

ATTACHMENT D
**RESOLUTION 23-03 ADOPT MV'S SUBSTANCE
ABUSE POLICY**

RESOLUTION #25-03

**BEFORE THE BOARD OF DIRECTORS
OF THE KINGS COUNTY AREA PUBLIC TRANSIT AGENCY**

RESOLUTION OF THE BOARD OF DIRECTORS OF THE KINGS COUNTY AREA PUBLIC TRANSIT AGENCY (KCAPTA) ACCEPTING MV PUBLIC TRANSPORTATION INC. SUBSTANCE ABUSE POLICY AND RANDOM TESTING PROCEDURES

WHEREAS, the Federal Transit Administration (FTA) mandates all recipients to adopt and implement and anti-drug and alcohol policy; and

WHEREAS, KCAPTA, as a recipient of FTA funds is responsible for ensuring compliance of its transit operations contract comply with 49 CFR part 40, 655 and 382 for all "safety-sensitive" employees; and

WHEREAS, KCAPTA has received and reviewed MV Transportation's Substance Abuse Policy and Random Testing Procedures dated October 2, 2024, and found that it complies with the regulation.

NOW, THEREFORE, BE IT RESOLVED:

The Kings County Area Public Transit Agency Board hereby accepts MV Transportation's Substance Abuse Policy and Random Testing Procedures dated October 2, 2024

PASSED AND ADOPTED by the Kings County Area Public Transit Agency of the Kings County, State of California, at a regular meeting of the Board held on the 23rd day of October 2024 by the following votes:

AYES: Commissioner: _____
NOES: Commissioner: _____
ABSENT: Commissioner: _____

Kings County Area Public Transit Agency Board Chairman
Joe Neves



MV Transportation
Drug and Alcohol Policy

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Drug and Alcohol Testing Core Values

Drug and alcohol abuse are the two most preventable behavioral disorders facing our society today. Drug abuse costs hundreds of billions of dollars alone in lost productivity, increased healthcare costs, accidents, and theft. It is estimated that drug and alcohol abuse costs over a trillion dollars worldwide and growing.

MV Transportation, Inc. and its Subsidiaries are dedicated to providing safe, dependable, and economical service to its clients. MV Transportation's employees are our most valuable resource. It is our policy (1) to take appropriate action to assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) to foster and maintain a drug and alcohol - free environment for all employees and patrons; (3) to prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to voluntarily seek professional assistance whenever personal problems, including alcohol or drug use, may adversely affect their ability to perform their assigned duties.

Drug testing not only saves businesses money, but it also saves lives. This is the backdrop that MV Transportation's Drug and Alcohol Compliance Department works in to promote a safe and ethical drug testing program that will be the standard of the industry. MV Transportation's Compliance Department is always looking for ways to improve the everyday challenges by using state of the art software and easy to follow testing instructions and forms, and a comprehensive collection site inspection tutorial for supervisors.

MV's purpose is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed using alcohol and prohibited drugs. MV is surrounded by an extraordinary Board of Directors, Executive Committee and professional staff who support and promote a safe and drug-free environment in which we all live and work.

MVT is dedicated to assuring fair and equitable application of this "Zero Tolerance" substance abuse policy. Therefore, supervisors and managers are required to use and apply all aspects of this policy in an unbiased and impartial manner.

Approved  Date: October 2nd, 2024

Jarrett Andrews, CHRO
MV Transportation, Inc., and its Subsidiaries

I. Purpose of Policy

This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. Copies of Parts 655 and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655 (for FTA Covered employees) and/or 49 CFR Parts 300-399. (for FMCSA-covered employees)

Portions of this policy are not FTA-mandated, but reflect MV Transportation, Inc's policy. These additional provisions are identified by **bold text**.

In addition, DOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

All MV Transportation, Inc employees are subject to the provisions of the Drug-Free Workplace Act of 1988.

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify your General Manager no later than five days after such conviction.

2. Covered Employees

This policy applies to every person, including an applicant or transferee, who performs or will perform a "safety-sensitive function" as defined in Part 655, section 655.4 and the FMCSA regulations Part 382

You are an FTA-covered employee if you perform any of the following:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver's license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

See Attachment A for a list of covered positions by job title.

2.1 Non-Safety Sensitive Positions

All applicants applying for non-safety-sensitive positions will have to take and pass a pre-employment NON-DOT drug test prior to being hired.

All MVT employees are subject to the provisions of the Drug-Free Workplace Act of 1998. Visitors, vendors, and contracted employees on MVT premises will not be permitted to conduct transportation business if found to be in violation of this policy

3. Prohibited Behavior

Use of illegal drugs is prohibited at all times. Prohibited drugs include:

- marijuana
- cocaine
- phencyclidine (PCP)
- opioids
- amphetamines

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees required to take a post-accident test are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

4. Consequences for Violations

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and provided with contact information for Substance Abuse Professionals (SAPs).

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of their next regularly scheduled duty period (but for not less than eight hours) unless a retest results in the employee's alcohol concentration being less than 0.02.

Zero Tolerance

Per MV Transportation, Inc policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will be terminated from employment.

5. Circumstances for Testing

Pre-Employment Testing

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

Return to Work after 30 Days (DOT-FMCSA Policy)

MVT has some contracts that are subject to the Federal Motor Carrier Safety Regulations and NOT FTA regulations. Therefore, if the employee has a commercial license and has been out for 30 days or more AND the employee has been taken out of the random testing pool, the covered employee will be required to take and receive a verified negative result on a DOT pre-employment drug test before he/she can perform his/her safety-sensitive position.

Return to Work after 30 Days for Non-Regulated employees not subject to federal guidelines but perform driving duties that is considered sensitive work (MVT Policy)

It is MVT's policy that all non-covered drivers who drive an MV vehicle and has not performed his/her driving functions for 30 or more consecutive days (regardless of reason) the non-covered employee will be required to take and pass another Non-DOT Pre-Employment drug test before he/she can return to his/her driving position.

****For confirmation of regulation authority contact Drug & Alcohol Compliance Department****

Pre- Employment Breath Alcohol Testing

Although it is not MV Transportation's policy to test for alcohol on a pre-employment test, MVT does have contracts that require a breath alcohol test be conducted in addition to the required drug test. Divisions that are subject to this requirement will have to take a pre-employment breath alcohol test. Breath alcohol testing will be in accordance with DOT Part 40 and 655.42.

(a) The employer must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).

(b) The employer must treat all covered employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., you must not test some covered employees and not others).

(c) The employer must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.

(d) The employer must conduct all pre-employment alcohol tests using the alcohol testing procedures set forth in 49 CFR Part 40.

(e) The employer must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.02.

Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when MV Transportation, Inc has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

Any employee who is required to take a Reasonable Suspicion test will remain off duty until a negative alcohol and/or drug test is received.

Post-Accident Testing

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by MV Transportation, Inc using the best information available at the time of the decision, will be tested.

Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by MV Transportation, Inc using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

MV Policy: When to conduct a NON-DOT Post accident/incident test

If the accident does not meet the FTA/FMCSA testing criteria, MVT will reserve the right to test any safety-sensitive employee after any accident/incident regardless of the severity of the accident/incident. Additionally, MVT will test any other safety-sensitive employee whose performance MVT determines could have contributed to the accident.

Under these circumstances it must be explained to the employee that the drug and alcohol tests will be done under M.V. Transportation authority and should be done on NON-DOT drug and alcohol chain of custody forms.

Any employee who takes a post-accident test will remain off duty until a negative drug test and alcohol test result is received.

Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year by the FTA/FMCSA administrator. The current year testing rates can be viewed online at www.transportation.gov/odapc/random-testing-rates.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

6. Testing Procedures

All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

Dilute Urine Specimen

If there is a negative dilute test result, MV Transportation, Inc will conduct one additional retest. The result of the second test will be the test of record.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. MV Transportation, Inc guarantees that the split specimen test will be conducted in a timely fashion.

7. Test Refusals

As a covered employee, you have refused to test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by MV Transportation, Inc.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to provide a specimen for a drug or alcohol test. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient specimen for a drug or alcohol test without a valid medical explanation.
- (6) Fail or decline to take a second drug test as directed by the collector or MV Transportation, Inc.
- (7) Fail to undergo a medical evaluation as required by the MRO or MV Transportation, Inc's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine drug test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions, and provided with contact information for SAPs.

8. Voluntary Self-Referral

Any employee who has a drug and/or alcohol abuse problem and has not been notified of the requirement to submit to reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to their Safety or General Manager who will refer the individual to a substance abuse counselor for evaluation and treatment.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.

All associated costs for treatment are the sole responsibility of the employee

All employees who successfully complete the prescribed treatment and can return to work will be subject to unannounced non-DOT follow-up testing as prescribed by doctor/counselor

9. Prescription Drug Use

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected MUST be reported to supervisory personnel. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.

Any time an employee comes forward about a medication that he/she is taking the information must be forwarded to the Director of the Compliance Department for clarification and review. The Compliance department will then consult with the Medical Review Officer (MRO) to determine if the medication is appropriate to take while performing a safety-sensitive function.

A legally prescribed drug means that the employee has a prescription or other written approval (in his/her name) from a physician for the use of a drug during medical treatment. The misuse of legal drugs while performing a safety-sensitive function is prohibited at all times.

If the MRO determines that the medication being taken is not appropriate to take while performing a safety-sensitive function the employee will remain off duty until the issue is cleared by the MRO.

To continue performing a safety-sensitive function the employee taking the medication will be required to provide the following:

A written letter from the prescribing physician stating the patient's name, the name of the substance, the period of authorization and a statement that the medication will not adversely affect the employee's performance to drive or perform his/her safety sensitive function and that the employee may continue to perform his/her safety-sensitive function while taking such medication. The letter must be signed and dated by the physician and the letter will be provided to the MRO for final approval.

10. Contact Person

For questions about MV Transportation, Inc's anti-drug and alcohol misuse program, contact Jacob Lackore, HR Mgr & DAPM | 2711 N Haskell Ave, 1500, Dallas, TX 75204 | 972.391.4635

11. Local Authority

Local Division General Managers and Safety Managers are the Designated Employer Representatives (DERs) and are authorized to receive test information from the MRO as well as confirmation test results from the qualified B.A.T.

12. Revisions to the Policy and Program

This policy and program are subject to revision in accordance with the Department of Transportation regulations, as amended.

13. Substance Abuse Professional (SAP)

An SAP must meet all the credential, basic knowledge, qualification training, continuing education, and documentation requirements of 49 CFR Part 40, Subpart O, §40.281 (a-e). The SAP will evaluate the employee to determine what assistance the employee needs in resolving problems associated with prohibited substance abuse or alcohol misuse. The SAP will also determine whether an employee has successfully completed a program of rehabilitation.

MV Transportation uses:

American Substance Abuse Professionals, Inc. (ASAP) Nationwide Network www.go2asap.com 10151 York Road, Suite 120, Cockeysville, MD 21030 Contact: Nicole Hanratty, CEAP, SAP, C-DERT 888-792-2727 x200 Mention MV Transportation

This firm is a national company that contains a large network of qualified SAPs throughout the United States. Employees simply call the toll-free number and provide the SAP with their city and zip code and the SAP will find them the qualified SAPs closest to their area.

14. Training and Education

All employees shall participate in a minimum one-hour training session designed to meet FTA requirements by learning about the effects and consequences of drug use on personal health, safety, and the work environment. For those supervisors participating in reasonable suspicion determination testing, there will be at least two hours of training to explain the criteria for reasonable cause testing, including at least an hour on the physical, behavioral and performance indicators of probable drug use and another hour on the physical, behavioral, speech and performance indicators of probable alcohol misuse. Initial training sessions will be re-reinforced with educational materials and meetings. Further, employees shall be provided with a community hot-line telephone number.

15. Employee Assistance Community Service Hot-Line

The Center for Substance Abuse Treatment maintains a toll-free Referral Helpline 800-662-HELP

National Mental Health Association

800-969-NMHA (6642)

National Domestic Violence Hotline

800-799-SAFE

National Suicide Hotline

800-SUICIDE (784-2433)

National Child Abuse Hotline

800-422-4453

16. Records, Confidentiality

A safety-sensitive employee is entitled, upon written request, to review and obtain copies of any records relating to the employee's drug and alcohol testing. MVT must maintain records of its substance abuse program in a secure location with controlled access.

Attachment A: Covered Positions

The following is a general list of safety-sensitive functions and the job categories of employees who are subject to the provisions of 49 CFR Part 655 and/or 382 at MV Transportation:

NOTE: This list is subject to change and revision.

49	Maintenance Training Manager	340	Lead Dispatcher	416	Safety Manager	550	Mechanic
87	Safety Assistant	345	Dispatcher	420	BTW Trainer	561	Mechanic A (specify Union Class)
112	Floating Class A Mechanic	346	Window Dispatcher	425	BTW Instructor	562	Mechanic B (specify Union Class)
113	Body Repairman	349	Scheduling Manager	450	Classroom Instructor	563	Mechanic C (specify Union Class)
300	General Manager	350	Scheduler	451	Classroom Trainer	564	Technician A Mechanic
301	General Manager 1	352	Scheduling Coordinator	470	Parts Manager	565	B Mechanic
302	General Manager 2	353	VA Coordinator	471	Assistant Parts Manager	566	Technician C Mechanic
303	General Manager 3	354	Operations Supervisor	475	Parts Clerk	567	Technician Apprentice
304	General Manager 4	355	Road Supervisor	500	Maintenance Manager	568	Technician
310	Division Manager	357	Where's My Ride Supervisor	510	Assistant Maintenance Manager	569	Mechanic Helper
315	Assistant Division Manager	359	Lead Supervisor	512	Maintenance Technician	570	Cleaners
320	Operations Manager	379	Lead Schedule/Dispatcher	514	Bus Stop Maintenance	571	Mechanic Helper
321	Shift Supervisor	399	Call Center Manager	515	Maintenance Clerk	572	Body Shop Technician
322	Assistant Operations Manager	400	Safety and Training Manager	516	Maintenance Supervisor	575	Service Worker
323	Operations supervisor	405	Training Manager	517	Service Employee	580	Utility Crew
330	Dispatch Manager	406	Training Supervisor	518	Advanced Service Employee	584	Station Supervisor
332	Reservations Manager	410	Safety Trainer	519	Entry Level Mechanic	590	Bus Aide
335	Dispatch Supervisor	411	Safety Training Supervisor	520	Shop Foreman	600	Driver Trainer
336	Drive Cam Supervisor	415	Assistant Safety Manager	530	Lead Mechanic	610	Driver



**ACKNOWLEDGEMENT
OF
EMPLOYER'S DRUG AND ALCOHOL TESTING POLICY**

I, _____, the undersigned, hereby *Print*
Full Name

acknowledge that I have received a copy of the anti-drug and alcohol misuse program policy mandated by the U.S. Department of Transportation, Federal Transit Administration for all covered employees who perform a safety-sensitive function. I understand this policy is required by 49 CFR Part 655, as amended, and has been duly adopted by the governing board of the employer. Any provisions contained herein which are not required by 49 CFR Part 655, as amended, that have been imposed solely on the authority of the employer are designated as such in the policy document.

I further understand that receipt of this policy constitutes a legal notification of the contents, and that it is my responsibility to become familiar with and adhere to all provisions contained therein. I will seek and get clarification for any compliance with all provisions contained in the policy. I also understand that compliance with all provisions contained in the policy is a condition of employment.

I further understand that the information contained in the approved policy dated October 2nd, 2024, is subject to change, and that any such changes, or addendum, shall be disseminated in a manner consistent with the provision of 49 CFR Part 655, as amended.

I hereby acknowledge that I have participated in and completed the required minimum 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use in accordance with Part 655.14(b)(1) and in addition, to the training, this policy and handbook was reviewed.

I further acknowledge that I have been advised of the consequences for safety sensitive employees who violate the testing requirements.

Signature of Employee

Date

