

Employer Education

Drug-Free Workplace Program and Premium Credit

Loss Prevention Department



Drug-Free Workplace Program and Premium Credit

Learning Objectives

- 1. Understand the advantages of implementing a drug-free workplace program.
- 2. Discover the cost savings associated with a drug-free workplace program.
- 3. Identify the application guidelines and program maintenance requirements.

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Advantages of implementing a drug-free* workplace program

An important goal of any business should be to provide a safe, productive and drug-free environment for its employees. Having a drug-free workplace program can help prevent workplace injuries and keep safety a top priority. A properly maintained drug-free workplace program can offer the following benefits.

- Improve employee morale and motivation
- Reduce absenteeism, tardiness and sick leave
- Improve customer satisfaction
- Improve company image in the marketplace and to potential employees
- Fewer employee discipline problems
- Increase productivity
- Can work to your advantage in a litigated workers' compensation claim
- Reduce workers' compensation premium costs with a premium credit

If you do not have a drug-free workplace program established, Summit is here to help. You will find state-specific sample programs on our website at summitholdings.com under **Safety, Drug-Free Workplace Program** or by clicking [here](#).

*The term "drug" includes alcohol.

Elements of a drug-free workplace program

Your drug-free workplace program must include the following items.

- Consistent program implementation and enforcement
- Confidentiality guidelines
- When drug testing is required
- Types of drugs tested
- Drug testing procedures, i.e., chain of custody, etc.
- Reporting employee use of prescription/non-prescription medications
- Repercussions against employee/applicant for a positive test or test refusal
- Explanation of employee assistance and/or drug rehabilitation program
- Procedures for distributing the drug-free workplace program to all employees and job applicants
 - Employee signed acknowledgement of the program
 - Posted notice of your drug-free workplace program
 - Drug-Free Workplace posters are available on our website at summitholdings.com under **Safety, Safety Training Resources**.
- Education procedures

- Training of managers, supervisors and employees on the drug-free workplace program
- Plan for introduction at employee orientation
- Frequency of program training sessions

Premium credit offered by states in Summit's footprint

Summit reviews insured employers' drug-free workplace premium credit application for [Florida](#), [Mississippi](#), [Oklahoma](#), [South Carolina](#) and [Virginia](#). The states of Alabama, Arkansas, Georgia, Kentucky and Tennessee certify whether the premium credit is available for insured employers in their states.

Premium credit for having a drug-free workplace program is not offered in Illinois, Indiana, Louisiana, North Carolina or Texas. Even though a credit is not offered, Summit Loss Prevention still recommends implementing a program to help prevent workplace injuries and keep safety a top priority.

Premium credit application requirements by state

Various application requirements—reviewed by either Summit or your state—must be met to receive a workers' compensation premium credit for your drug-free workplace program. Here is a breakdown of the premium credit application requirements for the states in our footprint.

Alabama

The drug-free workplace program requirements are set and approved by the State of Alabama. Here is information to help guide you through the process of obtaining premium credit.

Notice of employer's drug testing policy

The following steps must be taken to inform employees of your drug testing policy.

- One time only, distribute a copy of the policy statement to all employees and job applicants, prior to testing, which includes consequences of a positive drug test or drug test refusal; with the employee/applicant signing a receipt therefor
 - Give general notice 60 days prior to initial testing, when first implementing
 - Conspicuously post policy on business premises
 - Show notice of drug testing on vacancy announcements
 - Have copies available in your personnel office or other suitable locations
- See Ala. Code § 25-5-334 (2021)

Education

The following educational information must be provided to your employees.

- Semiannual education program on substance abuse for all employees
- Two hours of supervisory personnel training on substance abuse
See Ala. Code § 25-5-337 (2021)

Approved testing laboratory

The following drug testing laboratory requirements apply:

- The laboratory is approved by the National Institute on Drug Abuse or the College of American Pathologists
- The laboratory has written procedures to ensure the chain of custody
- The laboratory follows proper quality control procedures
See Ala. Code § 25-5-335(d) (2021).

Testing procedures

Procedures for conducting drug testing should be established for the following scenarios.

- Job applicant
- Reasonable suspicion
- Routine fitness for duty
- Follow-up testing to employee assistance program
- Employee caused or contributed to an on-the-job injury which resulted in a loss of work time
- Random testing is allowed but not required
See Ala. Code § 25-5-335 (2021)

Medical review officer

You must identify a medical review officer (licensed physician) to include in your drug-free workplace program, who will review positive drug test results. See Ala. Admin. Code 480-5-6-.04(2) (2021)

Introducing the program and providing training

Before introducing your drug-free workplace program, you will need to designate a program coordinator so that employees have a point of contact. A human resource manager, department manager or supervisor are good options. Education on the drug-free workplace program should be provided at new employee orientation, manager and supervisor meetings and employee training meetings, as noted in the Education section above.

Confidentiality

“All persons who receive or have access to information concerning test results shall keep all information confidential.” Ala. Code § 25-5-339(b) (2021). “All information, interviews,

reports, statements, memoranda and test results, written or otherwise, received by the employer through a substance abuse testing program are confidential communications, but may be used or received in evidence, obtained in discovery, or disclosed in any civil or administrative proceeding, except” “[i]nformation on test results shall not be released or used in any criminal proceeding against the employee or job applicant.” Ala. Code § 25-5-339(a),(c)

The application process

Click [here](#) for Alabama’s drug-free workplace premium credit application and instructions. Once the application is complete, you will mail it directly to the state for processing. Once the state approves your application, they will send you a letter of approval. Annual recertification is required with a new application along with a \$25 application fee.

Sample program

A sample drug-free workplace program is available on the [Alabama Department of Labor](#) website under the **Drug-Free Way to Be Guide**.

Submitting premium credit approval

The certificate of approval that you receive from the state must be submitted to Summit’s Loss Prevention department for processing the premium credit. You can submit your certificate by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802.

Maintaining your premium credit

It’s important to remember that each year a completed and approved renewal application or state certificate for premium credit is required. You will receive notification from Summit as a reminder to send in the required documentation. You will “be subject to an additional premium for the purposes of reimbursement of a previously granted premium discount and to cancellation in accordance with the policy if it is determined by the Department of Industrial Relations, Workers’ Compensation Division, that the insured misrepresented the compliance of its drug-free workplace program.” Ala. Code § 25-5-332(d) (2021)

Arkansas

The drug-free workplace program requirements are set and approved by the State of Arkansas. Here is information to help guide you through the process of obtaining premium credit.

Notice of employer’s drug testing policy

The following steps must be taken to inform employees of your drug testing policy.

- One time only, distribute a copy of the policy statement to all employees and job

applicants, prior to testing, which includes consequences of a positive drug test or drug test refusal; with the employee/applicant signing a receipt therefor

- Give general notice 60 days prior to initial testing, when first implementing
 - Conspicuously post policy on business premises
 - Show notice of drug testing on vacancy announcements
 - Have copies available in your personnel office or other suitable locations
- See Ark. Code Ann. § 11-14-105 (West 2021)

Education

The following educational information must be provided to your employees.

- Provide educational materials to all employees at implementation and new hires
- Supervisors must receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on drug use.

Code Ark. R. 099.00.1-099.36(XI) (2021)

Approved testing laboratory

Once your testing plan is outlined, you must select a laboratory that meets the following criteria:

- 1) The laboratory is licensed and approved by the Department of Health, using criteria established by the United States Department of Health and Human Services as guidelines for modeling the state drug-free testing program pursuant to this section, or the laboratory is certified by the Department of Health and Human Services, the College of American Pathologists or such other recognized authority approved by rule by the Director of the Workers' Health and Safety Division of the Workers' Compensation Commission. The Department of Health may license and approve any new laboratory to analyze initial or confirmation test specimens under the provisions of this chapter and may charge a fee not to exceed \$2,000 for the license and approval of the new laboratory; and
- 2) The laboratory complies with the procedures established by the United States Department of Transportation for a workplace drug test program, or such other recognized authority approved by the director.

Ark. Code Ann. § 11-14-110(a)(1)(2) (West 2021)

Testing procedures

Procedures for conducting drug testing should be established for the following scenarios.

- Job applicant
- Reasonable suspicion
- Routine fitness for duty
- Follow-up testing to employee assistance program
- After a work-related injury
- Random testing is allowed but not required

See Ark. Code Ann. § 11-14-106 (West 2021). “It is intended that any employer required to test its employees pursuant to the requirements of any federal statute or regulation shall be deemed to be in conformity with this section as to the employees it is required to test by those standards and procedures designated in that federal statute or regulation. All other employees of the employer shall be subject to testing as provided in this chapter in order for the employer to qualify as having a drug-free workplace program.” Ark. Code Ann. § 11-14-104(c) (West 2021)

Medical review officer

You must identify a medical review officer to include in your drug-free workplace program, who must be a licensed physician, pharmacist, pharmacologist or similarly qualified individual and will review positive drug test results. Ark. Code Ann. §§ 11-14-102(16) 11-14-105(a)(4) (West 2021)

Introducing the program and providing training

Before introducing your drug-free workplace program, you will need to designate a program coordinator so that employees have a point of contact. A human resource manager, department manager or supervisor are good options. Training on the drug-free workplace program is recommended at new employee orientation, manager and supervisor meetings and employee training meetings; and should comply with the requirements listed in the Education section above.

Confidentiality

“All information, interviews, reports, statements, memoranda and drug or alcohol test results, written or otherwise, received by the covered employer through a drug or alcohol testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings except in determining compensability under this chapter or the Workers’ Compensation Law, § 11-9-101 et seq.”, and employers consulting with legal counsel or management in making disciplinary decisions. Ark. Code Ann. § 11-14-109(a), (d) (West 2021). This information “shall not be released or used in any criminal proceeding against the employee or job applicant.” See subsection 11-14-109(c).

The application process

Click [here](#) for Arkansas’s drug-free workplace premium credit application and instructions. Once the application is complete, you will mail it directly to the state for processing. Once the state approves your application, they will send you a letter of approval. Annual recertification is required with a new application.

Sample program

The State of Arkansas has a sample [Voluntary Drug-Free Workplace Program](#) that you can

request by email on their website.

Submitting premium credit approval

The certificate of approval that you receive from the state must be submitted to Summit's Loss Prevention department for processing the premium credit. You can submit your certificate by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802.

Maintaining your premium credit

It's important to remember that each year a completed and approved renewal application or state certificate for premium credit is required. You will receive notification from Summit as a reminder to send in the required documentation. If an "employer fails to maintain a drug-free workplace program in accordance with the standards and procedures established in this rule, the employer shall not be eligible for premium credits." Code Ark. R. 099.00.1-099.36(XIII)(E) (2021).

Florida

The drug-free workplace premium credit application is reviewed by Summit and will ask for information on the following topics.

Notice of employer's drug testing policy

The following steps must be taken to inform employees of your drug testing policy.

- One time only, distribute a copy of the policy statement to all employees and job applicants, prior to testing
- Conspicuously post policy on business premises
- Show notice of drug testing on vacancy announcements
- Have copies available in your personnel office or other suitable locations
- Give general notice 60 days prior to initial testing, when first implementing Fla. Stat. Ann. § 440.102(3) (West 2021)

Education

The following educational information must be provided to your employees.

- Resource file of rehabilitation providers
 - Employee assistance program
 - Program education
- Fla. Stat. Ann. § 440.101(2) (West 2021)

Approved testing laboratory

Once your testing plan is outlined, you must select a laboratory "certified by the United States Department of Health and Human Services or licensed by the Agency for Health Care

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Administration (AHCA)” to conduct and process drug or alcohol testing for employees. See § 440.102(1)(a)(e) Fla. Stat. The laboratory should provide you with chain of custody and confidentiality forms and a method for submitting the forms electronically. Id.

You can search for an approved laboratory in your local area or collection site affiliated with an approved laboratory through the following sources.

- AHCA licensed testing labs
 - www.floridahealthfinder.gov/facilitylocator/facloc.aspx
- U.S. Department of Health and Human Services
 - <https://www.samhsa.gov/workplace/drug-testing-resources/certified-lab-list>

Testing procedures

Procedures for conducting drug testing should be established for the following scenarios.

- Job applicant
 - Reasonable suspicion
 - Routine fitness for duty
 - Follow-up testing to employee assistance program
- Fla. Stat. Ann. §440.102(4) (West 2021)

Medical review officer

You must identify a medical review officer to include in your drug-free workplace program. See § 440.102(1)(k). A medical review officer is a doctor, employed with or contracted with the employer, who interprets the drug and alcohol test results and consults with the employer and employee. See §§ 440.102(1)(k) and (3). Once you are contracted with a laboratory, a medical review officer is assigned by the laboratory. The name of the medical review officer can be found on the chain of custody form or by contacting the collection site and/or laboratory.

Introducing the program and providing training

Before introducing your drug-free workplace program, you will need to designate a program coordinator so that employees have a point of contact. A human resource manager, department manager or supervisor are good options. Training on the drug-free workplace program is recommended at new employee orientation, manager and supervisor meetings and employee training meetings.

Confidentiality

“[A]ll information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of a drug-testing program are confidential and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except” when the employer uses this information when consulting with legal counsel in connection with legal actions involving the drug-free workplace defense.

Fla. Stat. Ann. § 440.102(8)(a), (d) (West 2021). “Information on drug test results shall not be used in any criminal proceeding against the employee or job applicant.” Fla. Stat. Ann. § 440.102(c) (West 2021)

The application process

Click [here](#) for Florida’s drug-free workplace premium credit application. Once your application is complete, you can submit your application and a copy of your program by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802.

Maintaining your premium credit

It’s important to remember that before your policy renewal date, a new completed and approved application for program premium credit is required. See § 627.0915. An application is mailed to employers who have a drug-free workplace premium credit on their current policy 90 days prior to their renewal date. The completed application, signed by an officer/owner, can be returned to our Loss Prevention department by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802. See subsection 440.102(2) (“If an employer fails to maintain a drug-free workplace program in accordance with the standards and procedures established in this section and in applicable rules, the employer is ineligible for discounts under s. 627.0915”).

Georgia

The drug-free workplace program requirements are set and approved by the State of Georgia. Here is information to help guide you through the process of obtaining premium credit.

Notice of employer’s drug testing policy

The following steps must be taken to inform employees of your drug testing policy.

- One time only, distribute a copy of the policy statement to all employees and job applicants, prior to testing, which includes consequences of a positive drug test or drug test refusal; with the employee/applicant signing a receipt therefor
- Give general notice 60 days prior to initial testing, when first implementing
- Conspicuously post policy on business premises
- Show notice of drug testing on vacancy announcements
- Have copies available in your personnel office or other suitable locations

Ga. Code Ann. § 34-9-414 (West 2021)

Education

“During the initial year of certification an employer must provide all employees with a semiannual education program on substance abuse, in general, and its effects on the workplace, specifically”; in addition, “employer must provide all supervisory personnel with a

minimum of two hours of supervisor training.” Ga. Code Ann. §§ 34-9-417(a) and 34-9-418(a) (West 2021). “During the second and any consecutive subsequent years of certification, an employer must provide all employees with an annual education program”; in addition, the “employer must provide all supervisory personnel with a minimum of one hour of such supervisory training.” Ga. Code Ann. §§ 34-9-417(b) and 34-9-418(b) (West 2021)

Approved testing laboratory

Once your testing plan is outlined, you must select a laboratory that meets the following criteria:

- The laboratory is approved by the National Institute on Drug Abuse or the College of American Pathologists;
 - The laboratory has written procedures to ensure the chain of custody; and
 - The laboratory follows proper quality control procedures
- Ga. Code Ann. § 34-9-415(e) (West 2021)

Testing procedures

Procedures for conducting drug testing should be established for the following scenarios.

- Job applicant
 - Reasonable suspicion
 - Routine fitness for duty
 - Follow-up testing to employee assistance program
 - The “employee has caused or contributed to an on-the-job injury which resulted in a loss of work time”
 - Random drug testing is allowed but not required
- Ga. Code Ann. § 34-9-415(b), (c) (West 2021)

Medical review officer

You must identify a medical review officer to include in your drug-free workplace program, who is a licensed physician who reviews positive drug tests.

Introducing the program and providing training

Before introducing your drug-free workplace program, you will need to designate a program coordinator so that employees have a point of contact. A human resource manager, department manager or supervisor are good options. Training on the drug-free workplace program is recommended at new employee orientation, manager and supervisor meetings and employee training meetings, in accordance with the Education section above.

Confidentiality

“All information, interviews, reports, statements, memoranda, and test results, written or otherwise, received by the employer through a substance abuse testing program are confidential communications, but may be used or received in evidence, obtained in discovery, or disclosed in any civil or administrative proceeding.” Ga. Code Ann. § 34-9-

420(a) (West 2021). The employer and laboratory may access the drug test information when consulting with legal counsel in defense of a civil or administrative matter. Subsection 34-9-420(d)

The application process

Click [here](#) for Georgia's drug-free workplace premium credit application and instructions. You may apply directly online or by mailing the application to the state. Once the state approves your application, they will send you a certificate. Annual recertification is required with a new application along with a \$35 application fee.

Submitting premium credit approval

The certificate of approval that you receive from the state must be submitted to Summit's Loss Prevention department for processing the premium credit. You can submit your certificate by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802.

Maintaining your premium credit

It's important to remember that each year a completed and approved renewal application or state certificate for premium credit is required. You will receive notification from Summit as a reminder to send in the required documentation. If an employer misrepresents compliance with the drug-free workplace program laws, the premium credit will be rescinded. See Ga. Code Ann. § 33-9-40.2(c) (West 2021).

Kentucky

The drug-free workplace program requirements are set and approved by the State of Kentucky. Here is information to help guide you through the process of obtaining premium credit.

Notice of employer's drug testing policy

The following steps must be taken to inform employees of your drug testing policy.

- Distribute a copy of the policy statement to all employees
 - Post the drug free workplace statement on business premises
 - Have copies available in your personnel office or other suitable locations
- 803 Ky. Admin. Regs. 25:280, Sec. 5(1) (2021)

Education

An employer must establish an alcohol and substance abuse education and awareness training program for employees and supervisors, which complies with the minimum requirements of 803 Ky. Admin. Regs. 25:280, Sec. 3(1)(a)(b) (2021). In addition, supervisors must have 30 minutes of alcohol and substance abuse education and

awareness training every year. 25:280, Sec. 3(1)(c).

Approved testing laboratory

Once your testing plan is outlined, you must select “a qualified laboratory, for the purpose of determining the presence or absence of a drug or its metabolites or alcohol pursuant to standards, procedures and protocols established by the U.S. Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration (SAMHSA), at “<https://www.samhsa.gov/workplace>.” 803 Ky. Admin. Regs. 25:280, Sec. 1(5) (2021). The term “qualified laboratory” “means a laboratory certified in accordance with the National Laboratory Certification Program (NLCP) by the United States Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration (SAMHSA).” 25:280, Sec. 1(13).

Testing procedures

Procedures for conducting drug testing should be established for the following scenarios.

- Job applicant
- Reasonable suspicion
- Follow-up testing to employee assistance program
- “Following an accident on the premises of the employer or in the course of employment for the employer which requires off-site medical attention be given to a person.”
- Random drug testing is allowed but not required
803 Ky. Admin. Regs. 25:280, Sec. 3(2)-(7) (2021)

Medical review officer

You must identify a medical review officer (“MRO”) to include in your drug-free workplace program, who must be a licensed physician familiar with drug testing. 803 Ky. Admin. Regs. 25:280, Sec. 1(11)(2021). The MRO will review all drug tests. See 25:280, Sec. 3(8).

Employee assistance program

“The program shall include an employee assistance program (EAP) for its employees and supervisory personnel.” See 25:280, Sec. 3(9).

Confidentiality

“Records of drug or alcohol test results, written or otherwise, received by the employer shall be confidential communications.” See 25:280, Sec. 4.

Introducing the program and providing training

Before introducing your drug-free workplace program, you will need to designate a program coordinator so that employees have a point of contact. A human resource manager, department manager or supervisor are good options. Training on the drug-free workplace

program is recommended at new employee orientation, manager and supervisor meetings and employee training meetings, in compliance with the Education section above.

The application process

Click [here](#) to obtain Kentucky's drug-free workplace premium credit application and instructions. You will need to mail the completed application directly to the State of Kentucky for processing. Once the state approves your application, they will send you a certificate. Annual recertification is required with a new application.

Sample program

You can access drug-free workplace documents, including a sample policy, on the State of Kentucky's website by clicking [here](#).

Submitting premium credit approval

The certificate of approval that you receive from the state must be submitted to Summit's Loss Prevention department for processing the premium credit. You can submit your certificate by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802.

Maintaining your premium credit

It's important to remember that each year a completed and approved renewal application or state certificate for premium credit is required. You will receive notification from Summit as a reminder to send in the required documentation. "If an employer, who has been certified to have a drug-free workplace program, discontinues or fails to maintain its program in compliance with this administrative regulation, the [Department of Workers' Claims] shall revoke the employer's certification." See 25:280, Sec. 7(4)(a).

Mississippi

The drug-free workplace premium credit application is reviewed by Summit and will ask for information on the following topics.

Notice of employer's drug testing policy

The following steps must be taken to inform employees of your drug testing policy.

- Distribute a copy of the written policy statement to all employees, at least 30 days prior to implementation, and to job applicants
 - Conspicuously post drug and alcohol testing notice on business premises
 - Have copies available in your personnel office or other suitable locations
- Miss. Code. Ann. §§ 71-7-3(3) and 71-7-27(3) (West 2021)

Education

An employer must establish an alcohol and substance abuse education and awareness training program for employees, prior to instituting the drug-free workplace program. Section 71-3-215. In addition, the employer must provide all employees with an annual education one-hour program on alcohol and other drug abuse, in general and effects on the workplace, in accordance with section 71-3-215.

Approved testing laboratory

Once your testing plan is outlined, you must select a “laboratory that is currently certified or accredited by the federal Clinical Laboratory Improvement Act, as amended, by the federal Substance Abuse and Mental Health Services Administration, by the College of American Pathologists, or that has been deemed by the State Board of Health to have been certified or accredited by an appropriate federal agency, organization or another state.” Subsection 71-7-1(j).

Testing procedures

Procedures for conducting drug testing should be established for the following scenarios.

- Job applicant
- Reasonable suspicion
- Follow-up testing to drug rehabilitation/employee assistance program
- “[In] the event that the employee sustains an injury at work or asserts a work-related injury.”
- Random drug testing is allowed but not required
- Routinely scheduled employee fitness

Miss. Code. Ann. §§ 71-7-5 and 71-7-7(3) (West 2021)

Medical review officer

You must identify a medical review officer (“MRO”) to include in your drug-free workplace program, who must be a licensed physician familiar with drug testing. 15 Code Miss. R. Pt. 16, Subpt. 1, R. 53.3.14 (2021). The MRO will review all drug tests. Rule 53.3.14.

Confidentiality

“All information, interviews, reports, statements, memoranda and test results, written or otherwise, received by the employer through its drug and alcohol testing program are confidential communications.” Section 71-7-15.

Introducing the program and providing training

Before introducing your drug-free workplace program, you will need to designate a program coordinator so that employees have a point of contact. A human resource manager, department manager or supervisor are good options. Training on the drug-free workplace program is recommended at new employee orientation, manager and supervisor meetings

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and employee training meetings, in accordance with the above Education section.

How to apply

Click [here](#) for Mississippi's drug-free workplace premium credit application. Once your application is complete, you can submit your application and a copy of your program by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802.

Maintaining your premium credit

It's important to remember that before your policy renewal date, a new completed and approved application for program premium credit is required. An application is mailed to employers who have a drug-free workplace premium credit on their current policy 90 days prior to their renewal date. The completed application, signed by an officer/owner, can be returned to our Loss Prevention department by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802. "The insured's workers' compensation insurance policy shall be subject to an additional premium for the purposes of reimbursement of a previously granted premium discount if it is determined that such insured misrepresented the compliance of its drug-free workplace program." Subsection 71-3-207(5)

Oklahoma

The drug-free workplace premium credit application is reviewed by Summit and will ask for information on the following topics.

Notice of employer's drug testing policy

The following steps must be taken to inform employees of your drug testing policy.

- Distribute a copy of the written policy statement to all employees, at least 10 days prior to implementation, or to job applicants upon acceptance of employment, in any one of the following ways:
 - Hand deliver; or
 - Mail; or
 - Email or post on website; or
 - Post in a prominent employee access area

Okla. Stat. Ann. title 40, § 555 (West 2021).

Education

An employer should establish an alcohol and substance abuse education and awareness training program for employees and supervisors, which complies.

Approved testing laboratory

Once your testing plan is outlined, you must select laboratory that is “certified for forensic urine drug testing pursuant to guidelines or regulations of the federal Department of Health and Human Services or be accredited for forensic urine drug testing by the College of American Pathologists or other organizations recognized by the State Board of Health.” See title 40, § 557(A). “Nothing in the Standards for Workplace Drug and Alcohol Testing Act shall be construed as prohibiting an employer from adopting a policy which allows for testing for drugs or alcohol by another method which is reasonably calculated to detect the presence of drugs or alcohol, including, but not limited to, breathalyzer testing, testing by use of a single-use test device, known as an on-site or quick testing device, to collect, handle, store and ship a sample collected for testing.” Title 40 § 557(A)

Testing procedures

Procedures for conducting drug testing should be established for the following scenarios.

- Job applicant and transfer/reassignment testing
- For-cause testing
- Post-accident testing
- Reasonable suspicion
- Random testing, but is not required
- Scheduled, fitness-for-duty, return from leave and other periodic testing
- Post-rehabilitation testing

See title 40 § 554.

Medical review officer

You must identify a review officer to include in your drug-free workplace program, who must be “qualified by the State Board of Health, is responsible for receiving results from a testing facility” and is familiar with drug testing. See title 40 § 552.

Confidentiality

Drug or alcohol test result records are considered confidential and the property of the employer, shall be made available to the employee, and can only be disclosed during litigation or when the employer needs to do so in compliance with its drug-free workplace program. See title 40 § 560.

Introducing the program and providing training

Before introducing your drug-free workplace program, you will need to designate a program coordinator so that employees have a point of contact. A human resource manager, department manager or supervisor are good options. Training on the drug-free workplace program is recommended at new employee orientation, manager and supervisor meetings and employee training meetings.

How to apply

Click [here](#) for Oklahoma's drug-free workplace premium credit application. Once your application is complete, you can submit your application and a copy of your program by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802.

Maintaining your premium credit

It's important to remember that before your policy renewal date, a new completed and approved application for program premium credit is required. An application is mailed to employers who have a drug-free workplace premium credit on their current policy 90 days prior to their renewal date. The completed application, signed by an officer/owner, can be returned to our Loss Prevention department by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802. Failure to properly maintain your drug-free workplace program will result in the credit being removed.

South Carolina

The drug-free workplace premium credit application is reviewed by Summit and will ask for information on the following topics.

Notice of employer's drug testing policy

The following steps must be taken to inform employees of your drug testing policy.

- Distribute a written copy of the policy statement to all employees and new hires prior to testing, via mail or in-person
- Conspicuously post the drug-free workplace statement on business premises
- Have copies available in your personnel office or other suitable locations SCDOI Bulletin 3-97(II)(2), 1997 WL 34499547 (SC INS BUL, Aug. 14, 1997).

Education

An employer should establish an alcohol and substance abuse education and awareness training program for employees and supervisors.

Approved testing laboratory

Once your testing plan is outlined, you should select a laboratory certified in accordance with the National Laboratory Certification Program (NLCP) by the United States Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA).

Testing procedures

Procedures for conducting drug testing should be established for the following scenarios.

- Job applicant

- Reasonable suspicion
- Follow-up testing to employee assistance program
- Following an employee's accident on the premises of the employer or in the course of employment for the employer
- Random drug testing is allowed
SC DOI Bulletin 3-97(II)(3)

Medical review officer

You must identify a medical review officer ("MRO") to include in your drug-free workplace program, who should be a licensed physician familiar with drug testing. The MRO will review all drug tests.

Confidentiality

"Employers, laboratories, medical review officers, insurers, drug or alcohol rehabilitation programs, and employer drug prevention programs, and their agents who receive or have access to information concerning test results shall keep all information confidential"; and cannot be released absent a written consent form from the employee or for civil/administrative proceedings. See S.C. Code Ann. § 41-1-15(C) (2021).

Introducing the program and providing training

Before introducing your drug-free workplace program, you will need to designate a program coordinator so that employees have a point of contact. A human resource manager, department manager or supervisor are good options. Training on the drug-free workplace program is recommended at new employee orientation, manager and supervisor meetings and employee training meetings.

How to apply

Click [here](#) for South Carolina's drug-free workplace premium credit application. Once your application is complete, you can submit your application and a copy of your program by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802.

Maintaining your premium credit

It's important to remember that before your policy renewal date, a new completed and approved application for program premium credit is required. An application is mailed to employers who have a drug-free workplace premium credit on their current policy 90 days prior to their renewal date. The completed application, signed by an officer/owner, can be returned to our Loss Prevention department by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802. Failure to properly maintain your drug-free workplace program will result in the credit being removed.

Tennessee

The drug-free workplace program requirements are set and approved by the State of Tennessee. Here is information to help guide you through the process of obtaining premium credit.

Notice of employer's drug testing policy

The following steps must be taken to inform employees of your drug testing policy.

- One time only, prior to testing, a covered employer shall give all employees and job applicants for employment a written policy statement; this must be 60 days before implementation and show an effective date.
- Show notice of drug testing on vacancy announcements
- Conspicuously post the drug free workplace statement on business premises. See https://www.tn.gov/content/dam/tn/workforce/documents/injuries/DrugFreeWP_poster.pdf
- Have copies available in your personnel office or other suitable locations
See Tenn. Code Ann. § 50-9-105 (West 2021); and Tenn. Comp. R. & Regs. 0800-02-12-.04 (2021).

Education

An employer should establish an alcohol and substance abuse education and awareness training program for employees and supervisors. The employer is not required “to provide annual education or awareness training for each employee if all existing employees have undergone such training at least once and have acknowledged annually in writing the existence of the employer’s drug-free workplace policy.” Tenn. Code Ann. § 50-9-111(d) (West 2021). An employer “shall provide at least one hour of training to all employees at least one time. All employees must be trained within sixty calendar days of an employer’s implementation of a Tennessee Drug-Free Workplace Program or within sixty calendar days of the employee’s date of hire.” Tenn. Comp. R. and Regs. 0800-02-12-.11(2) (2021).

Approved testing laboratory

Once your testing plan is outlined, you must select a “certified laboratory,” which complies “with the standards of the United States Department of Health and Human Services (HHS), Substance Abuse and Mental Health Services Administration (SAMHSA) or the College of American Pathologists- Forensic Urine Drug Testing (CAP-FUDT).” See Tenn. Comp. R. and Regs. 0800-02-12-.03(4) (2021); see also Tenn. Code Ann. § 50-9-110 (West 2021).

Testing procedures

Procedures for conducting drug testing should be established for the following scenarios.

- Job applicant
- Reasonable suspicion
- Routine fitness-for-duty
- Follow-up testing after a positive test

- Post-accident, the “injured employee shall submit to testing when the injury is reported to the employer.”
See Tenn. Comp. R. and Regs. 0800-02-12-.05 (2021); and Tenn. Code Ann. § 50-9-106 (West 2021).

Medical review officer

You must identify a medical review officer (“MRO”) to include in your drug-free workplace program, who must be “an MRO-certified and licensed physician who has knowledge of substance abuse disorders, laboratory testing procedures and chain of custody collection procedures; who verifies as positive a confirmed test result; and who has the necessary medical training to interpret and evaluate an employee’s positive test result in relation to the employee’s medical history or any other relevant biomedical information.” Tenn. Comp. R. and Regs. 0800-02-12-.03(18) (2021).

Confidentiality

"All information, interviews, reports, statements, memoranda and drug or alcohol test results, written or otherwise, received by the covered employer through a drug or alcohol testing program are confidential communications and may not be used or received in evidence, obtained in discovery or disclosed in any public or private proceedings, except” when the employee signs a consent, when relevant in civil proceedings, or when shared with the employer’s attorney; this information may not be introduced in a criminal proceeding. Tenn. Code Ann. § 50-9-109 (West 2021).

Introducing the program and providing training

Before introducing your drug-free workplace program, you will need to designate a program coordinator so that employees have a point of contact. A human resource manager, department manager or supervisor are good options. Training on the drug-free workplace program is recommended at new employee orientation, manager and supervisor meetings and employee training meetings, as discussed in the Education section above.

The application process

Click [here](#) to obtain Tennessee’s drug-free workplace premium credit application and information kit from the state’s website. You will need to mail the completed application directly to the State of Tennessee for processing. Once the state approves your application, they will send you a certificate. Annual recertification is required with a new application.

Sample program

The State of Tennessee provides [sample items for implementation](#) on their website.

Submitting premium credit approval

The certificate of approval that you receive from the state must be submitted to Summit’s Loss Prevention department for processing the premium credit. You can submit your

certificate by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802.

Maintaining your premium credit

It's important to remember that each year a completed and approved renewal application or state certificate for premium credit is required. You will receive notification from Summit as a reminder to send in the required documentation. "If a covered employer fails to maintain a drug-free workplace program in accordance with the standards and procedures established in this section and in applicable rules, the covered employer shall not be eligible for:"

- (1) Discounts under § 50-6-418;
 - (2) A shift in the burden of proof pursuant to § 50-6-110(c); or
 - (3) Denial of workers' compensation medical and indemnity benefits pursuant to this chapter. All covered employers qualifying for and receiving discounts provided under § 50-6-418 must be reported annually by the insurer to the division.
- Tenn. Code Ann. § 50-9-104(a) (West 2021).

Virginia

The drug-free workplace premium credit application is reviewed by Summit and will ask for information on the following topics.

Notice of employer's drug testing policy

The following steps must be taken to inform employees of your drug testing policy.

- Copy to all employees, either paper or electronic, including recipient acknowledgment
- One-time general notice given to employees 60 days prior to becoming subject to drug and/or alcohol testing
- Copies available in personnel office, human resources or other suitable location(s)
- Conspicuously posted on the employer's premises

Education

The following educational information must be provided to employees.

- Initial employee education and supervisor training programs
- Periodic re-education and training
- Information on the employee assistance program
- List of local providers of drug and alcohol treatment and family services

Approved testing laboratory

Once your testing plan is outlined, you must select "a Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory." Va. Code Ann. § 65.2-306 (West 2021).

Testing procedures

Procedures for conducting alcohol and drug testing must be established for the following scenarios.

- Job Applicant
- Routine fitness for duty
- Reasonable suspicion (including post-accident)
- Follow-up testing/challenges
- Testing of alcohol and nonprescribed controlled substances (Identified as such in Chapter 34 (Va. Code Ann. § 54.1-3400 et seq.) of Title 54.1))
- Positive testing levels are determined in accordance with Va. Code Ann. §§ 18.2-266 and 65.2-306 (West 2019)
- Positive testing consequences may include, but are not limited to, denial of workers' compensation benefits and/or job termination. See VA Code Ann. § 65.2-306 (West 2021)(Workers' Comp benefits denial)

Medical review officer

A medical review officer is a doctor who interprets the drug and alcohol test results and consults with the employer and employee. Once you are contracted with a laboratory, a medical review officer is assigned by the laboratory. The name of the medical review officer can be found on the chain of custody form or by contacting the collection site and/or laboratory.

Introducing the program and providing training

Before introducing your drug-free workplace program, you will need to designate a program coordinator so that employees have a point of contact. A human resource manager, department manager or supervisor are good options. Training on the drug-free workplace program is recommended at new employee orientation, manager and supervisor meetings and employee training meetings.

How to apply

Click [here](#) for Virginia's drug-free workplace premium credit application. Once your application is complete, you can submit your application and a copy of your program by email to dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802.

Maintaining your premium credit

It's important to remember that before your policy renewal date, a new completed and approved application for program premium credit is required. An application is mailed to employers who have a drug-free workplace premium credit on their current policy 90 days prior to their renewal date. The completed application, signed by an officer/owner, can be returned to our Loss Prevention department by email to

dfwspcreditadmin@summitholdings.com, by fax to 863-668-7566 or by mail to PO Box 988, Lakeland, FL 33802. Please note that your drug-free workplace must satisfy “such criteria as each insurer may establish,” in order to receive the premium credit. See Va. Code Ann. § 65.2-813.2 (West 2021). Failure to do so may cause us to revoke the credit.

Ways to save on workers’ comp costs

Injury prevention is one of the best ways to keep your workers’ compensation costs down. Having a drug-free workplace program can help achieve this goal since sober workers tend to get hurt less often in the workplace. Any injury that can be prevented will help protect your experience modification factor (mod) and your premium cost. Educating employees on your drug-free workplace program is a crucial step in keeping your workers safe.

If your business experiences an employee incident or a near-miss—an incident that occurs with no injuries—you should always conduct an incident investigation. You can access our Incident Investigation kit on our website at summitholdings.com under **Safety, Incident Investigation** or by clicking [here](#). It will walk you through the steps you need to take to get to the bottom of what caused the incident.

It’s important to report all injuries to us quickly by:

- Calling 1-800-762-7811
- Emailing the injury report to SummitInjuryReporting@summitholdings.com
- Visiting our website at summitholdings.com (login required)
- Faxing your report to 863-667-1871

Frequently asked questions

Here are answers to some of the most common questions we receive related to drug-free workplace programs.

What is a chain of custody form?

A chain of custody form is a federal form published by the Substance Abuse and Mental Health Services Administration (SAMHSA). The chain of custody form is the same for all states except for South Carolina, which does not require a certain form to be used; regardless, employers still must have documentation of their chain of custody. A link to an electronic form may also be provided to the employee. It includes the collection, transfer, receipt, analysis, storage and disposal of the sample. The form is provided to employers by the testing laboratory.

Who is our medical review officer?

A medical review officer is a doctor who interprets the drug and alcohol test results and consults with the employer and employee. A medical review officer is often designated by the collection site or laboratory and their name can be found on the chain of custody form or by contacting the collection site and/or laboratory. Each test states what the medical review officer is responsible for and provides information pertaining to the medical review officer. A list of approved medical review officers for Mississippi, South Carolina and Virginia is governed by SAMHSA.

What is the difference between a collection site and laboratory?

A collection site is a facility that collects a drug test specimen such as a walk-in clinic or a licensed testing laboratory. A collection site collects and sends the specimen to an approved laboratory for testing.

What if my business does not offer an employee assistance program?

When an employee assistance program is not offered, a list of local providers of drug and alcohol treatment and family services must be provided to employees. You can create a provider list by visiting the [Substance Abuse and Mental Health Services Administration's](#) website. Enter your company's zip code and a list of providers will be created. You can make the list available to employees without company involvement.

When is follow-up testing required?

All states require follow-up testing as a condition of continued employment after an employee has a confirmed positive drug test and is **required** to enter an employee assistance program. Please follow your company's drug-free workplace program for any state-specific guidelines.

Can my business conduct on-site testing?

Your company must be set up with an authorized lab to conduct on-site testing. You must follow the on-site testing procedures stated in your drug-free workplace program, which include chain of custody. Chain of custody forms are provided by the contracted laboratory for drug testing. All positive drug tests must be confirmed by an approved lab.

How does a marijuana card affect my drug-free workplace premium credit?

Marijuana is illegal at the federal level as a Schedule I drug under the federal Controlled Substances Act. Federal guidelines for testing include the minimum five-panel test which includes testing for marijuana for the drug-free workplace credit. At this point, employers are still allowed to test employees to determine whether they are under the influence of marijuana, even though they have a medical marijuana card, in all the states that Summit covers.

How do we test an employee with a marijuana card to determine if they're over the legal limit?

Marijuana is still illegal at the federal level as a Schedule I drug under the federal Controlled Substances Act. Once the level of marijuana/cannabis reaches the state-prescribed level that sets the level needed to be under the influence in the employee's body, the employee has a positive drug test; regardless of whether the employee has a marijuana card or in a state where marijuana has been partially decriminalized.

Does having a drug-free workplace program transfer the burden of proof related to a litigated workers' comp claim?

A properly implemented drug-free workplace program can work to your advantage in a litigated claim. When workers' comp claims involving drug or alcohol use go to court, the decisions that go in favor of the employee often come down to whether a drug-free workplace program/testing was adequately enforced by the employer.

Generally, the drug-free workplace laws in the states Summit covers shift the burden of proof to the employee to prove that they either weren't under the influence/intoxicated or the influence/intoxication did not cause the injury, also known as a presumption. The employee's presumption, in these cases, ranges from preponderance of the evidence to clear and convincing evidence, to no probable hypothesis. An employer with a drug-free workplace program in place generally does not obtain a stronger presumption that the drugs/alcohol caused the employer's injury/accident than without a drug-free workplace program (except in Florida and Tennessee). However, a drug-free workplace program can assist the employer by standardizing testing, having protocols in place for obtaining tests and chain of custody and implementing other protocols, which will make it more likely that the workers' compensation drug defense will be successful; and notice thereof can act as a deterrence to employees.

Florida

If no drug-free workplace program: Presumption, rebutted by "clear and convincing evidence that the intoxication or influence of the drug did not contribute to the injury." See Fla. Stat. Ann. § 440.09(7)(b) (West 2021).

With a drug-free workplace program: Presumption, rebutted by "evidence proving no reasonable hypothesis that the intoxication or drug influence contributed to the injury." See subsection 440.09(7)(b).

Tennessee

If no drug-free workplace program: No presumption. See Tenn. Code Ann. § 50-6-110(a)(3), (b) (West 2021).

With a drug-free workplace program: Presumption, rebutted by “clear and convincing evidence that the drug or alcohol was not the proximate cause of injury.” See subsections 50-9-104(a) & 50-6-110(c); see also Tenn. Comp. R. and Regs. 0800-02-12-.02(7) (2021).

Contact us

If you or your staff has additional questions about your drug-free workplace program or premium credit, you may send an email to dfwspcreditadmin@summitholdings.com or reach us by phone at 1-800-282-7648.

Summary

Having a deeper understanding of the drug-free workplace program premium credit can help:

1. Understand the advantages of implementing a drug-free workplace program.
2. Discover the cost savings associated with a drug-free workplace program.
3. Identify the application guidelines and program maintenance requirements.

Disclaimer

The information presented in this publication is intended to provide guidance and is not intended as a legal interpretation of any federal, state or local laws, rules or regulations applicable to your business. The loss prevention information provided is intended only to assist policyholders of Summit managed insurers in the management of potential loss producing conditions involving their premises and/or operations based on generally accepted safe practices. In providing such information, Summit Consulting LLC does not warrant that all potential hazards or conditions have been evaluated or can be controlled. It is not intended as an offer to write insurance for such conditions or exposures. The liability of Summit Consulting LLC and its managed insurers is limited to the terms, limits and conditions of the insurance policies underwritten by any of them.



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