



August 9, 2022

## **INDUSTRY-WIDE BULLETIN 22-04**

### **RE: Preventing Underage Sales**

The Marijuana Enforcement Division (MED) is issuing this Industry Bulletin to remind Licensees to remain diligent in their daily operations and measures taken to prevent unauthorized access to Regulated Marijuana.

To date this year, the MED has conducted over 190 underage compliance checks utilizing underage operatives. Among underage compliance checks completed, four (4) businesses have made sales to the underage operative. This demonstrates a 98% compliance rate. Unauthorized sale of Regulated Marijuana to an individual under the age of 21 is considered a license violation affecting public safety. Businesses must remain vigilant in establishing internal measures to prevent underage access, and as the MED continues to monitor licensee compliance, it will evaluate business practices licensees have adopted to prevent unauthorized/underage sales.

Underage sales can lead to administrative and criminal action initiated by the state, from which sanctions may include but are not limited to fines, license suspensions, and license revocation. Owners and Employees of Regulated Marijuana Stores should review the content of this bulletin and evaluate their internal controls, staff training resources, and best practices licensees can implement to prevent underage access.

**Relevant [Colorado Marijuana Rule](#) Citations: 3-405 and 6-110**

#### **Two Points of Verification:**

Retail Marijuana Stores must verify on two separate occasions that a consumer is 21 years of age or older: (1) Before permitting access to the Restricted Access Area; and (2) Before initiating the sales transaction. Licensees must remain vigilant that only persons who are 21 years of age or older are permitted to enter the Restricted Access Area and that sales are only made to persons who present a valid government-issued photo identification showing the person is 21 years of age or older.

#### **Standard Operating Procedures & Training:**

Retail Marijuana Stores are required to establish and maintain Standard Operating Procedures for the sale of Retail Marijuana and Stores must provide adequate training to all employees who engage in tasks related to the sale of Retail Marijuana. Standard Operating Procedures should include at least the following:

- The specific steps of checking identification, including where at the premises the identification is checked and how an employee should check an identification.
- Expectations on the availability and use of tools or other resources such as an identification book, electronic scanner, or other identification checking software.

- Steps to take if an employee knows or suspects a potential consumer is under the age of 21 or knows or suspects the identification is not valid or is fraudulent.
- Steps to take if fraudulent identification is confiscated, including reporting requirements.
- Steps for ensuring the sale does not exceed quantity limitations.
- Steps for properly recording the sale transaction.

**Best Practices To Consider:**

- Retail Marijuana Store Licensees can obtain a Responsible Vendor designation. Access additional information regarding eligibility and requirements related to the [Responsible Vendor Training Program here](#), including a list of approved providers. The training specifically covers strategies related to the sale of Retail Marijuana.
- Consider the use of electronic scanners or other identification checking software as a tool to support employees who are responsible for checking identification.
- Establish a policy for the Retail Marijuana Store that vertical identifications that indicate an individual is under the age of 21 are not an accepted form of identification at that store regardless of the individual's date of birth.
- Retail Marijuana Stores should be aware and actively look for individuals under the age of 21 that may be using fake identification to attempt to purchase marijuana. This can be especially prevalent in areas with colleges or universities. A Retail Marijuana Store may refuse entry and sale to a person they suspect is using fake identification.

**Potential Penalties for Business Licenses for Sales to Individuals Under the Age of 21:**

The sale of Retail Marijuana to an individual under the age of 21 years old is a license violation affecting public safety. The range of penalties, taking into account any mitigating and aggravating circumstances, for this category of violation may include: License suspension; A fine per individual violation; A fine in lieu of suspension of up to \$100,000; License revocation; Restrictions on the license.

**Potential Penalties for Employee Licenses for Sales to Individuals Under the Age of 21:**

Pursuant to Colorado Revised Statute 44-10-701 (5)(a), it is unlawful for any person to sell or permit the sale of Retail Marijuana to a person under 21 years of age. The employee who makes a sale may be charged with a class 2 misdemeanor. In addition, an employee may also face a penalty, taking into account any mitigating and aggravating circumstances, including, but not limited to:

- License Suspension;
- A fine per individual violation;
- License revocation;
- Sanctions may also include restrictions on the license.

The MED will continue efforts to monitor licensee compliance and evaluate business practices licensees have adopted to prevent unauthorized/underage sales.