



**Smokin' Bear LLC  
DRUG AND ALCOHOL POLICY**

Smokin' Bear LLC (“Smokin' Bear” or “the Company”) is committed to providing a safe, efficient, and productive work environment for all employees, free from the effects of substance abuse. As part of this commitment, the Company prohibits the use, sale, dispensation, manufacture, distribution, or possession of alcohol, drugs, or controlled substances on company property or while the employee is working (including traveling for company purposes).

This Drug and Alcohol Policy applies to all employees of the Company, and compliance with this policy is a condition of continued employment.

**THIS POLICY IS NOT A CONTRACT OR A PROMISE AND IT DOES NOT ALTER THE AT-WILL EMPLOYMENT STATUS OF THE COMPANY’S EMPLOYEES.**

**I. GENERAL**

No employee shall report to work or be at work with any detectable amount of prohibited drugs in the employee’s system. (A “detectable amount” normally refers to the standards generally used in workplace drug and alcohol testing. However, the Company reserves the right to test an employee at any time, for any amount, at its discretion)

Because possession or use of marijuana remains illegal under federal law, marijuana remains a controlled substance for purposes of this policy. For example, it is a violation of this policy to test positive for marijuana or to possess, use, distribute, or be under the influence of marijuana on company property or while working.

Illegal use of drugs off duty and off premises or work sites is not acceptable. It can affect on-the-job performance and the confidence of the public and our customers in the company’s ability to meet its responsibilities.

**II. DEFINITIONS**

A. **“Illegal Drugs”** include:

1. Drugs, the possession, sale, or use of which is prohibited by state or federal law.
2. Prescription medications for which the employee does not possess a

valid prescription.

3. Prescription medications for which the employee possesses a valid prescription, or over-the-counter medications if the medications are reasonably likely to impair physical or mental function, unless:

4. The employee has notified the Company's Manager of Human Resources, in advance, of the potential impact of those medications on the employee's physical or mental functioning.

5. The company's Manager of Human Resources, has authorized the employee to continue working despite the potential side effects of the medication.

NOTE: This policy does not require disclosure of the specific medical condition being treated.

B. **“Reasonable Suspicion”** exists whenever the Company has a reasonable basis to suspect that the employee has violated this policy, which may be based upon such factors as:

1. The employee's conduct or behavior (including but not limited to speech, physical mannerisms, appearance, or odors);
2. Reports or allegations from co-workers or other persons;
3. Circumstantial evidence (including but not limited to the presence of drug paraphernalia, alcohol containers, or other indications of drug or alcohol usage); or
4. Other facts or circumstances that would cause a reasonable person to suspect that the employee has violated this policy.

C. **“Under the Influence”** of alcohol or illegal drugs means:

1. That the employee's mental or physical functioning has been impaired by alcohol or illegal drugs; or
2. That testing has detected the presence of alcohol or illegal drugs at or above the threshold levels established by this policy, as follows:
  - a. For alcohol, the threshold level will be the minimum level that creates a presumption of impairment, intoxication or being “under the influence” for purposes of the applicable state motor vehicle laws, as those laws may be amended from time to time.

- b. For illegal drugs, the threshold level will be the cutoff concentrations for confirmation tests established in the United States Department of Transportation's procedures for transportation workplace drug and alcohol programs, as those procedures may be amended from time to time.
- D. **"Company Property"** means all real or personal property owned, leased, managed, or controlled by the Company, including but not limited to land; buildings and facilities; parking lots and parking areas; and motorized vehicles (including automobiles, aircraft and boats).

### III. PROHIBITED CONDUCT

All employees of the Company and all applicants for employment with the Company, are prohibited from engaging in any of the following conduct:

- A. Using, possessing, or selling alcohol or illegal drugs, or being under the influence of alcohol or illegal drugs, under any of the following circumstances:
  - 1. While on or in Company property;
  - 2. While working in the course of employment (including operating a motorized vehicle as part of the employee's job duties); or
  - 3. While attending business functions or social activities sponsored by the Company or related to the employee's employment with the Company, except that moderate consumption of alcoholic beverages at such business functions or social activities is permitted if authorized by the Company.
- B. Interfering with the administration of any drug and alcohol test pursuant to this policy. Such interference includes but is not limited to:
  - 1. Failing or refusing to submit to any testing required pursuant to this policy;
  - 2. Failing or refusing to provide written consent for testing in response to a request made pursuant to this policy;
  - 3. Providing any false information in connection with testing pursuant to this policy;
  - 4. Submitting any altered or tampered sample for testing pursuant to this policy;

5. Submitting any sample for testing pursuant to this policy that is not the genuine sample of the employee being tested;
6. Damaging or tampering with any equipment or materials used for testing pursuant to this policy; or
7. Any other conduct which has the purpose or effect of: (a) interfering with the administration of testing pursuant to this policy, (b) compromising the integrity of any such testing, or (c) otherwise defeating the purpose of this policy.

C. Violating any provision of this policy.

#### IV. CONSEQUENCES OF PROHIBITED CONDUCT

- A. Any employee who engages in prohibited conduct as defined by this policy will be subject to disciplinary action, up to and including immediate termination of employment.
- B. Any applicant who engages in prohibited conduct as defined by this policy will be subject to denial of employment and a permanent ban on any future employment.

#### V. DRUG AND ALCOHOL TESTING

- A. **When Testing Will Be Conducted.** Employees of the Company and applicants for employment with the Company are subject to drug and alcohol testing as a condition of employment and continued employment. Drug and alcohol testing may be administered whenever the Company determines that such testing is appropriate, although such testing will most commonly be administered in the following circumstances:
  1. **Pre-Employment Testing.** Applicants for employment are subject to drug and alcohol testing in connection with their application process.
  2. **Post-Accident Testing.** All employees of the Company are subject to drug and alcohol testing whenever they have been involved in a work-related accident or incident that resulted in personal injury or property damage. Any employee who fails to report such an accident or incident immediately to the Company will be subject to disciplinary action, up to and including immediate termination of employment.

3. **Reasonable Suspicion Testing.** All employees of the Company are subject to drug and alcohol testing whenever reasonable suspicion exists.
  4. **Random Testing.** All employees of the Company are subject to random testing. Details of the random selection process, such as the frequency of such testing, the method by which names are chosen, and the number of employees to be tested, shall be determined by the Company.
- B. **Location and Cost of Testing.** Drug and alcohol testing pursuant this policy may be conducted at any clinic, laboratory, or other facility selected by the Company. The cost of such testing will be borne by the Company.
  - C. **Types of Tests.** In conducting drug and alcohol tests pursuant to this policy, the Company may use any available testing methods, including but not limited to testing of blood, urine, breath, saliva, or hair.
  - D. **Written Consent for Testing.** Each employee who is requested to undergo a drug and alcohol test pursuant to this policy will also be requested to sign a written consent to such testing, in the form attached as **Appendix A** to this policy, as that form may be amended from time to time. Failure to provide such consent when requested to do so pursuant to this policy constitutes a violation of this policy.
  - E. **Testing Procedures.** It is the intent of the Company that drug and alcohol testing pursuant to this policy be conducted in general compliance with the procedures established by the United States Department of Transportation (“USDOT”) for drug and alcohol testing of transportation workers. However, deviation from those procedures will not constitute a violation of this policy or invalidate the results of any drug and alcohol test, unless the Company determines that the procedures actually utilized were insufficient to provide reasonable assurance of integrity and accuracy in the process. If there is any inconsistency between this policy and the USDOT procedures, this policy will control.
  - F. **Driving Prohibited.** Once an employee or applicant has been informed by the Company that “reasonable suspicion” exists, he or she is prohibited from driving a motorized vehicle for the next 12 hours. In addition, anyone who tests positive for drugs or alcohol is prohibited from driving a motorized vehicle for 12 hours if that test result is based on a sample taken from the employee within the preceding 24 hours.

An employee or applicant who is forbidden from driving may be offered a ride home at the Company’s expense or may be required to arrange his or her own transportation, as the Company may determine at the time. Driving while prohibited from doing so constitutes a violation of this policy. In addition, the Company reserves the right to notify local law enforcement immediately, in order to safeguard the public and protect the Company from liability for any injuries caused by the employee or applicant.

- G. **Confidentiality of Information.** The Company will strive to maintain the confidentiality of all information gathered in connection with its enforcement of this policy, including but not limited to information regarding drug and alcohol tests conducted pursuant to this policy, as well as information provided by employees or applicants regarding medications taken by employees or applicants.

Such confidential information will normally be disclosed only to those with a need to know or a legal right to know, which may include but is not limited to the following circumstances:

1. To management employees involved in a decision to discipline or termination for violations of this policy;
2. To the Company's Manager of Human Resources , for purposes of record-keeping and enforcement of this policy;
3. To local law enforcement as described in Section V(F).
4. In connection with the Company's defense of any claim or allegation relating to this policy;
5. In response to an order from a court or other governable entity compelling disclosure, or in response to a subpoena;
6. To safety, medical, or security personnel as needed; and/or
7. Otherwise where the company determines that disclosure is reasonably necessary.