
A BILL FOR AN ACT

RELATING TO PROPERTY DAMAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes, is amended by
2 adding four new sections to be appropriately designated and to
3 read as follows:

4 "§ -A Definitions. As used in this chapter unless the
5 context requires otherwise:

6 "Adult" means a natural person other than a minor.

7 "Glass cutter" means a metal tool or instrument equipped
8 with a blade or a sharp edge to cut, score, or grind glass.

9 "Graffiti" has the same meaning as defined in section 577-
10 3.5.

11 "Graffiti implement" means any of the following implements
12 capable of marking or scarring or being used to mark or scar a
13 glass, metal, concrete, wood, plastic, or other solid surface to
14 create graffiti: spray paint, wide-tipped markers, glass
15 cutters, paint sticks, or spray actuators.

16 "Minor" means a natural person who has not attained the age
17 of majority.



1 "Paint stick" means any device containing a solid form of
2 paint capable of being applied to a surface by pressure and,
3 upon application, leaving a mark at least one-sixteenth of an
4 inch in width.

5 "Spray actuator" (also known as a "spray tip", "nozzle", or
6 "button") means an object that is capable of being attached to
7 an aerosol paint container for the purpose of spraying the
8 substance contained therein.

9 "Spray paint" means paint contained in an aerosol
10 container.

11 "Wide-tipped marker" means any marker, pen, or similar
12 implement that contains a fluid that cannot be removed with
13 water after it dries and that has a tip, point, brush,
14 applicator or other writing surface that, at its broadest, is
15 one-fourth inch or greater in width.

16 § -B Restrictions on sale and use of graffiti

17 implements. (a) It is unlawful for any person to sell, give
18 away, or in any way furnish any graffiti implement to any minor;
19 provided that any graffiti implement may be sold, given away, or
20 furnished to a minor by an adult parent, legal guardian,
21 employer, or teacher of the minor, or another adult authorized
22 by a parent or legal guardian to supervise the minor.



1 (b) It is unlawful for a minor to purchase or otherwise
2 acquire any graffiti implement; provided that the acquisition,
3 whether by purchase or other means, of any graffiti implement
4 shall not be prohibited when it is acquired from an adult
5 parent, legal guardian, employer, or teacher of the minor, or by
6 another adult authorized by a parent or legal guardian to
7 supervise the minor.

8 (c) It is unlawful for a minor to possess, have under the
9 minor's control or use any graffiti implement while on public or
10 private property without the express permission of the owner,
11 lessee, or manager of the property; provided that a minor may
12 possess, have under the minor's control, or use any graffiti
13 implement for a lawful purpose in the immediate presence and
14 under the supervision of an adult parent, legal guardian,
15 employer, or teacher of the minor or of another adult authorized
16 by a parent or legal guardian to supervise the minor.

17 § -C Graffiti; fines and penalties. (a) In addition to
18 the civil penalties of section 577-3.5 for violation of the
19 prohibitions against placing graffiti on public or private
20 property, violation of section -B shall be a petty
21 misdemeanor. Each sale, gift, or furnishing of a group of



1 graffiti implements to a minor in a single transaction shall
2 constitute a separate offense.

3 (b) The purchase or acquisition by other means of a group
4 of graffiti implements in a single transaction by a minor shall
5 constitute a separate offense for each individual graffiti
6 implement purchased or acquired in the single transaction or
7 acquisition; provided that any minor alleged to have violated
8 section -B shall be adjudicated pursuant to chapter 571.

9 § -D Conspiracy to commit graffiti. (a) A person
10 commits the offense of conspiracy to commit graffiti if the
11 person knowingly assists a minor in the purchase or acquisition
12 of graffiti implements with the intent to commit graffiti.

13 (b) Conspiracy to commit graffiti shall be a class C
14 felony.

15 (c) It shall be an affirmative defense from prosecution
16 under this section for an adult to knowingly assist a minor in
17 the purchase or acquisition of graffiti implements with the
18 intent to commit graffiti if the adult owns the personal or real
19 property upon which the graffiti is to be placed. The
20 affirmative defense provided under this subsection shall only
21 apply to the graffiti that is placed on the adult's personal or



1 real property and shall not extend to personal or real property
2 not owned by the adult."

3 SECTION 2. Section 577-3.5, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) In addition to any other lawful orders, if a minor is
6 found under chapter 571 to have committed an act constituting
7 graffiti, the court [~~may~~] shall order the minor, the parents, or
8 the legal guardians of the minor to pay [~~the actual cost of~~
9 ~~having the damaged property repaired or replaced and may order~~
10 ~~the minor to perform community service.]:~~

11 (1) When the cost of repairing, cleaning, or replacing the
12 damaged property is \$250 or less, a civil fine of not
13 less than \$250 and not more than \$1,000;

14 (2) When the cost of repairing, cleaning, or replacing the
15 damaged property is more than \$250 but not more than
16 \$1,000, a civil fine of not less than the cost of
17 repairing, cleaning, or replacing the damaged property
18 and not more than \$1,000; or

19 (3) When the cost of repairing, cleaning, or replacing the
20 damaged property is more than \$1,000, a civil fine
21 equal to the cost of repairing, cleaning, or replacing
22 the damaged property.



1 If the court orders payment for the actual cost of the
2 damage, the court shall give due consideration to the financial
3 resources of the minor, the parents, or the legal guardians of
4 the minor to ensure that they will be able to pay the costs of
5 the damage. If the court determines that the minor, the
6 parents, or the legal guardians of the minor are unable to pay
7 the actual cost of the damage, the court may order payment in an
8 amount for which they are able to pay; or in a manner in which
9 they are able to pay, and may order the minor to perform
10 community service work in an amount commensurate with the costs
11 of the damage for which they are unable to pay."

12 SECTION 3. In codifying the new sections added by section
13 1 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 4. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun, before its effective date.

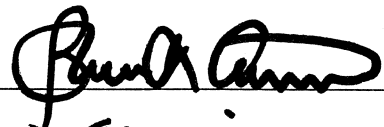

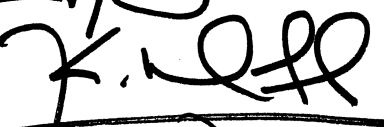
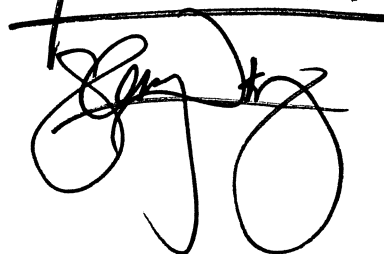
19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

JAN 23 2006



HB 2209

Report Title:

Graffiti Implements; Sale to Minors; Prohibited

Description:

Prohibits sale of graffiti implements to minors. Makes it a petty misdemeanor for a person to sell or give a minor graffiti implements. Makes it a petty misdemeanor for a minor to purchase or otherwise possess graffiti implements without express adult permission or without adult supervision. Makes it a class C felony for an adult to conspire with minors to purchase or provide graffiti implements for the purpose of vandalizing property.

