

ALCOHOL, DRUG AND OTHER ALCOHOL OR DRUG RELATED DRIVING OFFENSES POLICY

1. Purpose

The purpose of this policy is to describe the employment actions to be taken when any employee is arrested, charged and/or convicted of Driving While Intoxicated ("DWI") and/or, Driving Under the Influence ("DUI"), and/or any other Alcohol or Drug Related Driving Offense ("ADRDO"), regardless of whether such arrest, charge or conviction arises out of on-duty or off-duty conduct.

For purposes of this policy, the term "conviction" shall include conviction, probation and/or deferred adjudication. The term "ADRDO" shall include, but is not limited to, DWI, DUI and obstruction of a roadway related to driving under the influence of alcohol or any other substance.

2. Effective Date

The policy will become effective January 2016 and will apply to any, DWI, DUI and/or ADRDO related arrest, charge and/or conviction arising during employment with VIA, on or after this effective date.

3. Notification Requirements

A. ARREST AND/OR CHARGE

- (1) All employees are required to notify the Manager/General Foreman, Superintendent or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, of any arrest and/or charge for DWI, DUI and/or ADRDO, even if such arrest and/or charge occurs from the operation of a private vehicle.
- (2) Employees are required to provide verbal notification to their Manager/General Foreman, Superintendent or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, before the end of the first business day following the date of any arrest and/or charge for DWI, DUI and/or ADRDO.
- (3) Written notification must be provided to the Manager/General Foreman, Superintendent or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, within three (3) business days following the date of any arrest and/or charge for DWI, DUI and/or ADRDO. The written notification must contain:
 - (a) the employee's full name;
 - (b) employee's driver's license number;
 - (c) the date of the arrest and/or charge;
 - (d) the location (street address, city, county and state) where the DWI, DUI and/or ADRDO offense was allegedly committed;
 - (e) a notation of whether the alleged offense was committed in a private or a commercial motor vehicle;
 - (f) court case information (including court identification, case number, initial case setting date, SID no., etc.);
 - (g) Department of Public Safety Administrative License Revocation related information (including current status of driver's license (whether confiscated, suspended, or temporary, and appeal hearing date, if any, etc.);
 - (h) the disclosure of any restrictions placed on the employee's driving privileges by any authority that requires the installation and/or use of an ignition interlock device in any vehicle that he/she may drive; and
 - (i) the employee's signature and date of notification.

- (4) The employee is obligated to provide copies of any and all documents that relate to the arrest and/or charge to his/her Manager/General Foreman, Superintendent or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, including information related to scheduled court appearances. Additionally, the employee is obligated to provide monthly updates and report the status and disposition of the court case.
- (5) An extension of time may be granted by the division Manager/General Foreman, Superintendent or Vice President or the Deputy CEO or the President/CEO, if applicable, to submit the written notification.

B. CONVICTION

- (1) All employees are required to notify the Manager/General Foreman, Superintendent or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, of any conviction for DWI, DUI and/or ADRDO, even if such conviction occurs from the operation of a private vehicle.
- (2) Employees are required to provide verbal notification to their Manager/General Foreman, Superintendent or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, before the end of the first business day following the date of any conviction for DWI, DUI and/or ADRDO. Written notification must be provided to the Manager/General Foreman or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, within three (3) business days following the date of any conviction for DWI, DUI and/or ADRDO.
- (3) Written notification must be provided to the Manager/General Foreman, Superintendent or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, within three (3) business days following the date of any conviction for DWI, DUI and/or ADRDO. The written notification must contain:
 - (a) the employee's full name;
 - (b) employee's driver's license number;
 - (c) the date of the conviction;
 - (d) the identity of the court and judge pronouncing the conviction;
 - (e) the nature of the conviction (DWI, DUI and/or ADRDO);
 - (f) the punishment imposed;
 - (g) whether the employee has filed or will file an appeal of the conviction;
 - (h) a notation of whether the violation was committed in a private or a commercial motor vehicle;
 - (i) the location where the offense was committed; and
 - (j) the employee's signature and date of notification.
- (4) The employee is obligated to provide copies of any and all documents that relate to the conviction that may be requested by his/her Manager/General Foreman, Superintendent or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, including information related to scheduled court appearances. Additionally, the employee is obligated to provide monthly updates and report the status and disposition of any appeal of the conviction.

- (5) An extension of time may be granted by the division Manager/General Foreman, Superintendent or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, to submit the written notification.

4. Consequences on Employment

A. ARREST AND/OR CHARGE

- (1) Failure by any employee to notify his/her division Manager/General Foreman, Superintendent or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, verbally or in writing, or failure by any employee to comply with any obligation related to any arrest, charge and/or conviction, within the time periods described above, will be subject to disciplinary action, up to and including termination.
- (2) (a) Any employee in a safety sensitive position who has been arrested and/or charged for DWI, DUI and/or ADRDO, and whose driver's license has been confiscated, suspended, revoked and/or not renewed, or whose driver's license privileges have been otherwise restricted by any authority, will not be permitted to operate any VIA vehicle, under any circumstances, until disposition and final adjudication by the courts. In all such circumstances, the employee will be removed from the safety sensitive position, effective immediately, upon notification of the arrest and/or charge. "Final adjudication" shall mean an order assessing innocence or guilt, and includes an order of deferred adjudication, probation, acquittal and/or any order related to any appeal of a conviction.
 - (b) The safety sensitive employee will be suspended without pay and not returned to duty until disposition and final adjudication of the DWI, DUI and/or ADRDO case through an acquittal, a finding of innocence or not guilty, or dismissal of the charge. The employee may be returned to duty prior to disposition and final adjudication if, and only if:
 - (1) the employee can provide and maintain evidence that he/she has the requisite driver's license privileges and that his/her driver's license has not been confiscated, suspended and/or revoked or otherwise restricted by any authority; or
 - (2) the employee is not in a job position that involves the service, maintenance or operation of a VIA vehicle and in which job position driving is not an essential job component.
 - (c) Any employee in a safety sensitive position who has been suspended, reinstated, and/or reassigned, under the provisions herein will have a maximum period of twelve (12) months, from the date of the arrest and/or charge for DWI, DUI, and/or ADRDO to obtain a final adjudication of the arrest and/or charge; and must be found to be not guilty, innocent, acquitted, or the arrest and/or charge is dismissed. If the employee does not obtain a final adjudication of the arrest and/or charge, as required herein, prior to the expiration of the maximum twelve (12) month period allowed, then the employee will be terminated.
 - (d)(1) Any employee in a safety sensitive position who has been suspended without pay, who is not reassigned, and who is found not guilty, innocent, or the charges are dismissed, or the employee is otherwise exonerated, will be reinstated to his/her former position, without loss of seniority; and the employee will not be compensated for the period of his/her suspension.
 - (d)(2) Any employee in a safety sensitive position who has been suspended under the provisions herein may be reassigned to a temporary position such as a non CDL shop attendant position, provided a vacancy exists. Any employee reassigned to a temporary position will receive the hourly rate of pay for the duties performed under the reassigned temporary position. The employee will not be compensated for any difference in pay between his/her safety sensitive position and the reassigned temporary position.

(d)(3) Any employee in a safety sensitive position that is terminated as a result of not obtaining a final adjudication of the arrest and/or charge within the maximum period of twelve (12) months may, thereafter, be re-hired if he/she obtains a final adjudication of the arrest and/or charge and is found to be not guilty, innocent, acquitted, or the arrest and/or charge is dismissed. If the employee is re-hired, he/she shall be entitled to reemployment in a comparable job position to that previously held, if available.

(3) Any employee in a safety sensitive position who has been suspended under the provisions herein will immediately surrender his/her equipment and will not receive any compensation (pay) during the period of suspension. The suspended employee will continue to accrue benefits the employee would otherwise be entitled to receive. However, the suspended employee will be solely responsible for the cost and payment of maintaining his/her share of all benefits.

(4) "Safety sensitive position" means any employment position identified in VIA's Employee Manual under the "Safety Sensitive Job Listing" and as contained within VIA's "Substance Abuse Prevention Program".

(5) In cases involving non-safety sensitive employees who have been arrested and/or charged for DWI, DUI and/or ADRDO, upon timely notification of such charge and/or arrest, the employee's division Manager/General Foreman, Superintendent or Vice President of their respective division or the Deputy CEO or the President/CEO, if applicable, in conjunction with the responsible management level personnel, will determine the appropriate personnel action to be imposed. No VIA employee, regardless of position, shall be permitted to operate any VIA vehicle if that employee has been arrested and/or charged for DWI, DUI and/or ADRDO, until disposition and final adjudication by the courts, unless:

(a) the employee can provide and maintain evidence that he/she has the requisite driver's license privileges and that his/her driver's license has not been confiscated, suspended, and/or revoked or otherwise restricted by any authority;
or

(b) the employee is not in a job position that involves the service, maintenance or operation of a VIA vehicle and in which job position driving is not an essential job component.

B. CONVICTION

(1) An employee in a safety sensitive position who has been convicted of DWI, DUI and/or ADRDO will be subject to disciplinary action, up to and including termination.

(2) An employee in a non-safety sensitive position who has been convicted of DWI, DUI and/or ADRDO will be subject to disciplinary action, up to and including termination.

Appeal

Any employee who has had personnel action taken against him/her as a result of having been charged, arrested and/or convicted for DWI, DUI and/or ADRDO shall be permitted to appeal such personnel action utilizing the Work Grievance Procedures described in the Employee Manual and Working Conditions.