

## Mitigating and Aggravating Circumstances related to the following penalty guidelines:

- [WAC 314-17-110](#) MAST Permit Penalties
- [WAC 314-29-015](#) Alcohol Penalties
- [WAC 314-34-010](#) Cigarette and Tobacco Penalties
- [WAC 314-35-070](#) Vapor Product Penalties
- [WAC 314-55-509](#) Cannabis Penalties

## Mitigating Circumstances

A mitigating circumstance is a factor that may lessen the severity of an action of non-compliance for the responsible party of the action. Mitigation may also be provided based on factors present which may have contributed to an employee's non-compliance. The following mitigating circumstances are examples and are not intended to be all inclusive. Some of the identified points of mitigation may apply to only licenses for specific product types.

### Established business practices and policies:

- Require all servers and security employees of the liquor licensed business to hold valid Mandatory Alcohol Server Training (MAST) permits before starting employment.
- Develop, display, and consistently enforce company policies specific to age restricted product service/sales.
- Set in written policy clear consequences for staff violations.
- Demonstrate the business has posted house rules establishing minimum rules of conduct and consequences for non-compliant behavior occurring on the licensed premises in a clearly visible location for all patrons to be able to read.
- Create a policy for mandatory age verification (ID checks) for youthful appearing people attempting to purchase an age restricted.
- Post the age verification policy at each point of sale to remind clerks of the store policy.

### Employee Training:

- Train all employees on age restricted product laws prior to them working with alcohol, cannabis, tobacco, and vapor products.
- Provide proof of educating employees on the risks posed by underage use of age restricted products and brain development.
- Incorporate roleplay demonstrating effective techniques with employees on how to request an ID and how to deny a sale using non-confrontational language (proof of this may include developed scripts and training records.)
- Implement a franchise-wide training program for training on ID checking apps and other required tools.
- Provide and document annual responsible sales training to all staff (clerks, bartenders, servers, security, supervisors etc.)

### Business Operations:

- Maintain direct on-site supervision of employees.
- Keep records that document employee training.
- Keep records of prior compliance checks that were conducted.

- Establish a policy on tracking refusals to sell age restricted product to underage persons attempting to purchase, and maintain records of when an employee reports the attempt to their supervisor.
- Demonstrated cooperation with local law enforcement.
- Participate in the Responsible Vendor Program where applicable.
- Meet with law enforcement or LCB officers to get an assessment of operational concerns and implementation of agreed upon plan to reduce risks of non-compliance.
- Demonstrate implementation of any prior work plans made in conjunction with LCB officers and local authorities.
- Develop a written policy that identifies steps for every transaction that includes age-restricted product sales as well as what consequences are possible if staff fail to check IDs and a sale is made to a person under 21 years-of-age.
- Change business operations to eliminate problems i.e., earlier closing hours, restricting types of identification accepted which have contributed to violations.
- Implement tailored programs to eliminate specific problems i.e., Cops in Shops, private compliance checks.
- Purchase an ID checking guide annually for all staff to use and have them available at the point of sale.
- Conduct LCB authorized in house compliance checks pursuant to [RCW 66.44.290](#) and [WAC 314-21](#) for alcohol, or [RCW 69.50.560](#) for cannabis.
- Hold regular weekly or monthly employee meetings and review policies specific to responsible sales and service.
- Provide space for employees to problem solve ways to mitigate risk factors for non-compliance and maintain documentation of results.
- Licensee, or managers, conduct unannounced visits to the establishment and conduct checks during peak hours, or times when problems are most likely to occur.
- Use a roaming employee during peak business hours.
- Establish incentive programs and reward employees for following company procedures and use remediation plans when policies are not followed.
- Established long term history of compliance.

#### Tools for success:

- Use a point-of-sale system which requires a date of birth to be entered for age-restricted product sales.
- Program registers at the point-of-sale to recognize age-restricted product sales and prompt cashiers to require ID.
- Purchase identification scanner for proof of age verification, coupled with policy to match face with ID scanned.
- Display “Today’s Date,” a “Date of Birth to be 21 Today” sign, or other non-required signs to assist in policy compliance, age verification, and to ensure responsible conduct.
- Display a “Please Have Your ID ready, You will be asked to show it” sign to set expectations for customers that they will be asked to show ID upon purchase of age restricted products. This will also facilitate employees to ask for ID.

General consideration:

- Use of fake ID (depending on the quality and/or acceptability based on rule.
- Unique circumstances present during the violation.

**Aggravating Circumstances**

- Failing to cooperate with law enforcement or LCB employees.
- Failure to adhere to previously implemented mitigating circumstances.
- Failure to ensure all alcohol servers have valid MAST permits.
- Engaging in two or more high risk activities leading up to a public safety liquor law violation such as:
  - Being overcapacity.
  - Promoting cheap specials for age-restricted products.
  - Having sample products at check out.
  - Having an inadequate staff to patron ratio in on premises locations.
  - Failing to enforce established company policies with either staff or patrons.
  - Refusal, denial, or failure to responsibility for actions of employees.
  - Failing to adhere to previously implemented mitigating circumstances.

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