

## ACCIDENT REPORTS & POST-ACCIDENT DRUG AND ALCOHOL TESTING

The employer of a driver who operates a commercial motor vehicle in Pennsylvania is required by federal regulations (49 CFR Part 390.15) to maintain certain information if one of its drivers is involved in an accident.

Under the federal CDL regulations at 49 CFR 390.5, as modified by Pennsylvania's intrastate commercial motor vehicle regulations at 67 Pa. Code 231.8, an accident refers to an occurrence involving a commercial motor vehicle (CMV), which results in:

- A fatality;
- Bodily injury to any person who requires immediate medical treatment away from the scene of the accident; or
- One or more motor vehicles incurring disabling damage from an accident and requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

The record of the accident must include the date and location of the incident, statistics on the number of injuries and fatalities, and information about released hazardous materials. This record must be maintained in the driver's qualification file for at least three years from the date of the accident. A form containing the required information for this purpose (Form Driver Accident) is provided on the back of this tech sheet.

### Required Drug and Alcohol Testing

To determine if a driver is required to undergo a post-accident drug or alcohol test, employers must follow the U.S. DOT regulations at 49 CFR 382.303 regarding post-accident testing. In Pennsylvania, these regulations apply to all drivers of commercial motor vehicles operating on a public highway in intrastate commerce with a gross vehicle weight rating or driving weight greater than 17,001 pounds.

The driver of a commercial motor vehicle involved in a **traffic accident with a fatality** must take a post-accident drug and alcohol test as soon as practicable. If the fatality occurs at least eight hours after the accident, only a drug test is required; if the fatality occurs at least 32 hours after the accident, no test is required.

The driver of a commercial motor vehicle who receives a **citation within eight hours of a traffic accident** must take a post-accident drug and alcohol test as soon as practicable if the citation was for violating a state or local law and either a) a person incurs bodily injury and requires immediate medical treatment away from the scene of the accident or b) one or more motor vehicles involved in the accident receives disabling damage requiring it to be transported away from the scene by a tow truck or other motor vehicle.

The driver of a commercial motor vehicle who receives a **citation within 32 hours of a traffic accident** must take a post-accident drug test as soon as practicable if the citation was for violating a state or local law and either a) a person incurs bodily injury and requires immediate medical treatment away from the scene of the accident or b) one or more motor vehicles involved in the accident receives disabling damage requiring it to be transported away from the scene by a tow truck or other motor vehicle.

**It is equally the responsibility of the driver and employer to know if a driver is subject to post-accident testing.** A driver who is subject to post-accident testing must remain readily available for such testing or must be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance or emergency medical care in responding to the accident.

A driver who is required to take a post-accident alcohol test must not drink any alcohol until either the test is taken or it's been at least eight hours since the accident. A driver who is required to take a post-accident drug test must do so within 32 hours of the accident.

If a post-accident alcohol test is not administered within two hours following the accident as required, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If the test was not administered within eight hours following the accident as required, the employer must stop

### What Qualifies as a Commercial Motor Vehicle (CMV) in PA?

67 Pa. Code Chapter 231.8 defines a CMV as any motor vehicle or combination used on a highway in intrastate commerce to transport passengers or property when the vehicle meets one of the following conditions:

- i. Has a gross vehicle weight rating (GVWR) or gross combination weight rating, or gross vehicle weight or gross combination weight, of 17,001 pounds or more, whichever is greater.
- ii. Is designed or used to transport more than eight passengers (including the driver) for compensation.
- iii. Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.
- iv. Is a school bus.
- v. Is transporting hazardous materials that are required to be placarded in accordance with department regulations.

attempts to administer the test and prepare and prepare a record as to why. If a post-accident drug test was not administered within 32 hours following the accident as required, the employer must also stop attempts to administer the test and prepare and maintain on file a record stating the reasons the test was not promptly administered. In all cases, these records shall be submitted to the FMCSA upon request.

Any driver involved in an accident who refuses to take a post-accident test will automatically be deemed to have engaged in prohibited conduct. Such action requires the driver to be removed from duty, subjects the driver to the positive employee sanctions imposed by 49 CFR 40 Subchapter "O", and requires the employer to report actual knowledge of the driver's prohibited conduct to the FMCSA Clearinghouse.

To ensure that municipal drivers understand and comply with these post-accident testing requirements, employers are encouraged to regularly provide their drivers with this information.

### **Qualifying Post-Accident Tests**

**Breath or blood test** – The results of a breath or blood test for the use of alcohol, as conducted by federal, state, or local officials with independent authority for the test, meets the requirements for the post-accident alcohol test, provided the test conforms to all applicable requirements and the results of the test are obtained by the employer.

**Urine test** – The results of a urine test for the use of controlled substances, as conducted by federal, state, or local officials with independent authority for the test, meets the requirements for the post-accident drug test, provided the test conforms to all applicable requirements and the results of the test are obtained by the employer.

# COMMERCIAL MOTOR VEHICLE DRIVER ACCIDENT LOG

\_\_\_\_\_  
Today's Date

\_\_\_\_\_  
Driver's Full Name

\_\_\_\_\_  
Driver License #

\_\_\_\_\_  
Date of accident

\_\_\_\_\_  
Municipality and state in which accident occurred

Number of people injured \_\_\_\_\_ Number of fatalities \_\_\_\_\_

Were hazardous materials, other than fuel spilled from the fuel tanks of motor vehicles involved in the accident, released? \_\_\_\_\_ If "yes," identify such materials here:

\_\_\_\_\_  
\_\_\_\_\_  
In accordance with federal regulations at 49 CFR 390.15, employers are required to maintain for at least three years the following information regarding any accident (as defined below) as well as all other accident reports required by state or other governmental entities or insurers.

The federal CDL regulations at 49 CFR 390.5T, as modified by Pa.'s intrastate commercial motor vehicle regulations at 67 Pa. Code 231.8, define an "accident" as an occurrence involving a commercial motor vehicle with a gross vehicle weight rating or driving weight greater than 26,001 pounds operating on a highway in interstate commerce or with a gross vehicle weight rating or driving weight greater than 17,001 pounds operating on a highway in intrastate commerce 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; or
- (iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

The term accident does not include the following:

- (i) an occurrence involving only boarding and alighting from a stationary motor vehicle; or
- (ii) an occurrence involving only the loading or unloading of cargo.

This form and other applicable CMV forms are available on the PSATS CDL Program page at [www.psats.org](http://www.psats.org).

**FORM DRIVER ACCIDENT**

If you have any questions, you can call LTAP at 1-800-FOR-LTAP for assistance.