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Washington, DC 20548

June 30, 2008

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
House of Representatives

The Honorable Peter A. DeFazio
Chairman
Subcommittee on Highways and Transit
Committee on Transportation and Infrastructure
House of Representative

Subject: *Examples of Job Hopping by Commercial Drivers after Failing Drug Tests*

Millions of American drivers hold commercial driver's licenses (CDL), allowing them to operate a variety of commercial vehicles, such as school buses, cargo vans, and tractor trailers. While most commercial drivers do not test positive for drugs and alcohol, Department of Transportation (DOT) data show that each year from 1994 through 2005, from 1.3 percent to 2.8 percent of truck drivers tested positive for the presence of illegal drugs under random testing. However, as our recent investigation shows, the current DOT drug testing process can easily be defeated with products, such as synthetic urine, that are widely available for sale.¹ To help prevent accidents resulting from commercial drivers who use drugs and alcohol, federal law requires commercial drivers to be tested for drug and alcohol use.² Specifically, the testing is required as part of the preemployment screening process, on a random basis while employed, and following an accident involving a fatality. Commercial drivers who fail a drug test, refuse to test, or otherwise violate the drug testing regulations are required to complete a return-to-duty process before returning to the road. The return-to-duty process is guided by a substance abuse professional and must include education or treatment, return-to-duty testing, and follow-up testing.

However, among the commercial drivers who test positive for illegal drugs, an unknown number continue to drive without completing the required return-to-duty process. Those who do not go through the return-to-duty process and continue to

¹GAO, *Drug Testing: Undercover Tests Reveal Significant Vulnerabilities in DOT's Drug Testing Program*, [GAO-08-225T](#) (Washington, D.C.: Nov. 1, 2007).

²49 U.S.C. § 31306.

drive are called job-hoppers.³ A job-hopper tests positive for one carrier; is fired, quits, or is not hired; and subsequently tests negative on a preemployment test for another carrier. DOT regulations require that employers—with the applicants' consent—request the applicants' drug testing records from previous employers.⁴ Because they avoid the return-to-duty process and can choose to not disclose their prior failed drug tests, these commercial drivers could continue to drive and use drugs. In addition to abstaining from drug use for a short period in order to pass the second test, a wide variety of available commercial products can mask drug use and may allow commercial drivers to pass drug tests even as they continue to use illegal drugs.⁵

Because of the significant danger of commercial drivers circumventing the return-to-duty requirements and driving shortly after a failed drug test, you asked us to identify illustrative cases of job-hopping commercial drivers based on data that you provided to us from a third-party administrator.⁶ Specifically, you asked us, to the extent possible, to determine (1) the current employment status for selected employees who passed the drug test after recently failing the test; (2) whether the failed test was known to the current employer prior to, or after, hiring the individual; and (3) whether the prior positive test result was disclosed on the application for current employment.

To address the objectives, we analyzed the drug test results data provided to the House Committee on Transportation and Infrastructure from a third-party administrator. We assessed these data for reliability and found them to be sufficiently reliable for our purposes. The drug test data covered 698 drivers who, within the last 5 years, tested positive for one employer and negative for another employer. In our analysis of the data, we narrowed the focus and identified 43 cases from the past 2 years where commercial drivers had tested positive for drugs with one employer then, within 1 month, tested negative with another employer. To develop case studies that would meet our objectives, we interviewed employers to determine (1) if the commercial driver is currently employed at the company, (2) if the employer was aware of the positive drug test prior to or after hiring the commercial driver, and (3) if the prior positive test was disclosed on the application for current employment. In addition, we interviewed selected commercial drivers to determine their current employment status and the circumstances surrounding their drug tests. For these 43

³There are little data on the number of drivers who complete the return-to-duty process. A director of the Substance Abuse Program Administrators Association conservatively estimates that less than half of CDL holders who test positive or refuse to test successfully complete the return-to-duty process before returning to their jobs. See GAO, *Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road*, [GAO-08-600](#) (Washington, D.C.: May 15, 2008).

⁴49 C.F.R. § 40.25.

⁵In November 2007, we reported that 75 percent of the 24 urine collection sites we tested failed to restrict access to items that could be used to adulterate or dilute the specimen, meaning that running water, soap, or air freshener was available in the restroom during the test. See [GAO-08-225T](#).

⁶Motor carriers in the United States are responsible for conducting the drug testing of their employees and can use third-party administrators to help them coordinate the drug tests.

cases, we also reviewed relevant state department of motor vehicle reports, police reports, and other public records.

In summary, for all 43 cases, we contacted and informed the employer that the commercial driver had a previous positive drug test and made inquiries concerning application and employment information regarding the commercial driver. Employers for 37 of the 43 identified drivers responded to our inquiry.⁷ For all 37 of these cases, the employers stated that the commercial driver did not disclose prior positive test results. For 19 of the 37 cases, the driver was subsequently hired. The other 18 drivers were not hired for several reasons, including instances where the previous employer disclosed the positive drug test when asked by the prospective employer.

We performed our investigative work from March 2008 to June 2008 in accordance with standards prescribed by the President's Council on Integrity and Efficiency.

Examples of Commercial Drivers Who Job Hopped after Failing Drug Tests

Using the drug test results data provided by your staff through a third-party administrator, we identified 43 cases where commercial drivers had tested positive for illegal drugs, such as cocaine, marijuana, and amphetamines, with one employer and within 1 month tested negative with another employer. For all 43 cases, we contacted and informed the employer that the commercial driver had a previous positive drug test and made inquiries concerning application and employment information regarding the commercial driver. Employers for 37 of the 43 identified drivers responded to our inquiry.

Of the 37 drivers for which we received employer responses, our investigations found that 19 of them were subsequently hired even though the employer stated that a positive drug test would have disqualified them. As part of their employment, these 19 drivers drove commercial vehicles, including trucks carrying hazardous materials for periods of 1 month to over 1 year. In fact, several drivers were currently on the road driving commercial vehicles at the time we contacted the employer. When we informed employers about the positive tests, the companies quickly terminated the commercial drivers. For the other 18 cases, the driver did not drive commercial vehicles for the employer for several reasons, including because a previous employer disclosed the positive drug test or the driver did not complete the orientation process.

In addition, as part of our investigation, we were able to interview 12 of these 37 commercial drivers to determine their current employment status and the circumstances surrounding their drug tests. In these discussions, we found that none of these 12 drivers, after being notified of failing their drug test, had undergone an evaluation by a Substance Abuse Professional (SAP) before applying for a new job.⁸

⁷The employers for the other 6 cases did not respond to our inquiry or stated that they did not have application information regarding the commercial driver.

⁸One commercial driver did state that he subsequently complied with the requirement of a Substance Abuse Professional evaluation. The commercial driver said that he went through this program because the employer subsequently found out about the prior positive test for drugs.

In fact, only 7 of these commercial drivers indicated they were aware that such an evaluation was required.

The following provides more detailed examples from several of the cases we investigated.

- **Case 1:** A Texas truck driver tested positive for marijuana on June 10, 2007. The driver then applied for employment at a neighboring company approximately 2 weeks later. His first preemployment test was inconclusive because of an invalid sample. The truck driver subsequently tested negative for drugs in a second preemployment test⁹. After passing the second preemployment test, the driver was employed by the company hauling general freight. A company official stated the company was unaware that the driver had failed a previous drug test because the driver did not disclose it on his employment application. The truck driver was fired after we notified the company of the positive drug test.
- **Case 2:** On October 29, 2007, an Oklahoma truck driver tested positive for marijuana. The driver subsequently passed his preemployment drug test for another company 9 days later¹⁰. The driver stated that he “took appropriate measures to clean his system before applying at the second employer”. A company official stated that the company was unaware of the prior drug test and that the driver had been employed for a couple of months but was no longer working for the company. The driver stated that he is not currently driving commercial vehicles.
- **Case 3:** On May 14, 2007, a Tennessee truck driver tested positive for cocaine. The commercial driver passed a preemployment drug test for a second company 8 days later¹¹. Prior to his drug tests, the driver was charged with possession of a controlled substance. According to the employer, the driver was employed at the company for several months driving trucks containing cargo and hazmat material. The employer indicated that the driver is no longer employed at the company.
- **Case 4:** A Georgia truck driver tested positive for marijuana on March 5, 2007. About 3 weeks later, the driver passed the preemployment drug test for a second company¹². The driver was employed by the company for about 7 months driving a truck containing cargo and hazmat materials. According to a company official, the company would not have hired the truck driver if officials were aware of the prior drug test because it is the company’s policy not to hire a driver who has failed a drug and alcohol test within the past 5

⁹Date of negative drug test for Case 1 is July 3, 2007.

¹⁰Date of negative drug test for Case 2 is November 7, 2007.

¹¹Date of negative drug test for Case 3 is May 22, 2007.

¹²Date of negative drug test for Case 4 is March 27, 2007.

years. According to the employer, the driver is no longer employed at the company.

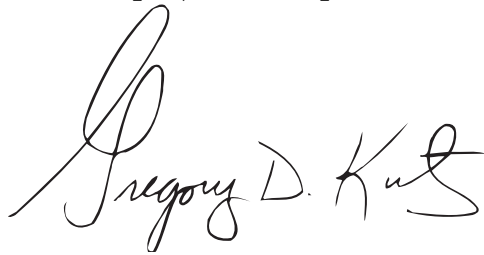
- **Case 5:** On July 12, 2006, a Michigan commercial driver tested positive for cocaine. The driver passed the preemployment drug test for a second company 9 days later,¹³ but was not subsequently hired by company because, according to a company official, he did not meet the company's qualifications. Prior to his drug tests, the commercial driver was responsible for a truck accident in which he tested positive for cocaine. The commercial driver also pled guilty to operating/allowing intoxicated person to operate a motor vehicle in 2007.

The table in enclosure I provides a description of the other 38 cases that we investigated.

On May 30, 2008, we briefed the DOT officials on the results of our investigation. We informed the officials that GAO notified the employers for all 43 cases of drivers with prior positive drug tests.

As agreed with your offices, unless you publicly release its contents earlier, we plan no further distribution of this report until 30 days from its date. At that time, we will send copies of this report to the Secretary of Transportation. We will make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

Please contact me at (202) 512-6722 or kutzg@gao.gov if you have any questions concerning this report. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report include Matthew Valenta, Assistant Director; Paul DeSaulniers; Wendy Dye; Olivia Lopez; and Philip Reiff.



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Enclosure – I

¹³Date of negative drug test for Case 5 is July 21, 2006.

Commercial Drivers Who Failed, Then Passed, a Drug Test

In the letter, we provided detailed information for 5 cases. This enclosure presents summary information on the results of our investigation for the other 38 case studies. Table 1 summarizes the results of our analysis of the drug test results from a third-party administrator and our interviews with employers and selected commercial drivers for these 38 cases.

Table 1: Commercial Drivers Who Failed Drug Tests and Subsequently Passed Drug Tests within 1 Month

Case	Driver location	Drug(s)	Positive drug test date	Negative drug test date	Description
6	CO	Marijuana	July 24, 2006	July 31, 2006	<ul style="list-style-type: none"> • Did not disclose the positive drug test on the employment application. • Admitted that his commercial driver’s license (CDL) was revoked in 1985 for driving under the influence of alcohol. • Carried general commodities for about 9 months. • Stated that he was not notified of the positive drug test. Driver stated that his doctor’s office left a message but he thought it was a general solicitation and did not return the call. Driver stated that he assumed the company for which he tested positive for drugs did not hire him because of a medical condition. • Stated that several months after he was hired, he was stopped at a weigh station 1,300 miles from home. He stated that he was informed that he could no longer drive because he had not completed the required Department of Transportation substance abuse professional (SAP) evaluation. • Claims no longer drives commercial vehicles.
7	TN	Marijuana	July 2, 2007	July 23, 2007	<ul style="list-style-type: none"> • Did not disclose positive drug test on the employment application. • Drove truck carrying general freight for about 2 months. • Told GAO investigators that he was told to take substance abuse classes, but he refused to take “them because he does not take drugs.” • Stated that he is currently employed driving a truck for another company.
8	TX	Marijuana	August 6, 2007	August 13, 2007	<ul style="list-style-type: none"> • Did not disclose the positive drug test on the employment application. • Stated that he maintains his CDL but cannot find employment because of his positive drug test. • Said he was not aware that he must complete the SAP evaluation requirement.

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Case	Driver location	Drug(s)	Positive drug test date	Negative drug test date	Description
9	TX	Marijuana	April 15, 2007	May 3, 2007	<ul style="list-style-type: none"> • Did not disclose the positive drug test to the employer. • Drove tractor trailer for the company for 1 week.
10	TX	Amphetamine and methamphetamine	October 23, 2006	October 31, 2006	<ul style="list-style-type: none"> • Drove dry van that carried general freight for about 2 months.
11	TN	Cocaine	August 7, 2006	August 15, 2006	<ul style="list-style-type: none"> • Was not hired for reasons unrelated to the positive drug test. • Charged with driving under the influence and speeding in 2007.
12	TN	Marijuana	July 2, 2007	July 11, 2007	<ul style="list-style-type: none"> • Convicted of possession of hashish in 1989. • Transported general freight and various hazardous materials for over a month.
13	MI	Marijuana	July 31, 2006	August 4, 2006	<ul style="list-style-type: none"> • Was not hired for reasons unrelated to drug test.
14	MI	Cocaine	July 16, 2007	July 30, 2007	<ul style="list-style-type: none"> • Drove dry van for about 9 months.
15	WI	Cocaine	November 14, 2006	November 28, 2006	<ul style="list-style-type: none"> • Was not hired because previous employer notified company of positive drug test.
16	MD	Marijuana	October 13, 2006	October 30, 2006	<ul style="list-style-type: none"> • Did not disclose positive drug test on the employment application. • Was not hired because previous employer notified company of positive drug test.
17	IL	Marijuana	October 22, 2007	November 18, 2007	<ul style="list-style-type: none"> • Transported general commodities and various hazardous materials for about 5 months.
18	FL	Cocaine	February 11, 2008	February 20, 2008	<ul style="list-style-type: none"> • Was not hired without explanation.
19	CA	Cocaine	March 19, 2007	April 10, 2007	<ul style="list-style-type: none"> • Was not hired because his previous employer notified company of positive drug test. • Stated that he is not currently driving. • Had multiple arrests and convictions related controlled substances.
20	NY	Cocaine	August 16, 2006	September 5, 2006	<ul style="list-style-type: none"> • Did not disclose the positive drug test on the employment application. • Was not hired because his previous employer notified company of positive drug test.
21	NY	Cocaine	January 16, 2007	February 5, 2007	<ul style="list-style-type: none"> • Admitted knowledge of his positive drug test but claimed he was never offered, and did not take, any substance abuse classes. • Has worked for a city government as a commercial driver for over a year.
22	NJ	Cocaine	December 4, 2006	December 27, 2006	<ul style="list-style-type: none"> • Did not disclose positive drug test on the employment application. • Stated that he did not have a SAP evaluation because he was unaware it was required. • Currently driving a dump truck. • Stated that he is attempting to get a job driving a tractor trailer. • Charged in 2007 with possession of a controlled dangerous substance and was later adjudicated through pretrial intervention.

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Case	Driver location	Drug(s)	Positive drug test date	Negative drug test date	Description
23	PA	Marijuana	July 23, 2007	August 13, 2007	<ul style="list-style-type: none"> • Did not disclose positive drug test on the employment application. • Claimed the company notified him of a positive drug test only because the company did not want hire him due to a physical disability. • Claims that is currently driving a commercial vehicle.
24	SC	Cocaine	January 15, 2007	January 29, 2007	<ul style="list-style-type: none"> • Transported general freight for 3 months. • Stated that he gave up his CDL because SAP classes too costly.
25	SC	Marijuana	August 20, 2007	September 10, 2007	<ul style="list-style-type: none"> • Was not hired without explanation.
26	NC	Cocaine	August 5, 2007	August 28, 2007	<ul style="list-style-type: none"> • Was not hired because his previous employer notified company of positive drug test.
27	OH	Marijuana	July 5, 2006	July 12, 2006	<ul style="list-style-type: none"> • Transported refrigerated and nonhazardous goods for nearly 10 months. • Was fired after company was notified of prior positive drug test. • Claims is currently operating a tow truck. • Claims that he completed SAP evaluation.
28	IN	Cocaine	August 24, 2007	August 29, 2007	<ul style="list-style-type: none"> • Was previously charged with controlled substance abuse in the 1980s.
29	NV	Amphetamine and Methamphetamine	December 27, 2006	January 15, 2007	<ul style="list-style-type: none"> • Transported nonhazardous materials for about 2 months.
30	AR	Cocaine	January 22, 2007	January 30, 2007	<ul style="list-style-type: none"> • Transported general commodities and various hazardous materials for about 6 months. • Was previously charged with controlled substance abuse in 2002.
31	AR	Marijuana	July 31, 2006	August 28, 2006	<ul style="list-style-type: none"> • Did not disclose the positive drug test on the employment application. • Was not hired because his previous employer notified company of positive drug test.
32	AR	Marijuana	May 14, 2007	May 21, 2007	<ul style="list-style-type: none"> • Transported refrigerated and nonhazardous goods for about 1 year. • Did not disclose positive drug test to the employer. • Stated that he is seeking to take the SAP evaluation but the program is too expensive.
33	GA	Cocaine	January 28, 2008	February 5, 2008	<ul style="list-style-type: none"> • Did not disclose the positive drug test on the employment application. • Transported refrigerated and dry goods for 2 months.
34	MS	Marijuana	December 6, 2006	January 3, 2007	<ul style="list-style-type: none"> • Transported refrigerated and nonhazardous materials for about 3 months.
35	LA	Cocaine	February 11, 2008	March 6, 2008	<ul style="list-style-type: none"> • Transported commodities for about 1 month. • Was terminated after testing positive for drugs during a random drug test.

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Case	Driver location	Drug(s)	Positive drug test date	Negative drug test date	Description
36	LA	Cocaine	January 10, 2007	January 29, 2007	<ul style="list-style-type: none"> • Did not disclose the positive drug test on the employment application. • Was not hired because his previous employer notified company of positive drug test. • Drove commercial vehicle for another company in March 2007, according to commercial vehicle inspection data.
37	TX	Cocaine and marijuana	July 31, 2006	August 29, 2006	<ul style="list-style-type: none"> • Was not hired because his previous employer notified company of positive drug test.
38	GA	Cocaine	October 2, 2006	October 9, 2006	<ul style="list-style-type: none"> • Arrested for possession of 2 grams of cocaine in 1996. • Convicted of driving with a suspended or revoked license in 1990, 1999, and 2006. • Did not complete the application process.
39	IA	Marijuana	March 14, 2008	March 31, 2008	<ul style="list-style-type: none"> • GAO was not provided any information from employer. • Was approved by state to transport hazardous materials 1 month prior to positive drug test.
40	SC	Marijuana	July 6, 2007	August 2, 2007	<ul style="list-style-type: none"> • Did not have application information regarding the commercial driver.
41	NJ	Marijuana	September 18, 2006	October 10, 2006	<ul style="list-style-type: none"> • Did not complete the application process.
42	SC	Cocaine	September 18, 2006	September 25, 2006	<ul style="list-style-type: none"> • Did not complete the application process because driver failed road test.
43	AL	Cocaine and marijuana	July 12, 2006	July 17, 2006	<ul style="list-style-type: none"> • GAO was not provided any information from employer.

Source: GAO.

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