

# HURST STORES

## DRUG & ALCOHOL TESTING POLICY

### I. General Statement

Hurst Stores Inc. (the Company) believes that alcohol and illegal drugs in the work place are unhealthy and dangerous, not only to the employee involved, but to other employees as well. The unlawful manufacture, distribution, dispensing, possession, or use of alcohol and illegal drugs are prohibited on the Company premises, in company vehicles, or in employee vehicles while on company time.

The Company believes that a healthy and productive work force, safe working conditions free from the effects of drugs and alcohol, and maintenance of the quality of products produced and services rendered by the Company are important, not only to the Company, but also to the employees and the general public. The abuse of drugs and alcohol creates a variety of work place problems, including increased injuries on the job, increased absenteeism, increased financial burden on health and benefit programs, increased work place theft, decreased employee morale, decreased productivity, and a decline in the quality of products and services.

Therefore, the Company hereby adopts this Policy for testing employees and prospective employees as related to drugs and alcohol in the work place.

### II. Definitions

For the purposes of this policy:

- A. "Alcohol" means alcoholic beverages and any other intoxicating substances.
- B. "Illicit drugs" and "drugs" used in this policy refer to and include all drugs, paraphernalia, controlled substances, or mood or mind altering inhalants, any of which were not prescribed by a licensed physician/dentist for the person taking or in possession of the drug or substance, or which have not been used as prescribed or directed.
- C. "Drug Paraphernalia" means objects used to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, store, contain, conceal, and/or to inject, ingest, inhale, or otherwise introduce a drug into the human body.
- D. "Employee" means any person in the service of the Company for compensation of any kind.
- E. "Prospective employee" means any person who has made application for employment with the Company and to whom the company has offered employment, conditioned upon the results of a drug and alcohol test.
- F. "Sample" means urine or breath.
- G. "Conviction" means a finding of guilt (including a plea of no contest) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal statutes.
- H. "Criminal Drug Statute" means a Federal or State criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

- I. “MDC” means Medical Drug Consultant, charged with reviewing and interpreting positive test results and determining any alternate medical explanations.
- J. “Drug Policy Coordinator” is the Hurst Stores Inc. employee specifically designated to administer the Drug and Alcohol Testing Policy and through whom any procedures, or disciplinary or rehabilitative action regarding this policy, must be reviewed and approved.

### **III. Testing**

It is the policy of the Company to test employees and prospective employees for the presence of drugs or alcohol, according to the provisions set forth below, as a condition of hire or continued employment. Any employee or prospective employee failing or refusing to take the test will not be eligible for employment, or if employed, may be subject to termination. The Company shall consider as negative all confirmed positive drug and alcohol test results with a medically sufficient explanation.

- A. The Company shall require the testing of employees and prospective employees, up to and including management on a periodic basis, under the following circumstances and purposes:
  1. **Initially** - All employees currently employed working 8 hours or more per week as of the date of the inception of this policy shall be tested. Any employee testing positive for drugs and or alcohol will have 30 (thirty) days in which to produce a negative drug test. No current employee will be terminated on the first test. After the 30 (thirty) day period, employees with a positive test are subject to “Company Action” Section IV. The company shall require each employee to understand this policy and sign the acknowledgment form, acknowledging that they have had an opportunity to review the policy, ask questions, and agree to abide by its terms as a condition of continued employment. The signed acknowledgment shall be kept in each employee’s personnel file.
  2. **Pre-Employment Testing** - All prospective employees shall be tested for drug or alcohol usage prior to being placed for employment. All job applicants shall be informed of the policy at the pre-employment interview. A copy of this policy shall be available for review by all job applicants. All prospective employees shall be required, prior to being hired by the company, to sign the acknowledgment form, agreeing to abide by the terms of this policy. The Company will exclude from employment any job applicant or prospective employee who refuses to abide by the terms of this policy. Any prospective employee whose pre-employment drug and alcohol test results in a confirmed positive and who does not have a medically sufficient explanation (as determined in the sole, but reasonable, discretion of the MDC), may reapply for employment with the Company after six months from the date of such test. If the Company hires a prospective employee, he or she must have first successfully passed the above-referenced pre-employment drug and alcohol test, and thereafter he or she will be subject to all the procedures and requirements for drug and alcohol testing as set forth in this policy.

In addition, any employee who has taken an extended leave of absence of six months or longer must be retested under this section before returning to work.

3. **Reasonable Suspicion (For Cause) Testing** - Supervisors and managers shall be trained to look for behaviors that may indicate drug or alcohol usage. These behaviors include, but are not limited to: direct observation of drug or alcohol use, drug paraphernalia, abnormal or erratic behavior such as accidents, stealing, or repeated errors on the job, or unsatisfactory time and attendance patterns, any of which are coupled with a specific contemporaneous event that indicates probable drug or alcohol use. An employee will be required to provide a urine sample, as

defined below, when such reasonable suspicion arises and at least one supervisor or manager, and the designated Drug Policy Coordinator, concur that a reasonable suspicion of drug or alcohol use exists. The decision to test for drug or alcohol use by an employee is based on specific contemporaneous, physical, behavioral, and/or performance indicators. Once the authorized supervisors have determined that a reasonable suspicion exists, testing is done immediately.

4. **Return to Duty Testing** - If the Company returns to duty an employee after he or she has voluntarily sought rehabilitation for drug or alcohol abuse and has successfully completed rehabilitation, such employee shall be entered into a program of unannounced drug or alcohol testing. Such employees shall be subject to the program of unannounced drug and alcohol testing for a predetermined period of time at the sole discretion of management.
  5. **Post Accident Testing** - Post accident testing will be conducted on employees whose performance either contributed to an accident, or cannot be completely discounted as contributing to the accident. Such testing will occur as soon as possible, but not later than twelve hours after an accident has occurred. The immediate supervisor and the department manager of such employee, in association with the Drug Policy Coordinator, shall determine if the performance of that employee either contributed to the accident or cannot be completely discounted as a contributing factor.
  6. **Random Testing** - Random testing will be performed monthly on a percentage of all employees, who will be randomly selected and given minimal advance notice. Random testing is done on employees who are under no suspicion, but specifically to satisfy the random criteria. The purpose of random testing is to be a deterrent to all employees for drug or alcohol abuse. The means of random selection shall be confidential.
- B. Any drug or alcohol testing shall occur during or immediately after the regular work period of current employees, and shall be deemed work time for purposes of compensation and benefits for current employees.
  - C. Individuals will be tested on company premises or sent to an outside clinic or testing facility licensed to perform such tests.
  - D. The Company shall pay all costs of testing and transportation associated with a test required by the Company.
  - E. All sample collection and testing shall be performed according to the following conditions:
    1. The collection of samples shall be performed under reasonable and sanitary conditions.
    2. Samples shall be collected and tested with due regard to the privacy of the individual being tested, and in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.
    3. The collection of samples shall be documented, and the documentation procedures shall include labeling of samples, to reasonably preclude the probability of erroneous identification of test results. An opportunity shall be provided for the employee or prospective employee to provide notification of any information that he or she considers to be relevant to the test, including identification of currently or recently used prescriptions or non-prescription drugs, or other relevant medical information.

4. Sample collection, storage, and transportation to the place of testing shall be performed so as to reasonably preclude the probability of sample contamination or adulteration.
5. Sample testing shall conform to scientifically accepted analytical methods and procedures. Testing will include verification or confirmation of any positive test result by gas chromatography/mass spectrometry before the results of any test will be used as a basis for any action by the company.
6. A test result shall be considered as positive, and an employee shall be considered "under the influence" if the test result equals or exceeds the following measurement criteria:

Test Cutoff Levels (Ng/mL)

Marijuana.....	50
Cocaine .....	300
Opiates .....	2,000*
Phencyclidine.....	25
Amphetamines.....	1000
Alcohol.....	0.04%

\*Test for 6-AM when morphine concentrations exceeds 2,000 Ng/ml

To obtain accurate and reliable test results, the employee or prospective employee must not dilute the urine sample by the ingestion of excess fluids (hereinafter referred to as an "Excess Fluids Sample") before providing the sample. A urine sample shall be considered an Excess Fluids Sample if (1) the test results indicate that the urine sample contains creatinine levels less than .2g/L and a specific gravity of less than 1.003 and (2) there is no medically sufficient explanation for such excess fluids, which explanation must be judged as satisfactory to the MDC in his/her sole but reasonable discretion. If a urine sample provided by a prospective employee or an employee is determined after appropriate testing to be an Excess Fluids Sample, the prospective employee or employee shall, at the company's discretion, be required to provide another urine sample (the "Second Sample") at a time that is within the sole discretion of the Company. Otherwise, testing will be subject to terms and conditions of this policy. In the event the Second Sample is determined after appropriate testing to be an Excess Fluids Sample, the prospective employee shall not be offered employment with the Company and the employee shall be subject to "Company Action" as set forth in Section IV, A-E of this policy.

In addition, when any sample that is deemed by the collector at the time of collection to be temperature out-of-range, or to have been adulterated, the prospective employee shall not be hired; the current employee shall immediately produce a second specimen for testing. If he or she refuses to provide a second specimen, or if the second specimen is deemed by the collector to also have been adulterated or temperature out-of-range, he or she shall be subject to "Company Action".

**IV. Company Action**

Upon receipt of a verified or confirmed positive drug or alcohol test result, which indicates a violation of this policy, upon the refusal of any employee or prospective employee to provide a sample, or upon the donor supplying a temperature out of range, adulterated or excessive fluid

sample, the Company may use that test result or refusal as the basis for disciplinary or rehabilitative actions, which may include, but not be limited to, the following:

- A. A requirement that the employee enrolls in a company-approved rehabilitation, treatment, or counseling program, which may include additional drug or alcohol testing, as a condition of future employment. Rehabilitation will be done at employees' expense.
- B. Suspension of the employee with or without pay for a period of time.
- C. Termination of employment.
- D. Refusal to hire a prospective employee.
- E. Any other disciplinary measures in conformance with the Company's practices, policies, or procedures.

#### **V. Confidentiality**

- A. All information, interviews, reports, statements, memoranda, or test results received by the Company, through this drug and alcohol-testing program, are confidential communications. They are not to be used or received as evidence, obtained in discovery or disclosed in any public or private proceeding, except in a proceeding related to an action taken by the Company under Section IV, or in defense of any action brought against the Company, or as required by law.
- B. The information described in paragraph VA shall be the property of the Company.
- C. The Company is entitled to use a drug or alcohol test result as a basis for action under Section IV.

#### **VI. Miscellaneous Conditions**

- A. Employees who possess, dispense, manufacture, or distribute alcohol, drugs or drug paraphernalia on company premises, or on company time, may be subject to disciplinary action, including termination.
- B. Employees undergoing prescribed medical treatment with a drug that may alter physical or mental abilities must report this to their supervisor.
- C. A copy of the Company's Drug and Alcohol Testing Policy shall be made available and posted for all employees, and all employees shall be required to acknowledge understanding the policy. Copies shall be made available to prospective employees.
- D. This policy applies to management as well as other employees.
- E. Any employee convicted of violating a criminal drug statute must notify the personnel office within five days of conviction. The Company may take appropriate disciplinary or rehabilitative actions as set forth in Section IV, as a consequence.
- F. Employees wishing assistance with overcoming drug or alcohol abuse may contact their supervisor or the Drug Policy Coordinator for information about counseling and rehabilitation programs.

**VII. Work Place Rules**

- A. An employee or prospective employee shall be considered to be “under the influence” of drugs, alcohol or a controlled substance if the results of the employee’s, or prospective employee’s, drug or alcohol test equals or exceeds the measurement criteria set forth in Section III.E.6.
- B. No employee may possess, use, distribute, or be under the influence of alcohol on the premises, or in the Company’s vehicles, or in an employee’s vehicle while on company time.
- C. No employee may manufacture, distribute, dispense, possess, use, or be under the influence of drugs or a controlled substance on the Company’s premises, in the Company’s vehicles, or in an employee’s vehicle while on company time, except in cases involving a current, prescribed prescription or over-the-counter drugs.

**VIII. Searches**

Based on reasonable suspicion indicating the likelihood of the presence of alcohol or illicit drugs on Company property, management has the right to conduct searches of areas including, but not limited to:

- Desks
- Toolboxes
- Lockers
- Lunch bags/boxes
- Garments
- Purses
- Backpacks
- Briefcases
- Vehicles on Company property; however, the search of automobiles will be limited to areas exposed to public view through the windows.

**IX. Drug and Alcohol Policy Not a Contract**

This Drug and Alcohol Testing Policy is the unilateral action of the Company and does not constitute an express or implied contract with any person affected by or subject to the policy. Neither this policy nor any action taken pursuant to this policy assures or guarantees employment or any terms of employment to any person for any period of time. The Company may alter, terminate or make exceptions to this policy at any time, at the Company’s sole discretion. Any substantive or material change in this policy will be communicated with the employees who will be given the opportunity to question, understand, and accept such a change. This policy does not limit or alter the Company’s right to terminate any employee at any time for any reason.

**DO NOT SIGN UNTIL YOU HAVE READ THE ABOVE STATEMENT AND AGREEMENT**

<b>SIGNATURE OF EMPLOYEE</b>	<b>DATE</b>	<b>SS#</b>