

Post-Accident Drug Testing In Georgia Truck Crash Cases

What Federal Rules Require When A Commercial Truck Is Involved In A Collision

Federal law doesn't leave post-accident drug and alcohol testing to a [trucking company's](#) discretion. When a commercial motor vehicle is involved in a crash that meets specific threshold criteria, [49 C.F.R. § 382.303](#) requires the carrier to test its driver within strictly defined time windows, and what those results show, or whether they exist at all, can define how liability is proved or contested in the civil case that follows.

At the [Law Offices of Gary Martin Hays & Associates, P.C.](#), our Georgia truck accident attorneys routinely investigate whether post-accident testing was performed correctly, whether the carrier documented any failure to test within the required windows, and what the results mean for a victim's claim against both the driver and the company.

When The Federal Regulations Require Testing

49 C.F.R. § 382.303 identifies three accident scenarios that trigger mandatory post-accident testing for commercial motor vehicle drivers. The employer must conduct an alcohol test within eight hours of the crash and a drug test within 32 hours. If either test isn't completed within the applicable window, the employer must document why and retain that documentation, because the gap itself becomes part of the legal record.

The FMCSA's [post-accident testing guidance](#) makes clear that the testing obligation attaches the moment the accident qualifies, not after the carrier has had time to assess the situation. The three scenarios that trigger mandatory testing are:

- **A Human Fatality In The Crash:** Both alcohol and drug testing are required regardless of whether the truck driver was cited for any violation in connection with the accident.
- **Bodily Injury With Off-Scene Medical Treatment And A Driver Citation:** When the accident results in an injury requiring immediate medical care away from the crash site and the driver receives a traffic citation, both tests must be performed.
- **Disabling Vehicle Damage Requiring A Tow, Plus A Driver Citation:** If any vehicle involved can't be driven away under its own power and must be towed, and the driver receives a citation, federal regulation mandates both tests.

A carrier that spends several hours "assessing" the scene before deciding whether to arrange the alcohol test has often already let the eight-hour window close. That isn't a technicality, and it's an evidentiary failure with real consequences.

The Time Windows And What Happens When They Close

Picture a driver completing an eight-hour haul on I-85 who's involved in a multi-vehicle collision that seriously injures the occupants of a passenger car. If the trucking company dispatches a safety team but doesn't arrange the alcohol test within the first eight hours, that test becomes permanently impossible. A carrier that lets the window pass without adequate documentation is responsible for the evidentiary gap its own delay created.

For crash victims, that gap isn't just a procedural problem. Alcohol metabolizes quickly, and a test that couldn't be administered at hour nine can't be replaced by one taken at hour twelve. If the driver was impaired at the time of the collision, the federal testing system was designed specifically to capture that evidence before it was gone. When the carrier fails to capture it, the failure becomes part of the story.

Under the regulations, if the employer fails to administer the alcohol test within eight hours, it must cease attempts and document why. The same requirement applies to the 32-hour drug testing window. That documentation, when it exists, is discoverable in civil litigation and sometimes tells a more damaging story than the test result itself would have.

Georgia Employer Liability When A Driver Tests Positive Or Testing Was Skipped

Under [O.C.G.A. § 51-2-2](#), an employer in Georgia is liable for the negligent acts of an employee committed within the scope of employment. When a commercial truck driver causes a crash while [drug- or alcohol-impaired](#), that impairment falls squarely within the scope of employment analysis, and the carrier faces direct liability for the driver's conduct.

A positive test result is powerful evidence of impairment, but a missing test creates a different legal problem for the carrier. If the employer failed to arrange testing within the required windows, the victim's attorney can argue that the carrier's procedural failure destroyed evidence of the driver's impairment. Courts can instruct juries to draw adverse inferences when a party fails to preserve evidence it had a duty to preserve.

That's before we get to negligent entrustment and retention arguments. If the driver had a prior positive test, had completed a return-to-duty program, or carried citations under the carrier's own [FMCSA safety record](#), the company may have knowingly placed an at-risk driver back behind the wheel of an 80,000-pound vehicle. The test result, whether positive or absent, is often just the entry point into a much broader examination of the carrier's hiring and oversight practices.

What To Request And How Quickly To Move

Knowing which records to demand, and in what order, has been the foundation of our firm's practice since 1993. It's part of why our work has helped build [\\$1 billion in recoveries for Georgia's injured](#) across more than three decades of truck accident representation.

Several categories of evidence work alongside the drug and alcohol test results when building a truck crash case:

- **The Electronic Logging Device Record For That Shift:** [Hours of service records](#) from the driver's ELD capture driving time, rest breaks, and route data continuously, and the shift in question often reveals fatigue patterns or scheduling pressure that the test results alone don't capture.
- **The Carrier's Random And Pre-Employment Testing History For That Driver:** Federal rules require employers to conduct random testing throughout the year, and a driver who previously tested positive, completed a return-to-duty program, or had a prior

refusal carries a documented history that directly impacts the negligent hiring argument.

- **Event Data Recorder Information From The Truck:** [Black box data](#) captures speed, braking, and engine behavior in the seconds before impact, data the carrier's own attorneys often try to limit or reframe without the full regulatory context.
- **Dispatch Communications From The Day Of The Crash:** Text messages, emails, and computer-aided dispatch records can show whether the driver was under schedule pressure that contributed to impairment risk or fatigued driving.

Under Georgia's [comparative negligence](#) framework, establishing the carrier's failure to test or the driver's impaired state strengthens the victim's fault allocation and helps resist defenses designed to shift partial blame. Every piece of this evidence matters to that allocation.

How The Testing Record Feeds The Broader Negligence Case

The post-accident test result is rarely the only evidence a carrier fights over. In cases where the result was positive or where the carrier claims the testing window was missed for legitimate reasons, the discovery process extends to the full chain of custody, the laboratory's specimen handling, the Medical Review Officer's (MRO) process, and any notation on the driver's prior testing history.

Under federal regulations, the test goes through a federally certified laboratory and is reviewed by an MRO before a result is reported as positive. The MRO contacts the driver, considers whether a legitimate medical explanation exists, and only then reports the confirmed result to the employer. A result the carrier characterizes as disputed or "under MRO review" still requires the original collection documentation, chain-of-custody records, and the laboratory's full analysis to properly evaluate.

Our Georgia truck accident lawyers know how to request this documentation, when to retain an independent forensic toxicologist when a result is contested, and how to use the MRO records alongside the broader evidence record. The process isn't simple, and carriers count on that complexity to slow things down.

Questions Victims Often Have About The Testing Process

How Long Does A Trucking Company Have To Keep Post-Accident Drug Test Records?

Under federal regulations, carriers must retain post-accident test results for at least five years. Testing records, including any documentation explaining why a required test wasn't completed within the applicable window, are subject to subpoena in civil litigation and can't simply be destroyed once the initial regulatory retention period has passed.

Can A Positive Test Be Contested In A Personal Injury Case?

It can, but the burden on the carrier is significant. The result has already passed through a federally certified laboratory and an MRO review before it's reported as positive. Contesting a confirmed result typically requires attacking the chain-of-custody documentation or presenting

a legitimate medical explanation the MRO didn't adequately consider, both of which generate their own discovery process.

What If The Driver's Employer Is A Staffing Agency Or Leasing Company?

Georgia's respondeat superior doctrine under O.C.G.A. § 51-2-2 focuses on control and scope of employment, not just formal employer-employee labels. The trucking industry's common use of lease arrangements and staffing intermediaries doesn't insulate the operating carrier from liability when the driver was performing transportation services on its behalf.

Contact A Georgia Truck Accident Lawyer About The Drug Test Evidence

If you were hurt in a collision with a commercial truck in Georgia, [contact us](#) to determine whether the carrier met its testing obligations, request preservation of the records before the retention windows close, and build the liability picture the evidence actually supports. The same evidence chain matters in [wrongful death](#) cases, and Georgia families have the right to pursue it in their own names.

Our truck accident lawyers have seen nearly every version of the argument a carrier uses when a driver's test results complicate the defense picture, and we know where the documentation gaps tend to appear. We handle these cases on a contingency basis, meaning there's no fee of any kind unless we secure a recovery for you.