abuse testing under the following circumstances:

1. When there is reasonable suspicion to believe that an employee is using illegal drugs or abusing alcohol. 'Reasonable suspicion' is based on a belief that an employee is using or has used drugs or alcohol in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to, the following:

- (A) Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse;
- (B) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
- (C) A report of substance abuse provided by a reliable and credible source;
- (D) Evidence that an individual has tampered with any substance abuse test during his or her employment with the current employer;
- (E) Information that an employee has caused or contributed to an accident while at work; or
- (F) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.

2. When employees have caused or contributed to an; on-the-job injury that resulted in a loss of work-time, which means any period of time during which an employee stops performing the normal duties of employment and leaves the place of employment to seek care from a licensed medical provider.
3. As part of a follow-up program to treatment for drug abuse.
4. When a substance abuse test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.

Employees with a confirmed positive test result may, at their option and expense, have a second confirmation test made on the same specimen. An employee will not be allowed to submit another specimen for testing.

If the physician, official, or lab personnel has reasonable suspicion to believe that the employee has tampered with the specimen, the employee is subject to disciplinary action up to and including termination.

# BASIC INFORMATION ON ALCOHOL ABUSE AND RESOURCES

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When adding language specifically to address alcohol abuse on the job, add paragraphs #1 or #2 to your policy.

1. The consumption or possession of alcoholic beverages on this Company's premises is prohibited. (Company sponsored activities which may include the serving of alcoholic beverages are not included in this provision.) An employee whose normal faculties are impaired due to the consumption of alcoholic beverages, or whose blood alcohol level tests [insert either 'positive', '.05 or higher' or '.08 or higher'], while on duty/company business shall be guilty of misconduct and shall be subject to discipline up to and including termination. Failure to submit to a required substance abuse test also is misconduct and also shall be subject to discipline up to and including termination.

or

2. An employee who is under the influence of alcoholic beverages at any time while on company business or at any time during the hours between the beginning and ending of the employee's work day, whether on duty or not and whether on (Company Name) business or property or not, shall be guilty of misconduct and is subject to discipline up to and including termination.  
An employee shall be determined to be under the influence of alcohol if...
  - a. the employee's normal faculties are impaired due to the consumption of alcohol,

or

  - b. the employee has a blood alcohol level of .05 or higher.Failure to submit to a substance abuse test is misconduct and shall be subject to discipline up to and including termination.

# SAMPLE LETTER TO EMPLOYEES TO ACCOMPANY DRUG ABUSE POLICY STATEMENT

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COMPANY  
LETTERHEAD

## LETTER TO ALL EMPLOYEES

The illegal use of drugs and the abuse of alcohol are problems that invade the workplace, endangering the health and safety of the abusers and those who work around them. This Company is committed to creating and maintaining a workplace free of substance abuse without jeopardizing valued employees' job security.

To address this problem, our Company has developed a policy regarding the illegal use of drugs and the abuse of alcohol that we believe best serves the interests of all employees. Our policy formally and clearly states that the illegal use of drugs or abuse of alcohol or prescription drugs will not be tolerated. As a means of maintaining our policy, we have implemented pre-employment and active employee drug testing. This policy was designed with two basic objectives in mind: (1) employees deserve a work environment that is free from the effects of illegal drug use or alcohol abuse and the problems associated with such, and (2) this Company has a responsibility to maintain a healthy and safe workplace.

\*To assist us in maintaining a safe and healthful workplace, we have created an Employee Assistance Program (EAP). The EAP provides employees and their families confidential assessment, referral, and follow-up for personal or health problems.

\*\*To assist us in providing a safe and healthy workplace, we maintain a resource file of information on various means of employee assistance in our community, including but not limited to drug and alcohol abuse programs. Employees are encouraged to use this resource file, which is located [insert where]. In addition, we will distribute this information to employees for their confidential use.

An employee whose conduct violates this Company's Substance Abuse Policy (\*and who does not accept the help we offer under the EAP) will be disciplined up to and including termination.

I believe it is important that we all work together to make this Company a drug-free workplace and a safe, rewarding place to work.

Sincerely,

President

\*Insert if your business has added an EAP to its Drug-Free Workplace Program.

\*Insert if your business has not added an EAP, but instead provides other means of employee assistance in the community.

# PRE-EMPLOYMENT DRUG TESTING CONSENT AND RELEASE FORM

COMPANY  
LETTERHEAD

I hereby consent to submit to urinalysis and/or other tests as shall be determined by (Company Name) in the selection process of applicants for employment, for the purpose of determining the drug content thereof.

I agree that \_\_\_\_\_  
(name of physician or clinic)

may collect these specimens for these tests them or forward them to a testing laboratory designated by the company for analysis.

I further agree to and hereby authorize the release of the results of said tests to the company.

I understand that it is the current use of illegal drugs that prohibits me from being employed at this Company.

I further agree to hold harmless the company and its agents (including the above named physician or clinic) from any liability arising in whole or part, out of the collection of specimens, testing, and use of the information from said testings in connection with the company's consideration of my application of employment.

I further agree that a reproduced copy of this pre-employment consent and release form shall have the same force and effect as the original.

I have carefully read the foregoing and fully understand its contents. I acknowledge that my signing of this consent and release form is a voluntary act on my part and that I have not been coerced into signing this document by anyone.

Applicant:

Print Name \_\_\_\_\_ S.S.# \_\_\_\_\_

Applicant:

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

Witness Printed Name: \_\_\_\_\_

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

# ACTIVE EMPLOYEE CERTIFICATE OF AGREEMENT

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(This certificate becomes part of the active employee's personnel file.)

COMPANY  
LETTERHEAD

## ACTIVE EMPLOYEE CERTIFICATE OF AGREEMENT

I do hereby certify that I have received and read the (Company Name) Substance Abuse and Testing Policy and have had the Georgia Worker's Compensation Drug-Free Workplace certification program (O.C.G.A. 34-9-410) explained to me. I understand that if my performance indicates it is necessary, or in the case of random testing, I will submit to a substance abuse test. I also understand that failure to comply with a substance abuse test request, or a positive result may lead to termination of employment and denial of unemployment benefits. I understand that failure to submit to a substance abuse test, or a positive test result may affect my right to obtain Workers' Compensation benefits. I further agree to and hereby authorize the release of the results of said tests to the company. Nothing in this consent form is to be construed as a contract between the parties.

Name (please print): \_\_\_\_\_

Signature: \_\_\_\_\_

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

## **Drug-Free Workplace Policy Law**

Federal, state and local law pertaining to drug-free workplace policies and procedure is complex and subject to frequent changes by legislation and court decision. It is essential to consult your attorney before implementing any policy or practice. However, these materials do not constitute legal advice.

Through the local chapter of the Georgia Bar Association or the American Bar Association, some attorneys in your community may be available to answer specific questions regarding drug-free workplace policies and procedures without charge.

## **Georgia HR1140: Workers' Compensation Drug-free Workplace 7.5% Premium Credit**

Georgia House Bill 1140 became effective in 1997 and created a 7.5% discount on workers' compensation insurance premiums for employers who are certified by the State Board of Workers' Compensation as having a drug-free workplace program. The 7.5% premium discount is applied to the employer's policy pro rata as of the date the employer receives its certification, and may continue as long as certification is renewed annually. Briefly, the five components of a drug-free workplace program are as follows:

1. written policy statement;
2. substance abuse testing;
3. maintaining employee assistance resources;
4. employee education; and
5. supervisor training

To obtain the necessary rules and guidelines and application for certification for the premium credit, please contact either DRUGS DON'T WORK in Georgia at 404-223-2277, the State Board of Workers' Compensation at 404-656-2048, your local chamber of commerce or log on to [www.livedrugfree.org](http://www.livedrugfree.org) or [www.sbwcdwp.org](http://www.sbwcdwp.org).

## **Georgia HB 1505: Denial of Workers' Compensation Benefits**

Georgia House Bill 1505 became effective in 1994. It modified the Georgia Workers' Compensation Law to provide that no workers' compensation benefits will be awarded for injury or death due to intoxication by alcohol or the influence of marijuana or a controlled substance, unless prescribed by a physician.

In addition, HB 1505 creates a rebuttable presumption that the accident and injury or death were caused by the consumption of alcohol or ingestion of marijuana or a controlled substance if:

1. 0.08 grams of alcohol or greater is found in an employee's blood, urine, breath or other bodily substance within 3 hours from the time of the accident; or
2. any amount of marijuana or controlled substance is detected in an employee's blood, urine, or other bodily substance within 8 hours from the time of the accident;
3. an employee unjustifiably refuses to submit to reliable, scientific testing to determine the presence of alcohol, marijuana or controlled substances.

Prior to the effective date of this law, even if an employee tested positive for use of drugs or alcohol, the burden of proof was on the employer to prove that the use of drugs or alcohol was the cause of the accident. This law effectively shifts that burden. If an employee tests positive for use of drugs or alcohol, the employee has the burden to establish that drug or alcohol use was not a contributing factor to the accident.

## **Georgia HB 1270: Denial of Unemployment Benefits**

Georgia House Bill 1270 became effective in 1996. It modified the Georgia Employment Security Law to make an employer's denial of unemployment insurance much easier in cases where an employee tests positive on a drug test administered pursuant to the company's drug-free workplace policy in adherence to Georgia law.

Previously, it was extremely difficult for an employer to move through the legal proceedings to prove their denial of an employee's unemployment benefits was for just cause without the expense of hiring an attorney to handle it. One reason an employer needed to retain legal counsel was that the employer was required to prove the chain of custody of the drug

test specimen, which is extremely complicated. This combined with the element that many employers do not understand the complicated rules of evidence often ended in a failure to prove their case and a substance abusing employee collecting unemployment insurance. Now, the laboratory results shall be admissible and self-authenticating in an administrative hearing conducted by the Commissioner with respect to a disputed unemployment benefits claim and such evidence will create a rebuttable presumption that the individual violated the employer's drug-free workplace policy.

## The Drug-Free Workplace Act of 1988

The Drug-Free Workplace Act of 1988 requires all federal grant recipients and federal contractors (Where contracts exceed \$100,000.00) to certify that they will provide a drug-free workplace. The final rules describing the requirements for such grantees/contractors were published in the Federal Register on May 25, 1990.

### Generally, this law requires covered employers to:

- Develop and publish a written policy and ensure that employees read and consent to the policy as a condition of employment;
- Initiate an awareness program to educate employees about
  - the dangers of drug abuse,
  - the company's drug-free workplace policy,
  - any available drug counseling, rehabilitation, and employee assistance programs,
  - the penalties that may be imposed upon employees for drug abuse violations;
- Require that all employees notify the employer or contractor within 5 days of any conviction for a drug offense in the workplace;
- Make an on-going good faith effort to maintain a drug-free workplace.

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- See page 3 of this booklet for the specific language to include in your policy statement if your company is subject to the requirements of the Drug-Free Workplace Act of 1988.
  - The contract and/or grant administration office of the federal department or agency awarding a contract or grant can answer questions about the provisions and requirements of the Drug-Free Workplace Act of 1988.
  - See the last pages of this booklet for additional national and state resources.

## Department of Transportation (DOT) Regulations

The U.S. Department of Transportation (DOT) rules on drug testing became effective in December 1988 and most recently have been revised in February 1994. The regulations cover several occupations under DOT jurisdiction, including natural gas and pipeline workers, motor carrier workers, aviation workers and railroad workers. Employers with transportation positions covered by DOT must test job applicants. Employees are to be tested during routine physicals, on a random basis, upon reasonable cause and after accidents.

The DOT has established an Anti-Drug Information Center (ADIC). This computer-based system can respond to telephone calls, facsimile, or modem. The system will provide callers with model drug rules and detailed information, interpretation and advice on DOT regulations. Contact 1-800-CAL-DRUG.

## The Americans with Disabilities Act of 1990

This Act, effective July 1992, prohibits discrimination against “qualified people with disabilities” and limits an employer’s ability to inquire into an employee’s or job applicant’s medical history. It does, however, permit drug testing and does not bar employers from prohibiting alcohol abuse or illegal drug use in the workplace. Under the ADA, an employer may require job applicants and employees to pass a drug test as a condition of employment.

Although the Act does not protect certain illegal substance abusers and alcoholics who cannot safely perform their jobs, it does protect those who have been rehabilitated or who are participating in supervised rehabilitation programs and not currently using drugs.

### What Exactly is “Current” Drug Use?

- According to EEOC, “Current drug use means that the illegal use of drugs occurred recently enough to justify an employer’s reasonable belief that involvement with drugs in an on-going problem. It is not limited to number of days of use.. It is determined on a case-by-case basis.”
- A positive drug test conclusively proves current use.
- But a test can be conducted only to determine “illegal” drug use; a person who tests positive for a lawfully used prescription drug cannot be discriminated against.
- In the case of job applicants, an employer cannot ask what prescription drugs a person is taking before making a conditional offer of employment.
- The EEOC suggests that employers can avoid potential liability by conducting pre-employment drug tests after making an offer; if a person tests positive with illegal drugs, the employer may withdraw the offer.
- The following are protected by the ADA, i.e., an employer cannot discriminate based on these characteristics:
  - Illegal substance abusers and alcoholics who have successfully completed a rehabilitation program.
  - Those who are participating in a supervised rehabilitation program.
  - Those who, based on hearsay only, are believed to be an illegal drug user.
  - Furthermore, an alcoholic is considered “an individual with a disability” and cannot be discriminated against unless their alcohol use impairs performance or conduct to the extent that they are not qualified.
- For more information about the ADA requirements affecting employment, contact the Equal Employment Opportunity Commission at 202-663-4900.

(Source: Institute for a Drug-Free Workplace)

# NATIONAL AND STATE RESOURCES

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## National Technical Assistance

**Drug-Free Workplace Helpline..... 1-800-843-4971**

This National Institute on Drug Abuse toll-free service operates 9:00 a.m. – 8:00 p.m. EST. Telephone consultation is available for business owners, managers, and union leaders on the development and implementation of comprehensive drug-free workplace programs. These counselors can put you in touch with local resources.

**National Clearinghouse for Alcohol and Drug Information..... 1-800-729-6686**

This toll-free service has information specialists available on all aspects of substance abuse – from videos and prevention materials to specific program descriptions, resources in your State, and the latest research results. Many publications and educational materials are available free from the Clearinghouse. As these publications are in the public domain, you may reprint them under your logo without permission.

**Center for Substance Abuse Hotline..... 1-800-662-HELP**

This service provides advice and referrals to individuals about the availability of drug and alcohol treatment services, including referrals to programs for those who cannot pay.

**Department of Transportation’s Anti-Drug Information Center..... 1-800-CAL-DRUG**

This system is designed to respond to inquiries regarding the U.S. DOT drug-free workplace regulations for the transportation industry.

**Employee Assistance Professionals Association (EAPA)..... 703-522-6272**

EAPA provides information on how to select EAP’s the value they can provide, the theory behind them and how they operate. (EAPA, 4601 North Fairfax Drive, Suite 1001, Arlington, VA 22203)

**AL-Anon/Alateen Family Group Headquarters ..... 1-800-356-9996**

**Alcoholics Anonymous World Service ..... 212-870-3400**

**American Council on Alcoholism Helpline..... 1-800-527-5344**

**800 Cocaine – An information and Referral Hotline..... 1-800-COCAINE**

**Nar-Anon Family Group Headquarters..... 310-547-5800**

**National Council on Alcoholism and Drug Dependency ..... 1-800-NCA-CALL**

## State Resources

**DRUGS DON’T WORK IN GEORGIA.....404-223-2264 ext. 277**

The staff of DRUGS DON’T WORK can be reached at the Georgia Chamber of Commerce in Atlanta. Call with any questions concerning implementation of a drug-free workplace. See our website at [www.livedrugfree.org](http://www.livedrugfree.org).

**The Drug Abuse Hotline..... 1-800-338-6745**

Since 1987, this Helpline has been available 24 hours a day, 7 days a week, even during Holidays. Call the Helpline for referral to the proper programs and resources addressing specific problems relating to alcohol and drug abuse. Absolutely no recordings are made of any phone calls to the Helpline. This telephone number should be posted where employees can see it.

**Alcoholics Anonymous Statewide ..... 404-525-3178**

**Cocaine Anonymous Statewide..... 404-255-7787**

**United Ways’ First Call For Help ..... 404-614-1000**

**The Council On Alcohol And Drugs ..... 404-223-2482**

## Notice

The various components of a drug-free workplace program, especially active employee testing, may raise legal issues for your company.

These model programs/policies have been reviewed by legal counsel. This program and its supporting policies are similar to those in effect in many major companies.

Companies with special requirements or contracts may need to modify sections of this program; therefore, these model policies are intended for general information only.

The Georgia Chamber of Commerce, your local Chamber of Commerce, and the Georgia State Board of Workers' Compensation disclaim any responsibility for the implementation of these policies. All employers are advised to seek legal counsel prior to implementing substance abuse policies.



THE COUNCIL ON ALCOHOL AND DRUGS' DRUGS DON'T WORK PROGRAM IS THE STATEWIDE DRUG-FREE WORKPLACE PROGRAM ESTABLISHED BY THE GEORGIA CHAMBER OF COMMERCE. A COLLABORATION AMONG THE GEORGIA CHAMBER, LOCAL CHAMBERS, THE DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES, DIVISION OF ADDICTIVE DISEASES, OFFICE OF PREVENTION SERVICES AND PROGRAMS, AND THE GEORGIA STATE BOARD OF WORKERS COMPENSATION-DRUGS DON'T WORK EXEMPLIFIES AN EFFECTIVE PUBLIC-PRIVATE PARTNERSHIP IN COMBATING SUBSTANCE ABUSE IN THE WORKPLACES OF GEORGIA