

## ILA-West Gulf Maritime Association Policy on Drugs

South Atlantic and Gulf Coast District International Longshoremen's Association and its Affiliated Locals from Lake Charles, Louisiana, to Brownsville, Texas, and the West Gulf Maritime Association's Policy On Drugs

### I. Summary

This Policy prohibits a worker's:

- a. use or possession of illegal drugs while on an employer's premises or while working for an employer
- b. being under the influence of illegal drugs while on an employer's premises or while working for an employer
- c. the use of legally obtained drugs that interfere with a worker's ability to perform their duties while on an employer's premises or while working for an employer

This Policy is violated by:

- a. a positive test result
- b. possession of illegal drugs while on an employer's premises or while working for an employer
- c. failure to cooperate with all testing procedures set forth herein

A worker may be tested as outlined in this Policy. If a worker is found to be in violation, he or she may be subject to disciplinary action including, but not limited to, industry wide suspension. A worker in violation is encouraged to participate in rehabilitation and will be assisted in efforts taken by the worker to obtain treatment.

Each worker is responsible for knowing this Policy and complying with the Policy.

### II. Who Can Be Tested

All individuals working under any ILA/WGMA Collective Bargaining Agreement are subject to this Policy, including workers entering the industry. During a random drug sweep, everyone present on any active ILA operation, regardless of the worker's status on the payroll, at the time the drug testing vendor arrives onsite to perform the random drug test will be tested.

### III. When You Can Be Tested

A drug test may be required for the following:

- a. When workplace factors give good-faith reason to question the ability of a worker to properly and safely perform his or her job and to question whether drugs are involved. Workplace factors include:
  1. Physical Appearance

2. Behavior
3. Other job-related circumstance

Note that any ILA worker on a jobsite under the apparent influence of drugs or alcohol may be tested, regardless of their status on the payroll.

- b. Workers entering the industry
- c. Workers returning from time off
- d. As part of physicals administered by the West Gulf Maritime Association
- e. Following on-the-job accidents or near misses
- f. Random drug sweeps
- g. Following evaluation or treatment for substance abuse or following a suspension based on this policy

#### IV. How You Will Be Tested

The following methods may be used when testing a worker under this Policy, at the discretion of the West Gulf Maritime Association:

- a. Urine test
- b. Oral fluid specimen test
- c. Blood test
- d. Any method recognized as reliable by the drug testing industry (except for hair testing)

Direct observation of collection is used under all methods. A worker must sign a written consent to the drug test and sign a release of information form. The sample will be taken in view of or by collection personnel, depending on the method used to collect the sample. The worker and collection personnel will then sign the Chain of Custody form. The sample that is collected will be tested in a manner recognized as reliable by the drug testing industry.

A quick test gives an immediate reading. A non-negative quick test is followed by a swab test, urine test, or a blood test. The second test result determines whether a violation has occurred. The second test is lab verified.

The direct employer or the West Gulf Maritime Association may administer a quick test (and the breathalyzer under the alcohol policy). During the administration of a quick test, the worker may request that another ILA member, such as the Walking Foreman or Gang Foreman, be present. If the quick test is non-negative, a lab-based test will be ordered. The worker may be required to take a second test administered by the West Gulf Maritime Association if enough specimen is not collected for a lab-based test or if the worker is sent offsite. The direct employer may pay for a testing facility to collect a sample at the jobsite. For any test offsite following a non-negative quick test, the worker will be transported to the testing facility. If the quick test is negative, the worker will not be required to take a second test.

A worker who has had a second violation within three years of the first violation, or is within three years of a first violation, may be randomly selected and notified to take a drug test. Upon notification, the worker has 24 hours to provide a sample if the worker is actively working (See

Section VII below). If on leave, the worker must report for a test the day before he or she returns to work. **That worker may not work for any employer until he or she completes the drug test.**

Samples for tests, with the exception of the quick test, will be taken in a split sample. Upon written request delivered to the West Gulf Maritime Association within 3 business days of the date notice of suspension was sent to the local, the second original sample will be sent for testing.

#### V. Positive Test Results

The following events are considered violations of this Policy and are equivalent to a positive drug test result:

a. The possession, use, or sale of any illegal drug, any prescription drug in the name of another person while on the employer's premises or while on duty.

b. Any positive drug test result.

1. Prescription exception: If the worker is taking a prescription drug, the worker may request review of the positive test result by notifying the West Gulf Maritime Association. The West Gulf Maritime Association will send the worker to an independent physician. If the physician states that the positive test result – in both type of drug and level of drug detected – was consistent with the prescription presented to the doctor, and would not have impaired the worker or created a safety hazard, the test result will not be treated as a positive. A prescription in someone else's name may not be considered by the physician and the positive test result will remain a positive test result.

c. Non-Compliance

1. Failure to submit to a drug test as required or directed (including failure to submit within the time designated by the direct employer)

2. Leaving a job site following an accident or near miss (unless transported to an emergency facility) without obtaining the drug test forms and/or without submitting to a drug and alcohol test

3. Providing or attempting to provide an adulterated sample

4. Providing or attempting to provide a diluted sample (or one in which creatinine concentration is detected below 20 mg/dL). A worker who has provided a dilute sample must retest within 24 hours of notice that the sample was dilute. Failing to provide a second sample within 24 hours or a second dilute sample is grounds for suspension under this Policy.

5. Refusing to complete and sign the required notification and consent forms

6. Failure to give a valid contact number on the consent form.

7. Failure to comply with the contact and rehabilitation requirements set forth below.

8. Refusing to be transported to a testing facility at the direction of the direct employer.

9. Failure to reply to and provide all requested information requested from the Medical Review Officer (MRO) or the drug testing provider within 48 hours of notice.

Please note that for the purposes of this Policy, notice is defined as any communication including, but not limited to, voicemail.

## VI. Penalties

### a. New Hire

A positive test result by a worker during the joint selection process will result in that worker being removed from the application process and permanently banned from entering the industry. Workers with less than 100 hours or less than one month in the industry at the time the worker is notified he or she is required to take a drug test, whichever is later in time, who test positive on a drug tested will have that violation treated as a second violation as set out in paragraph c below.

### b. First Violation

A worker found in violation of this Policy will be suspended from employment through any and all ILA Hiring Halls for a minimum of 60 days.

Before the worker will be permitted to return to work, the worker must complete an approved rehabilitation program. The worker must request participation within 14 days from receiving the notice of suspension and must begin the program within one month of receiving notice of suspension. The worker will be tested prior to being released to return to work and must have a negative return to work test. Failure to request participation in the program within 14 days, failure to enter the program within one month, failure to complete the program, or a positive return to work drug test is considered a positive test result and the individual will be required to comply as written below under "Second Violation."

The only exceptions are serving in active duty for the U.S. armed forces during the 60 to 90 day period, if the worker is serving jail or prison time, or if the worker is otherwise incapacitated. In that case, the worker must request participation and begin the rehabilitation within one month of discharge from active duty or incarceration. In addition, a worker may return to work after 60 days even if their recommended rehabilitation is not complete if they timely began the rehabilitation program and are released to return to work by the West Gulf Maritime Association upon recommendation from the recovery coach.

### c. Second Violation

A worker in violation of this Policy for a second time within three years of a First Violation will be permanently suspended from employment through any and all ILA Hiring Halls.

A worker may request referral to an approved program for treatment after a second violation. The worker must request participation in such a program within one month of notice of suspension and must begin a treatment program within two months of the notice of suspension. If the worker successfully completed an approved rehabilitation program, served a minimum six month suspension from employment through any and all ILA Hiring Halls, and passed all drug tests during the suspension period, the worker may be reinstated. However, failure to request

participation in the program within 30 days from the date the notice of suspension is sent or a positive return to work drug test is considered a violation and the individual will be permanently suspended. Any additional positive test will be grounds for immediate discharge and permanent suspension from employment through any and all ILA Hiring Halls.

#### VII. Return to Duty

A worker may be reinstated after successful completion of the required rehabilitation program and a negative return to work drug test. After a first offense, a worker will be required to submit to random follow up drug tests within 24 hours of notice made through the West Gulf Maritime Association for three years from the date of reinstatement. After a second violation (within three years of the first violation), a worker will submit to random follow-up drug tests within 24 hours of notice made through the West Gulf Maritime Association for his or her tenure in the industry.

If after reinstatement, a worker is not actively working at the time he or she is called for a random drug test as a condition of his or her return to duty, the worker must immediately notify the drug testing vendor as soon as he or she returns and must report for testing the day before working for any employer after returning from leave. If the worker fails to test as set forth above, he or she will be immediately suspended for non-compliance. Note that “actively working” means the individual worked the day he or she was called. If employed by an ILA employer from midnight until 1700 on the day he or she was called, the worker must report for the drug test within 24 hours of the initial call. Otherwise, the worker must inform the vendor that they are on leave and test upon return, as set forth above.

#### VIII. Grievance Procedure

All disputes arising under this Policy must be resolved under the Grievance Procedure in the collective bargaining agreements. Any resolution reached through the grievance procedure is binding on all parties.

#### IX. Reimbursement

If an individual is sent to a facility for drug testing by the direct employer and test negative, the direct employer will pay the individual for the time worked by his gang or the actual time involved in the drug test, whichever is greater (not to exceed six hours). The worker must report to the testing facility within the time frame provided by the direct employer on the drug test forms.