

July 23, 1996

Introduced By:

Hague
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Proposed No.:

96-415

ORDINANCE NO. **12413**

AN ORDINANCE related to drug/alcohol education and testing required by the federal government for employees performing safety sensitive functions, authorizing the executive to sign agreements and to adopt rules and regulations, and establishing a new chapter in K.C.C. Title 3.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Definitions. A. "safety sensitive" relates to the following functions:

1. operating revenue service vehicles, including operation when the vehicle is not in revenue service;
2. operating nonrevenue service vehicles when operation of such vehicles requires the driver to hold a commercial driver's license (CDL);
3. controlling the dispatch or movement of a revenue service vehicle;
4. maintaining a revenue service vehicle or equipment used in revenue service;
5. carrying a firearm for transit security purposes; or
6. all employees of independent contractors who perform services for King County in positions which are listed previously.

SECTION 2. Drug/alcohol education and testing program-established. There is established a program for prohibited drug use/alcohol misuse education and testing program policy limited to persons employed by King County or employed by a transit contractor performing certain safety sensitive functions as defined in applicable federal law.

SECTION 3. Policy-limited applicability. King County as a federal grantee and contractor responsible for certain transportation or related operations and programs is committed to maintaining a drug/alcohol-free workplace to promote both the safety of its employees, customers and the public and the quality of its services. Every King County employee or employee of a transit contractor who holds a position which is defined as

1 safety sensitive is subject to regulations issued pursuant to the Omnibus Transportation Act
2 of 1991, as subsequently amended, and each employee, in accordance with this act and
3 under King County authority shall follow applicable rules and regulations promulgated
4 under K.C.C 2.98 and/or bargained in good faith under Ordinance 11480, provided that
5 such rules and regulations shall not limit collectively bargained agreements already in
6 effect upon the effective date of this ordinance. It is the policy of King County that the
7 provisions of this ordinance shall be strictly related to the intent of the Omnibus
8 Transportation Employee Testing Act of 1991, as subsequently amended; 49 CFR Part 40,
9 382, 653 and 654 and the U.S. Drug Free Workplace Act of 1988, as subsequently
10 amended and applicable regulations issued pursuant to such acts. The passage of this
11 ordinance notwithstanding, nothing in this ordinance shall preclude a future legal
12 challenge enjoining the federal government from abrogating the civil rights protections
13 contained in the State of Washington constitution.

14 **SECTION 4. Education.** All county employees and employees of independent
15 contractors who perform safety sensitive functions covered by this ordinance shall receive
16 a copy of the county's prohibited drug use and alcohol misuse education and testing
17 program policy and appropriate information concerning the prohibited drug and misuse
18 education and testing program. The executive shall be authorized to establish an education
19 program appropriate to the functions of employees covered by this ordinance.

20 **SECTION 5. Testing.** Employees subject to alcohol testing under this ordinance will
21 have a sample of their breath tested for the presence of the intoxicating agent in beverage
22 alcohol, ethyl alcohol or other low molecular weight alcohols and including methyl or
23 isopropyl alcohol. Any refusal to submit to an alcohol test and all positive alcohol tests,
24 will be reported to the executive or his/her designee. Employees subject to drug testing
25 will have a sample of their urine tested for the presence of five (5) drugs as follows:

- 26 1. marijuana;
- 27 2. cocaine;
- 28 3. opiates;
- 29 4. amphetamines;
- 30 5. phencyclidine.

1 All drug tests will be reported by the testing laboratory to a medical review officer
2 designated by the county who will evaluate the results. After evaluation and interpretation,
3 all verified positive test results will be reported by the medical review officer to the
4 executive or his/her designee. Any refusal to submit to a drug test, will be immediately
5 reported by the collection site to the executive or his/her designee. If employees test
6 positive as previously explained, said employees will be notified by the medical review
7 officer that they have seventy-two (72) hours following this notification in which to
8 request, at their own expense, that a split urine specimen be tested by another laboratory
9 certified by the state department of health and human services. In the event that the split
10 sample test is negative, the employee will be reimbursed for the test. Failure to request
11 testing of the split specimen within seventy-two (72) hours of being notified of a positive
12 test by the medical review officer, will result in the test results from the original specimen
13 being accepted as the final test results. Provided, that there will be only one random
14 testing pool for all King County employees covered by the provisions of this ordinance.
15 Independent contractors will have the option of participating in one random testing pool for
16 all their employees who perform safety sensitive functions covered by this ordinance.

17 **SECTION 6. Types of testing.** All county employees subject to the provisions of this
18 ordinance shall be required to submit to the following tests as applicable: pre-employment
19 tests; post accident tests; random tests; reasonable suspicion tests; and return to
20 duty/follow-up tests. The executive shall promulgate rules and regulations necessary and
21 proper to implement this ordinance insuring employee confidentiality, the integrity of the
22 testing process, safeguarding the validity of the test results, and ensuring that the test
23 results are attributed to the correct employee. Provided, that all County employees and
24 their union representatives, if applicable, subject to the provisions of this ordinance shall be
25 provided with a copy of the appropriate forms prepared indicating the grounds for
26 requiring an employee to submit to a reasonable suspicion test within 24 hours of testing or
27 as soon as possible thereafter. Provided further, that when available, a second supervisor
28 will also observe an employee to determine if a reasonable suspicion test is required and
29 complete the related forms in accordance with this ordinance and rules and regulations
30 promulgated pursuant thereof.

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SECTION 7. Discipline. It is the policy of King County that employees performing safety sensitive functions as defined in this ordinance, as subsequently amended, will be subject to discipline as appropriate and specified in procedures and rules promulgated under K.C.C. 2.98 and collective bargaining agreements adopted under Ordinance 11480.

SECTION 8. Executive authorized to sign agreements. The executive or his/her designee is authorized to enter into agreements with alcohol and drug testing services providers as required for the implementation of this ordinance.

INTRODUCED AND READ for the first time this 29th day of April, 1996

PASSED by a vote of 11 to 0 this 29th day of July, 1996.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Gene Hague
Chair

ATTEST:

Edward Francis
Deputy Clerk of the Council

APPROVED this 9th day of August, 1996.

P. T. L.
Deputy King County Executive

Attachments: None