



# Kansas RTAP Fact Sheet

A Service of The University of Kansas Transportation Center for Rural Transit Providers

## Lift Accidents May Require Employee Testing

by Ira Allen

**A**t a recent Community Transportation Association of America conference, Mark Snider of the FTA Office of Safety and Security provided an important clarification to FTA's drug and alcohol testing regulation on post-accident testing (49 CFR Part 655). Essentially, the FTA may now require the driver be tested for drugs and alcohol in the event of an accident involving a wheelchair lift.

The rule (§655.4) defines an "accident" as an "occurrence associated with the operation of a vehicle" in which:

- An individual dies; or
- An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
- In the case of an occurrence in which the mass transit vehicle (including non-FTA funded vehicles) involved is a bus, electric bus, van, or automobile, one or more vehicles incurs disabling damage as a result of the occurrence and requires removal away from the scene by a tow truck or other means; or
- In the case of an occurrence in which the mass transit vehicle is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation.

Previously, FTA provided guidance that an "occurrence associated with the operation of a vehicle" meant that the accident had to be directly related to the manner in which the driver applied the brake, accelerated, or turned the steering wheel. Given this focus on the actual movement of the vehicle, incidents involving the operation of



wheelchair lifts were determined to be outside the accident definition and therefore would not require FTA post-accident drug and alcohol tests.

Upon further consideration, FTA has determined that because a lift is used in revenue service and its operation is essential to the operation of

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the vehicle and affects public safety, the lift's operation should be included in the accident definition. Therefore, FTA clarified its position, expanding its interpretation of "operation of a vehicle" to include operation of its lift.

Thus, fatalities associated with the operation of a lift will require drug and alcohol post-accident tests for the driver and any other covered employee that could have contributed to the accident. Non-fatal accidents associated with the operation of the lift that result in bodily injury requiring immediate

transportation to a medical facility will also require FTA drug and alcohol post-accident tests unless the employee can be completely discounted as a contributing factor, as consistent with §655.44.

We hope, of course, you won't need this information. If one of your passengers is injured on lift, however, and you're unsure whether to test or not, call The Mental Health Consortium, Inc. for guidance through the process. They can assist in determining whether testing is required and can help you arrange the testing within the regulated timeframes. Tim Harris, at The Consortium, can be reached at (785) 232-1196.

Adapted from *FTA Drug and Alcohol Regulation Updates*, Issue 25, page 3, <http://transit-safetyvolpe.dot.gov/Safety/DATesting/Newsletters/issue25/pdf/issue25.pdf>, Summer 2003.

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