

Ask The Expert: Can You Do Post-Incident Drug/Alcohol Testing of Workers after a Fender-Bender?



QUESTION

Scenario: A vehicle carrying 3 workers got into a vehicle incident like hitting a jersey barrier while trying to back the vehicle into a stall. Can we do post-incident drug and alcohol testing and on whom, all 3 or just the driver?

ANSWER

It depends on the seriousness of the incident, what your testing policy says and whether you apply it fairly.

EXPLANATION

The first thing you need to justify post-incident testing is a safety-sensitive workplace.

Next, you need a post-incident policy that's clear, specific and limited to safety-sensitive workers and serious incidents, which can include not only actual incidents but near misses involving risk of serious injury or property damage. The policy should also include procedures to ensure testing is carried out fairly and only if needed, e.g., immediately interviewing the workers involved to get their explanation.

Last but not least, you must apply the policy fairly and consistently and not abuse it to test any and every worker after any and every incident. You don't need reasonable suspicion of impairment (unless the policy says you do); by the same token, you shouldn't require testing when it's pretty clear that the worker was sober.

Check out [this piece in OHSI](#) to see how courts apply these principles in actual cases.