

POSSESSION OF GRAFFITI PARAPHERNALIA

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding the possession of instruments used in making graffiti.

Highlighted Provisions:

This bill:

- ▶ modifies the damage amounts for the levels of graffiti offenses;
- ▶ prohibits a person from possessing any instrument, tool, or device that is commonly used to make graffiti with the intent to deface the property of another; and
- ▶ provides that the punishment for this offense is a class B misdemeanor.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-107, as enacted by Laws of Utah 1996, Chapter 142

ENACTS:

76-6-107.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section **76-6-107** is amended to read:

29 **76-6-107. Graffiti defined -- Penalties -- Removal costs -- Reimbursement**
30 **liability.**

31 (1) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching,
32 affixing, or inscribing on the property of another regardless of the content or nature of the
33 material used in the commission of the act.

34 (2) "Victim" means the person or entity whose property was defaced by the graffiti and
35 bears the expense for its removal.

36 (3) Graffiti is a:

37 (a) second degree felony if the damage caused is in excess of \$5,000;

38 (b) third degree felony if the damage caused is in excess of ~~[\$1,000]~~ \$1,500, but not
39 greater than \$5,000;

40 (c) class A misdemeanor if the damage caused is equal to or in excess of ~~[\$300]~~ \$500
41 but not greater than \$1,500; and

42 (d) class B misdemeanor if the damage caused is less than ~~[\$300]~~ \$500.

43 (4) Damages under Subsection (3) include removal costs, repair costs, or replacement
44 costs, whichever is less.

45 (5) The court, upon conviction or adjudication, shall order restitution to the victim in
46 the amount of removal, repair, or replacement costs.

47 (6) An additional amount of \$1,000 in restitution shall be added to removal costs if the
48 graffiti is positioned on an overpass or an underpass, requires that traffic be interfered with in
49 order to remove it, or the entity responsible for the area in which the clean-up is to take place
50 must provide assistance in order for the removal to take place safely.

51 (7) A person who voluntarily and at his own expense, removes graffiti for which he is
52 responsible may be credited for the removal costs against restitution ordered by a court.

53 Section 2. Section **76-6-107.5** is enacted to read:

54 **76-6-107.5. Possession of instrument for making graffiti.**

55 **§→ [—(1) Any person who possesses any material, instrument, tool, device, article, or other**
56 **item with the intent that it be used in the violation of Section 76-6-107, is guilty of a class B**
57 **misdemeanor.**

58 **——(2) Intent that the item is to be used in graffiti may be inferred from the totality of the**

59 ~~circumstances under which the person possesses it.~~
59a -} Any person who possesses any instrument, tool, device, article, material, or other thing
59b adapted, designed, or commonly used in advancing or facilitating the commission of a violation
59c of Section 76-6-107 under circumstances manifesting that person's intent that any of these
59d items be used in the commission of a violation of Section 76-6-107 is guilty of a class C
59e misdemeanor. ←Ŧ

Legislative Review Note
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Office of Legislative Research and General Counsel