

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. ←Œ

Legislative Review Note
as of 12-19-11 6:35 AM

Office of Legislative Research and General Counsel