

JAN 22 2010

S.B. NO. 2561

A BILL FOR AN ACT

RELATING TO SPRAY PAINT.

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

1 SECTION 1. The legislature finds that graffiti is a
2 persistent problem in Hawaii. Graffiti defaces the environment
3 and the cityscape. Covering over or removing graffiti on public
4 and private property requires considerable expenditure of time
5 and resources, and the result still does not look aesthetically
6 pleasing without a complete paint-over. Removal of graffiti
7 from rock formations and other places sacred and important to
8 native Hawaiians, such as Pu'u Mountain in Waianae on Oahu, may
9 require significantly altering the environment.

10 The legislature further finds that even though graffiti
11 abatement groups reclaim tagged areas with fresh paint and
12 police make arrests for vandalism, taggers remain undeterred.
13 Taggers prefer cans of spray paint since cans are easily
14 portable and convenient to use. When an otherwise legal product
15 is too often co-opted for illegal uses, it is incumbent upon the
16 State to restrict the sales of that product.



1 The purpose of this Act is to regulate the retail over-the-
2 counter sales of canned spray paint.

3 SECTION 2. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 **"CHAPTER**

7 **SALES OF SPRAY PAINT**

8 § **-A Definitions.** As used in this chapter:

9 "Aerosol" means particles of liquid or solid dispersed as a
10 suspension of gas.

11 "Department" means the department of public safety.

12 "Retailer" means any person who offers spray paint for sale
13 directly to the general public through any means, including
14 sales outlets, catalogs, or the Internet. The term "retailer"
15 includes a seller.

16 "Spray paint" means a can of paint used to spray the
17 contents of paint onto a surface by means of aerosol.

18 "Wholesaler" means a person who distributes spray paint to
19 retailers.

20 § **-B Administration of chapter.** The department shall be
21 responsible for the administration and enforcement of this



1 chapter. The department shall adopt rules pursuant to chapter
2 91 necessary for purposes of this chapter.

3 § -C **Restriction on purchases of spray paint.** (a) No
4 person who is under the age of eighteen may purchase a can of
5 spray paint.

6 (b) A retailer selling spray paint at a sales outlet shall
7 restrict the display of spray paint to an area of the outlet not
8 accessible by customers or the general public, such as behind
9 the counter or in a locked display case and where the seller
10 delivers the product directly into the custody of the purchaser.
11 A retailer under this subsection may have empty spray paint cans
12 on shelves within the sales outlet for customers to examine.

13 (c) Any person purchasing or otherwise acquiring any spray
14 paint shall produce proper identification containing the
15 photograph, date of birth, printed name, signature, and address
16 of the individual obtaining the spray paint.

17 (d) The seller shall record, in an electronic log on
18 software provided by the department:

19 (1) The date of any transaction to purchase spray paint;

20 (2) The name, address, and date of birth of the purchaser;

21 (3) The type of identification, and the issuing agency of
22 the identification, provided by the purchaser; and



1 (4) The brand name, colors, sizes, and quantities of spray
2 paint purchased.

3 The retailer shall electronically transmit the entries in the
4 electronic log to the department, not less frequently than once
5 per month. The retailer shall maintain the entries in the
6 electronic log for not less than two years after the date of the
7 transaction.

8 § -D **Additional responsibilities of retailer.** (a) A
9 retailer shall be required to be registered to sell spray paint
10 with the department no later than February 1, 2011. A failure
11 to comply with this subsection shall result in a fine of \$100
12 per each day of the violation.

13 (b) A retailer shall pay a registration fee to the
14 department, in an amount determined by the department to be
15 sufficient to cover the incremental and prorated cost to the
16 department of the software as may be required to implement this
17 chapter.

18 § -E **Civil fines.** A retailer who sells spray paint in
19 violation of this section shall be fined:

20 (1) \$500 for each can of spray paint sold, up to ten cans;
21 and



1 (2) \$1,000 for each can of spray paint sold that is over
2 the amount of ten cans.

3 § -F **Responsibility of wholesalers.** A wholesaler shall
4 report to the department on all sales made of spray paint made
5 to retailers, not less than once a month. The report shall be
6 made on forms as provided by the department; provided that the
7 form shall include, at minimum, the following information:

- 8 (1) Name and address of the wholesaler;
- 9 (2) Name and address of the retailer;
- 10 (3) Brand names and quantity sold of each brand of spray
11 paint; and
- 12 (4) Date of sales to retailers."

13 SECTION 3. In codifying this Act, the revisor shall
14 substitute appropriate section numbers for the letter
15 designations used in section 2 this Act.

16 SECTION 4. This Act shall take effect on July 1, 2010;
17 provided that § -C through § -F, Hawaii Revised Statutes, in
18



1 section 2 shall take effect on January 1, 2011.

2

INTRODUCED BY:



Report Title:

Public Safety; Spray Paint Sales

Description:

Regulates the retail and wholesale sales of spray paint.
Designates the department of public safety with jurisdiction.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

