

Comprehensive Guide to Safety Rules, Policies, and Work Comp

Navigating State Laws for Enhanced Workplace Safety

SAFETY RULES, POLICIES & PLANS

MEM is dedicated to protecting your employees and your business. To create a safer workplace, employers are encouraged to enforce written safety rules. An adequately administered safety plan consists of written safety rules that are trained, monitored, and enforced.

All safety rules, policies, or plans should be:

- Written in plain, direct language.
- Communicated through safety meetings or trainings.
- Monitored through regular job site observations.
- Enforced through documented corrective action.

Key policies to include in a written safety plan:

- Drug-free workplace policies
- Seat belt and safe driving policies
- Slip, trip, and fall prevention guidelines
- Strain/sprain prevention practices
- Machine safety rules, (i.e. Lockout/ Tagout)

The purpose of adequately administered safety rules, policies and plans is to prevent injuries. Begin by developing written safety rules that address key exposures in your industry. When implemented correctly, these tools can reduce the frequency and severity of injuries.

Review your safety rules for the following to ensure they are adequately administered.

- Do the safety rules address key work-related injury and fatality types?
- Are the safety rules written, specific, and descriptive?
- Do the rules avoid non-specific statements like “lift safely” or “follow all OSHA laws”?
- Do employees and management regularly review and sign your safety rules?
- Are the safety rules reviewed with employees in safety or employee meetings?
- Does management perform regular inspections/ observations to verify safety rules are being followed?

- When safety rules are not followed, does documented corrective action occur?
- Is your safety plan reducing the frequency and severity of injuries occurring in your organization?

WORK COMP BENEFIT REDUCTIONS

Many states have work comp laws that allow reductions on a claim when an injured worker knowingly violated a written, trained, and enforced safety rule. A penalty reduces a claimant’s benefits by a percentage – typically 25% to 50%. If your state allows reductions, use that information to communicate the importance of complying with safety policies to your employees. Transparency about reductions can be a valuable training tool.

APPLICABLE REDUCTIONS BY STATE				
State	Use of Alcohol	Use of Drugs	Violation of Safety Rules	Non-Use of a Safety Device
MO				
AR				
IL				
IA				
KS				
NE				
TN				

By prioritizing safety, you protect your employees’ well-being and safeguard your business against financial losses and legal repercussions. Investing in a safety program displays your commitment to creating a positive and productive work environment, leading to a more successful and sustainable business.

State Rules

ARKANSAS

Rule 099.36.1.C | The employee may be terminated and precluded from medical and indemnity benefits if the employee fails or refuses to take a drug test, violating the employer's drug-free workplace program.

IOWA

Iowa Code, Section 85.16 | No compensation under this chapter shall be allowed for an injury caused by the employee's intoxication, which did not arise out of and in the course of employment, but which was due to the effects of alcohol or another narcotic, depressant, stimulant, hallucinogenic, or hypnotic drug not prescribed by an authorized medical practitioner, if the intoxication was a substantial factor in causing the injury.

KANSAS

KSA 44-501 | No compensation allowed if injury, disability or death was contributed to by the employee's use or consumption of alcohol or any drugs, chemicals or any other compounds or substances, including, but not limited to, any drugs or medications that are available to the public without a prescription from a health care provider, prescription drugs or medicines, any form or type of narcotic drugs, marijuana, stimulants, depressants or hallucinogens. In the case of drugs or medications available to the public without a prescription from a health care provider and prescription drugs or medicines, compensation shall not be denied if the employee can show that such drugs or medicines were being taken or used in therapeutic doses. There have been no prior incidences of the employee's impairment on the job as a result of the use of such drugs or medications within the previous 24 months. However, it is conclusively presumed that the employee was impaired due to alcohol or drugs if it is shown that, at the time of the injury, the employee had an alcohol concentration of .04 or more or a GCMS confirmatory test by quantitative analysis showing a concentration at or above the levels shown on the drugs of abuse chart.

KSA 44-501 (a)(1) | No compensation is allowed if an injury results from (1) the employee's deliberate intention to cause such injury; (2) willful failure to use a guard or protection against incident or injury, which is required under any statutes and provided for the employee; (3) willful failure to use a reasonable and proper guard and protection voluntarily furnished to the employee by the employer; (4) reckless violation of their employer's workplace safety rules or regulations; or (5) voluntary participation in fighting or horseplay with a co-worker for any reason, work-related or otherwise.

MISSOURI

RSMo 287.120 | If an employee fails to obey any rule or policy adopted by the employer on a drug-free workplace or the use of alcohol or non-prescribed controlled drugs in the workplace, and the employee sustains an injury while using alcohol or non-prescribed controlled drugs, the compensation and death benefits shall be reduced fifty percent. Suppose the employee's use of alcohol or non-prescribed controlled drugs in violation of the employer's rule or policy is the proximate cause of the employee's injury. In that case, the benefits or compensation payable for death or disability are forfeited.

RSMo 287.120.5 | If an employee has an injury caused by the employee's failure to use safety devices provided by the employer or failure to obey a reasonable safety rule, the compensation and

death benefits are reduced by at least twenty-five, but not more than fifty percent. However, it must be shown that the employee had actual knowledge of the employer's safety rules, and the employer made a reasonable effort to ensure that the employee used the safety device or obeyed the safety rules.

NEBRASKA

Nebraska Revised Statute 48-102 | Employers may assert a defense against coverage in instances where (1) employee was willfully negligent; (2) employee was in a state of intoxication; (3) the negligence of a fellow employee caused the injury; (4) employee had assumed the risks inherent in, or incidental to, or arising from the failure of the employer to provide and maintain safe premises and suitable appliances. Neb. 48-101.10 An employee's deliberate or intentional defiance will disqualify the employee from receiving benefits if (1) employer has a reasonable rule designed to protect the health and safety of the employee; (2) employee has actual notice of the rule; (3) employee has an understanding of the danger; involved in violation of the rule; (4) the rule is kept alive by bona fide enforcement by the employer; and (5) employee does not have a bona fide excuse for the rule violation. These factors do not need to be met when an employee accidentally violates a safety rule.

TENNESSEE

TN 50-6-110 | No compensation allowed when injury or death was due to employee intoxication or illegal drug use. In proving if alcohol or drug use caused the injury, if the employer has implemented a drug-free workplace under TN law, if the injured employee has, at the time of the injury, a blood alcohol concentration level equal to or greater than eight-hundredths of one percent (.08%) for non-safety sensitive positions, or four-hundredths of one percent (.04%) for safety-sensitive jobs, as determined by blood or breath testing, or if the injured employee has a positive confirmation of a drug as defined in § 50-9-103, then it is presumed that the drug or alcohol was the proximate cause of the injury. However, if, before the incident, the employer had actual knowledge of and acquiesced in the employee's presence at the workplace while under the influence of alcohol or drugs, the employer retains the burden of proof in asserting any defense. If the injured worker refuses to submit to a drug test, it shall be presumed that the proximate cause of the injury was the influence of drugs. An employer certified by the Tennessee Drug-Free Workplace Program to be a Tennessee Drug-Free participant is entitled to a shift in the burden of proof in workers' compensation claims involving a positive alcohol or drug test. If an employee is injured at work and later fails a post-accident drug/alcohol test, it is presumed that the drugs or alcohol were the proximate cause of injury. Workers' compensation benefits can be denied until the injured employee overcomes the presumption, which requires clear and convincing evidence.

TNST 50-6-110(a) | No compensation is allowed for an injury or death due to an employee's willful failure or refusal to use a safety device. To establish affirmative defense of willful failure or refusal, the employer must prove that: (1) at the time of injury, the employer had a policy in place requiring the employee's use of a particular safety appliance; (2) employer carried out strict, continuous and bona fide enforcement of the policy; (3) employee had actual knowledge of the policy, including knowledge of danger involved in its violation, through training provided by employer; and (4) employee willfully and intentionally failed or refused to follow the established policy requiring use of the safety appliance.