

IML Guidance on Drug and Alcohol Policy

Under the Cannabis Regulation and Tax Act and Public Act 101-0593

Employers have expressed concerns regarding the ability to maintain drug-free workplace policies and testing programs following the enactment of Public Act (P.A.) 101-0027, which created the Cannabis Regulation and Tax Act (CRTA) legalizing adult-use cannabis and amended the Right to Privacy in the Workplace Act (RPWA). In response to some of those concerns, the Illinois General Assembly passed, and Governor JB Pritzker signed, SB 1557, now P.A. 101-0593, effective December 4, 2019, which amends CRTA.

The Right to Privacy in the Workplace Act provides:

Except as otherwise specifically provided by law, including Section 10-50 of the Cannabis Regulation and Tax Act ... it shall be unlawful for an employer to refuse to hire or to discharge any individual, or otherwise disadvantage any individual, with respect to compensation, terms, conditions or privileges of employment because the individual uses lawful products off the premises of the employer during nonworking and non-call hours. (820 ILCS 55/5(a)). (Emphasis added.)

Municipal employers should take note that P.A. 101-0593 amends CRTA to codify significant authority of municipalities to establish and maintain drug-free workplace policies. Pre-employment and random screening policies for illicit substances other than cannabis are not affected by RPWA or CRTA. Section 10-35 of CRTA, as amended, includes language that specifically provides that employers of law enforcement officers, corrections officers, probation officers, paramedics and firefighters may prohibit those employees from the consumption, possession, sale, purchase or delivery of cannabis or cannabis infused substances while on **or off duty**. This provision exempts municipal employers with such policies from the restrictions of RPWA. These matters are subject to the terms of the collective bargaining agreements of the employer. (410 ILCS 705/10-35(a)(8)).

In addition, P.A. 101-0593 amends Section 10-50 of CRTA to specifically provide that an employer is not subject to a cause of action by any person for reasonable drug and alcohol testing, reasonable and nondiscriminatory random drug testing, and discipline, termination of employment, or withdrawal of a job offer due to failure of a drug test. (410 ILCS 705/10-50(e)(1)).

CRTA establishes standards for employers investigating whether an employee is impaired by or under the influence of cannabis. (410 ILCS 705/10-50(d)). Cannabis screening panels for tests based on reasonable suspicion should be supported by the statutory bases for an employer's good faith belief that there is some impairment:

- When an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms affecting the employee's speech, physical dexterity, agility, coordination or demeanor, or resulting in irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery;

- Disregards the safety of the employee or others, or is involved in any accident that results in serious damage to equipment or property;
- Disrupts the production or manufacturing process; or
- Exercises carelessness that results in any injury to the employee or others.

If an employer elects to discipline an employee on the basis that the employee was impaired or under the influence of cannabis, that employee must be provided a reasonable opportunity to contest the basis of the determination. CRTA does not further describe what that opportunity must include. Employers should meet with the employee and allow an opportunity to contest the determination prior to the imposition of any discipline or corrective action. The meeting should be well documented and should fully comply with relevant employment policies and collective bargaining agreements.

RPWA provides an exception to employee protections for compliance with any federal, state or local restrictions on employment and any requirement for maintaining compliance with state or federal contracts or funding. Examples may include the United States Department of Transportation regulations or provisions of the [Drug-Free Workplace Act of 1988, \(41 U.S.C. § 8103\)](#), which is incorporated in many federal grants. Also, the [Illinois Police and Community Relations Improvement Act \(50 ILCS 727\)](#) requires drug and alcohol testing of each law enforcement officer who is involved in an officer-involved shooting. Employers with specific legal, regulatory or grant funding requirements that include testing for cannabis should review those requirements to determine whether RPWA restrictions will apply to those testing protocols.

Municipalities should consult with their retained labor and employment attorneys and consider amendments to their existing drug testing policies. Areas for attention include:

- Whether to establish or amend policies to prohibit the use of cannabis by municipal public safety personnel.
- Whether to establish or continue testing for cannabis on pre-employment and random drug tests.
- Incorporation of the opportunity to contest discipline for a cannabis infraction.
- Amendment of policies to include good-faith assessment of impairment and documentation of those incidents.

IML has published this guidance and Model Drug and Alcohol Policy incorporating changes necessitated by the enactment of CRTA as amended. As with any model policy, before adopting the policy, municipal officials should consult with their retained legal counsel or other qualified attorney.

IML MODEL Drug and Alcohol Policy

Drug-Free Workplace

In order to ensure a safe work environment and compliance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 8101 *et seq.*), **[Name of Employer]** maintains a drug-free workplace. Accordingly, the **[Name of Employer]** prohibits employees from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat. 4181), use of drugs, and use of alcohol in the workplace. The foregoing prohibition shall apply to **[Name of Employer]** property, including in **[Name of Employer]** vehicles and any private vehicles parked on **[Name of Employer]** premises or worksites.

For purposes of this policy, the term “drugs” includes, but shall not be limited to: (i) any non-prescribed controlled substance that the employee is not authorized to possess or consume by law; (ii) any substance listed in the Controlled Substances Act (720 ILCS 570 *et seq.*); (iii) any substance listed in the Cannabis Control Act (720 ILCS 550 *et seq.*); and (iv) drugs or substances which may not be listed in the Controlled Substances Act or the Cannabis Control Act but which have adverse effects on perception, judgment, memory, or coordination. A non-exhaustive list of applicable drugs includes, but is not limited to, the following:

Opium	Psilocybin-psilocin
Morphine	MDA
Codeine	PCP
Heroin	Chloral Hydrate
Meperidine	Methylphenidate
Cannabis	Hash
Barbiturates	Hash Oil
Glutethimide	Steroids
Methaqualone	Tranquilizers
Cocaine	Amphetamines
Phenmetrazine	LSD
Mescaline	

I. Prohibited Conduct

The following conduct is prohibited:

1. The unauthorized use, possession, manufacture, distribution, or sale of drugs, drug paraphernalia, or alcohol while on or in **[Name of Employer]** property, while conducting work-related business, or during working hours.

2. Being under the influence of drugs or alcohol while on or in **[Name of Employer]** property, while conducting work-related business, or during working hours.
3. Being under the influence of legal or prescribed drugs or chemicals used in excess of, or in non-conformity with, prescribed limits while on or in **[Name of Employer]** property, while conducting work-related business, or during working hours.
4. The illegal use, possession, manufacture, distribution, or sale of drugs or drug paraphernalia (while on or off duty).
5. **[Name of Employer]** prohibits its law enforcement officers, corrections officers, probation officers, firefighters and paramedics from the use, possession, manufacture, distribution or sale of cannabis while on or off duty.
6. Storing any illegal drug, drug paraphernalia, cannabis or alcohol in or on **[Name of Employer]** property.
7. Failing to notify an employee's supervisor prior to starting work of any known side effects of medications, prescription drugs, or other chemical compounds or supplements of any kind, including cannabis, that the employee is taking (or has taken) which might affect the performance of the employee's duties.
8. Refusing to immediately submit to an alcohol and/or drug test when requested by a supervisor.
9. Failing to provide, within one workday following a request, documentation confirming a valid prescription for any drug or medication identified by a positive drug test.
10. Failing to adhere to the requirements of any drug or alcohol treatment program in which the employee is enrolled as a condition of continued employment.
11. Failing to notify the employee's supervisor of any arrest, conviction, or relevant plea (including pleas of guilty and *nolo contendere*) relating to drugs or alcohol no later than the earlier of the next date the employee is scheduled to work or two calendar days following the arrest, conviction, or plea.
12. Tampering with, adulterating, altering, substituting, or otherwise obstructing any testing process required pursuant to this policy.
13. Performing any safety-sensitive duties while having a blood alcohol concentration of .02 or greater.
14. Possessing or using drugs or alcohol while on duty or while operating a commercial vehicle.

15. Operating a commercial vehicle within four hours after using alcohol (an on-call employee who consumes alcohol within four hours of being called in must acknowledge the use of alcohol and may not report for duty).
16. Consuming alcohol or cannabis during the eight-hour period following an accident requiring a drug and alcohol test before a post-accident alcohol or drug test is given.
17. Reporting for duty or remaining on duty requiring the operation of a commercial vehicle when the employee has used a drug or drugs, except when the use is pursuant to instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial vehicle.

II. Required Conduct

The following conduct is required of all **[Name of Employer]** employees:

1. Employees must notify their supervisor prior to starting work of any known side effects of medications, prescription drugs, or other chemical compounds or supplements of any kind, including cannabis, that they are taking (or have taken) which might affect the performance of their duties or threaten the safety of the employee or any other person.
2. Employees must notify their supervisor of any arrest, conviction, or relevant plea (including pleas of guilty and *nolo contendere*) relating to drugs or alcohol no later than the earlier of the next date the employee is scheduled to work or two calendar days following the arrest, conviction, or plea. In accordance with federal law, **[Name of Employer]** will notify any applicable federal contracting officer(s) of any relevant conviction(s) or plea(s) within 10 days of receiving notice of the conviction or plea.
3. Employees must submit to drug testing in accordance with this policy and applicable law.

III. Voluntary Treatment for Abuse of Drugs and/or Alcohol

The **[Name of Employer]** strongly encourages employees who believe or suspect that they may be abusing drugs and/or alcohol to voluntarily seek treatment before their job performance is affected. Any employee who notifies **[Name of Employer]** of alcohol or drug abuse problems will be treated in the same manner as any other employee with an illness. Information and communications regarding an employee's voluntary treatment or counseling due to actual or suspected drug and/or alcohol abuse shall remain confidential in accordance with state and federal law.

Employees who voluntarily seek treatment for drug and/or alcohol abuse shall not be subject to discipline, discharge, or discrimination based solely on such voluntary treatment if the treatment is sought prior to:

1. The employee testing positive for illegal drugs and/or alcohol;
2. The employee being notified of an upcoming drug and/or alcohol test;
3. The occurrence of an event that gives rise to reasonable suspicion that the employee is under the influence of drugs and/or alcohol;
4. Any return to duty or related follow-up testing for drugs and/or alcohol; and/or
5. The occurrence of an accident which requires the employee to submit to drug and/or alcohol testing.

Employees who seek voluntarily treatment for drug and/or alcohol abuse shall continue to be subject to appropriate disciplinary action up to and including termination for substandard job performance, unexcused absences, abuse of drugs and/or alcohol, or any other violations of this manual, whether such violations are directly or indirectly related to the employee's use of drugs and/or alcohol.

Furthermore, employees who voluntarily seek treatment for drug and/or alcohol abuse shall not be excused from required drug and/or alcohol testing in accordance with this policy even when voluntary treatment was sought prior to the testing in question. No employee shall be permitted to use voluntary treatment for drug and/or alcohol abuse to avoid otherwise legitimate disciplinary action for failure to comply with this policy or other provisions of the manual.

Employees may request a medical leave of absence to obtain treatment for drug and/or alcohol abuse in accordance with the Family and Medical Leave Act of 1993 and other applicable law. Such leave requests shall be treated in the same manner as any other request for leave pursuant to this policy. **[Name of Employer]** may also grant reasonable accommodations for employees being treated for drug and/or alcohol abuse so long as those employees are participating in a treatment program and are not currently abusing drugs and/or alcohol. **[Name of Employer]** will not retaliate or discriminate against any employee for requesting leave or a reasonable accommodation to obtain treatment for drug and/or alcohol abuse.

IV. Acknowledgement

In accordance with applicable law, employees are required to acknowledge and agree to this policy as a condition of employment. Any employee violating this policy is subject to discipline, up to and including termination of employment.

Drug and Alcohol Testing of All Employees

I. Reasonable Suspicion

All employees are required to submit to alcohol and/or drug testing if a supervisor determines that there is reasonable suspicion to believe that an employee has been using illegal drugs, abusing prescribed drugs, is under the influence of alcohol or cannabis, or is consuming alcohol or cannabis while working.

For the purposes of this policy, reasonable suspicion means a belief based on objective facts sufficient to lead a reasonable prudent person to find that an employee is using, or has used, drugs or alcohol in violation of this policy. Such a suspicion shall be drawn from specific, objective facts and reasonable inferences drawn from those facts in light of experience.

Some factors that may be considered in determining whether a finding of reasonable suspicion is appropriate may include, but are not limited to, any of the following, alone or in combination:

1. Observable phenomena, such as direct observation of drug or alcohol use, the presence of the odor of drugs or alcohol on or about the employee and/or the physical symptoms or manifestations of being under the influence of drugs or alcohol;
2. Abnormal conduct or erratic behavior;
3. Excessive unexcused absenteeism, tardiness, or deterioration in work performance;
4. Slurred speech or unsteady walking or movement;
5. Illegal possession of drugs or controlled substances or an arrest for violation of a drug statute;
6. Information obtained from a reliable and credible source with personal knowledge that has been independently corroborated;
7. Testing for cannabis based on reasonable suspicion shall be supported by the good faith belief that there is some impairment of the employee while at the workplace, while engaged in work for the employer or while on call subject to the definition of those terms in the Cannabis Regulation and Tax Act, 410 ILCS 705/10-50.

Once reasonable suspicion has been determined, the employee shall be required to take the applicable drug and/or alcohol test. An order to submit to testing shall be in writing and signed by a supervisor. If an employee declines the test, it will be treated as a positive test and the employee will be subject to discipline up to and including termination. When an employee is ordered to submit to a drug and/or alcohol test as a result of a supervisor's reasonable suspicion, the employee will not be allowed to return to work pending the results of the drug and/or alcohol test.

II. Post-Accident Testing

All accidents, including those involving a vehicle, must immediately be reported to an employee's supervisor. The supervisor shall investigate the circumstances of the accident and determine if there is reasonable suspicion to require a drug and/or alcohol test. If it is determined that the employee caused or contributed to occurrence of the accident or the employee was otherwise at fault, the employee may be required to submit to a drug and alcohol test regardless of the existence of reasonable suspicion.

Post-accident testing for cannabis shall be supported by the good faith belief that there is some impairment of the employee while at the workplace, while engaged in work for the employer or while on call subject to the definition of those terms in the Cannabis Regulation and Tax Act, 410 ILCS 705/10-50.

If post-accident drug and/or alcohol testing is ordered, the employee involved must submit to a drug and/or alcohol test within two hours of the accident. An employee who fails to remain readily available for post-accident testing or leaves the scene of an accident without a valid reason or permission by his or her supervisor will be deemed to have refused to submit to testing. The employee to be tested shall not be permitted to drive himself or herself to the collection site.

III. Types of Testing

Any of the following methods may be utilized to test an employee for the presence of drugs and/or alcohol:

1. Urine testing;
2. Evidentiary breath testing device (Breathalyzer);
3. Blood testing;
4. Hair follicle testing; or
5. Saliva testing.

IV. Licensed Clinical Laboratory Only

[Name of Employer] shall use only licensed clinical laboratories for drug and/or alcohol testing. Such laboratories shall be responsible for maintaining a proper chain of custody of any samples. If an employee tests positive for drugs and/or alcohol, a confirming test shall be conducted. The laboratory will not submit a positive test result to **[Name of Employer]** unless the confirming test result is also positive for the same sample. The laboratory shall retain a portion of the tested sample so the employee can arrange for another confirming test to be conducted by a licensed clinical laboratory of the employee's choice and at the employee's expense. Once the portion of

the tested sample is delivered to the clinical laboratory selected by the employee, the employee shall be responsible for maintaining the proper chain of custody for that portion of the sample.

Employees who test positive for drugs may request a second test of the remaining portion of the split sample within 72 hours of notification of a positive test result by a medical review officer. A medical review officer is a licensed physician responsible for receiving and interpreting laboratory results from applicable tests.

V. Records Relating to Drug and/or Alcohol Tests

Records reflecting positive drug and/or alcohol tests will be kept in the employee's file and will be kept confidential in accordance with applicable law. Information regarding drug and/or alcohol tests and an employee's participation in a substance abuse rehabilitation program may be disclosed to supervisors only if such information relates to the employee's ability to perform his or her work duties or the employee's need for a reasonable accommodation under the Americans with Disabilities Act of 1990 or other applicable law.

For employees in safety sensitive positions, the following records shall be maintained for a minimum of five years: (i) records of annual management information system reports; (ii) records regarding employee evaluations and referrals to substance abuse professionals; (iii) records relating to follow-up tests and follow-up schedules; (iv) records relating to refusals to submit to drug and/or alcohol tests; (v) records of alcohol test results indicating an alcohol concentration of .02 or greater; (vi) verified positive drug test results; and (vii) breath testing device calibration documentation.

VI. Required Records from Prior Employment as Driver of a Commercial Vehicle

In accordance with applicable law, any individual who is given an offer of employment for a safety-sensitive position requiring a commercial driver's license (CDL) and who has worked as a driver of a commercial vehicle during the two-year period immediately preceding the offer of employment, must authorize his or her prior employer(s) during the two-year period immediately preceding the offer of employment to release information to **[Name of Employer]** regarding any positive alcohol or drug tests and/or any refusal to submit to an alcohol or drug test.

This information must be obtained before the individual can be hired by **[Name of Employer]**. However, if the information has not arrived by the individual's anticipated start date and the individual has passed a pre-employment drug test, the individual may be hired, and the requested information can be obtained from the individual's prior employer(s) within 14 calendar days of the individual's date of hire. If the information has not been received within 14 calendar days of the individual's date of hire, the individual will not be permitted to drive a commercial vehicle until the information has arrived. If the information obtained from any prior employer indicates that the individual tested positive for drugs or alcohol or refused to be tested during the past two years, that individual will not be permitted to drive a commercial vehicle unless subsequent information indicates that the individual was evaluated by a substance abuse professional and successfully completed return to duty testing.

VII. Compensation

If an employee is ordered to submit to an involuntary post-employment drug and/or alcohol test, the time spent by the employee traveling to and from the test and waiting for and undergoing the test will be considered compensable working time unless otherwise provided by law or contract. Pre-employment drug and/or alcohol tests will not be compensated.

VIII. Cutoff Levels for Drugs and Drug Metabolites; Blood Alcohol Exceedances

Cutoff levels for all drug and drug metabolite testing shall be consistent with the guidelines established by the U.S. Department of Health and Human Services (HHS). An employee shall be deemed to be under the influence of alcohol if the applicable blood alcohol test demonstrates a level of .02 or greater.

IX. Policy Violations

Any employee testing positive for drug usage, blood alcohol levels greater than .02, or engaging in any other prohibited conduct concerning drug or alcohol shall be subject to disciplinary action up to and including immediate termination. Regardless of disciplinary action taken, all such employees will be advised of resources available to evaluate and treat problems associated with drug and/or alcohol abuse.

Employees in safety-sensitive positions, including those that require a CDL, who are not terminated for violation of this policy shall be subject to the following conditions of continued employment:

1. If an employee has a breath alcohol concentration of at least .02 but less than .04, he or she shall not drive a commercial vehicle or engage in any other safety sensitive activities for at least 24 hours.
2. If an employee tests positive for drugs, tests positive for a blood alcohol level of .04 or greater, and/or engages in any other conduct prohibited by this policy relating to drugs and/or alcohol, the employee will be immediately removed from duties requiring the driving of a commercial vehicle and will not be permitted to return to work unless the employee: (i) has been evaluated by a substance abuse professional; (ii) has complied with any rehabilitation prescribed by a substance abuse professional; and (iii) has successfully completed a return to duty test for drugs and/or alcohol.
3. Upon completion of a recommended rehabilitation program and successful return to work, the employee will be subject to follow-up random testing for up to 60 months as recommended by the substance abuse professional and **[Name of Employer]** with a minimum of six such unscheduled tests within the first 12 months of returning to duty.

Drug and Alcohol Testing of Specific Employees

In accordance with the Omnibus Transportation Employee Testing Act of 1994 and other applicable law, [Name of Employer] requires employees in safety-sensitive positions and applicants for safety sensitive positions to submit to mandatory drug and alcohol testing pursuant to this policy. Applicants for non-safety-sensitive positions may be required to submit to pre-employment testing. All employees are subject to random drug and alcohol testing.

Safety-sensitive positions are those positions where there exists a high risk of injury to others with disastrous consequences if the employee has even a momentary lapse of attention. Some examples of safety-sensitive positions include law enforcement personnel, firefighters, paramedics, health care professionals responsible for direct patient care, employees who transport passengers, and employees who operate large or heavy equipment.

Under this policy, employees in safety-sensitive positions specifically include all employees whose positions may involve driving a commercial vehicle and that require the possession of a CDL. For purposes of this policy, a commercial vehicle means a vehicle that either: (i) has a gross weight of over 26,000 pounds (including combined weight if towed unit weighs over 10,000 pounds); (ii) is designed to transport 16 or more persons, including the driver; or (iii) is used to transport hazardous materials.

An employee is considered to be “driving a commercial vehicle” under this policy if he or she is performing any safety sensitive function defined in 49 CFR 382.107, which includes all time working in a position requiring a CDL.

With respect to employees who work in a position requiring a CDL, alcohol testing for reasonable suspicion may be conducted just before, during, or after an employee operates a commercial vehicle.

I. Drug and Alcohol Testing for Safety-Sensitive Positions

Employees in safety-sensitive positions are subject to drug and alcohol testing under different and additional circumstances than employees who are not in safety sensitive positions.

1. Reasonable Suspicion – Any employee in a safety-sensitive position shall submit to a drug and/or alcohol test when any supervisor has reasonable suspicion to believe that an employee has been using illegal drugs, abusing prescribed drugs, is under the influence of alcohol or cannabis, or is consuming alcohol or cannabis while working or while on call.

Testing for cannabis based on reasonable suspicion shall be supported by the good faith belief that there is some impairment of the employee while at the workplace, while engaged in work for the employer or while on call subject to the definition of those terms in the Cannabis Regulation and Tax Act, 410 ILCS 705/10-50.

If an employee is removed from duty based on reasonable suspicion of alcohol use and an alcohol test is not administered within eight hours, the employee will not be allowed to perform or continue to perform safety-sensitive functions until: (i) an alcohol test determines that the employee's breath alcohol concentration measures less than .02; and (ii) 24 hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has been using alcohol.

2. Post-Accident Testing Involving a Commercial Vehicle – An employee is required by law and this policy to submit to an alcohol test whenever he or she is involved in an accident while driving a commercial vehicle on a public road which results in: (i) a fatality; (ii) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; and/or (iii) one or more motor vehicles incurring disabling damage requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

Post-accident testing for cannabis shall be supported by the good faith belief that there is some impairment of the employee while at the workplace, while engaged in work for the employer or while on call subject to the definition of those terms in the Cannabis Regulation and Tax Act, 410 ILCS 705/10-50.

3. Return to Duty Testing – Any employee who has violated this policy and/or has tested positive on a drug or alcohol test and is subsequently permitted to return to work, must pass a drug and/or alcohol test in accordance with this policy prior to returning to duty.
4. Follow-Up Testing – An employee in a safety-sensitive position who is referred for assistance related to alcohol and/or drug abuse is subject to unannounced follow-up testing for a period not to exceed 60 months as directed by a substance abuse professional and **[Name of Employer]**. The number and frequency of follow-up tests will be determined by the substance abuse professional and **[Name of Employer]** but will not be less than six tests in the first 12 months following the employee's return to duty.

For purposes of this policy, a substance abuse professional is a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

II. Pre-Employment Drug Testing

Employees in safety-sensitive positions must pass a drug test as a post-offer condition of employment. Employees in non-safety sensitive positions may be required to take and pass a drug test as a post-offer condition of employment. Failure to successfully pass a post-offer pre-employment drug test may result in the offer of employment being revoked. An applicant who is denied employment because of a positive drug test may not reapply for employment with **[Name of Employer]** for a period of six months.

III. Random Drug and/or Alcohol Testing

Employees may be randomly selected to submit to drug and/or alcohol testing. The process will be unannounced, and employees shall be selected in a non-discriminatory manner. After an employee is notified that he or she has been selected for random testing, the employee shall be required to report immediately to the testing location no later than one hour after notification. Upon arrival at the testing location, the employee must identify him or herself by use of a photo identification card and present any applicable documentation. Upon completion of the drug and/or alcohol testing, the employee will, if his or her shift is not completed, immediately return to duty status.

Drug and Alcohol Testing of Public Safety Employees

For purposes of this policy, public safety employees include law enforcement officers, corrections officers, probation officers, paramedics, and firefighters.

I. Prohibition

[Name of Employer] prohibits law enforcement officers, corrections officers, probation officers, paramedics, and firefighters from the consumption, possession, sale, purchase, or delivery of cannabis or cannabis-infused substances while on or off duty.

II. Collective Bargaining Agreements

Any drug and alcohol testing procedures in the collective bargaining agreement shall remain in full force and effect.

Discipline

Employee supervisors and their superiors, as applicable, are responsible for administering disciplinary measures, when in the sole discretion of the appropriate supervisor, based on the facts and circumstances of the situation, discipline is warranted. Prior to the administration of any disciplinary action, the applicable supervisor may give the employee the opportunity to respond to the allegations made against the employee. Employees subject to discipline for being under the influence of, in possession of or consuming cannabis shall be provided a reasonable opportunity to contest the basis for the imposition of discipline. The disciplinary procedures set forth in this section apply to all employees, unless otherwise subject to a collective bargaining agreement. These policies and procedures should not be construed as preventing, limiting, or delaying the **[Name of Employer]** from taking appropriate disciplinary action, including immediate dismissal without prior warning or notice, as the facts and circumstances warrant.

All discipline issued will be based on the applicable facts and circumstances, and at the level applicable in the sole and exclusive judgment of the applicable supervisor.

ACKNOWLEDGEMENT

By signing below, I acknowledge that I have received a copy of the **[Name of Employer]** Drug and Alcohol Policy (“Policy”) and understand that it is my responsibility to read and become familiar with its contents. I further understand that it is my responsibility to ask questions of my immediate supervisor and/or another appropriate member of management if I do not understand any of the information contained in the Policy and that I am required to abide by and observe all of the information and rules, policies, and procedures explained therein.

I acknowledge that nothing in the Policy constitutes a contract or promise of employment and that unless otherwise provided in a collective bargaining agreement or individual employment contract, my employment is “at-will,” which means that the employment relationship may be terminated at any time for any lawful reason with or without cause or notice.

I agree to abide by and observe all of the information and rules, policies, and procedures set forth in the Policy and understand that **[Name of Employer]**’s rules, policies, and procedures may be changed from time to time, with or without notice, and that this Policy supersedes and replaces any and all prior manuals or policies.

Print Name

Signature

Date Signed

BEFORE ADOPTING THIS POLICY, MUNICIPAL OFFICIALS SHOULD CONSULT WITH RETAINED LEGAL COUNSEL OR OTHER QUALIFIED ATTORNEY.