

VANDALISM OF PUBLIC LANDS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill makes vandalism of public lands a class B misdemeanor.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it a class B misdemeanor to vandalize public lands;
- ▶ specifies the punishments to be imposed for vandalism of public lands; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-107, as last amended by Laws of Utah 2013, Chapter 278

ENACTS:

76-6-107.5, Utah Code Annotated 1953

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

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

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

30 (1) As used in this section:

31 (a) "Etching" means defacing, damaging, or destroying hard surfaces by means of a
32 chemical action which uses any caustic cream, gel, liquid, or solution.

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

36 (c) "Victim" means the person [~~or entity~~] whose property [~~was~~] is defaced by the
37 graffiti and who bears the expense for [~~its~~] removal of the graffiti.

38 (2) [~~Graffiti~~] Except as provided in Section 76-6-107, graffiti is a:

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

40 (b) third degree felony if the damage caused is in excess of \$1,000;

41 (c) class A misdemeanor if the damage caused is equal to or in excess of \$300; and

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

43 (3) Damages under Subsection (2) include removal costs, repair costs, or replacement
44 costs, whichever is less.

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

47 (5) 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 (6) [~~A person~~] An individual who voluntarily, and at [~~his~~] the individual's own
52 expense, removes graffiti for which [~~he~~] the individual is responsible may be credited for the
53 removal costs against restitution ordered by a court.

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

55 **76-6-107.5. Vandalism of public lands.**

56 (1) As used in this section:

57 (a) "Etching" means defacing, damaging, or destroying a hard surface by using a

58 chemical, an abrasive object, a knife, or an engraving device.

59 (b) "Graffiti" means unauthorized printing, spraying, scratching, affixing, etching, or
60 inscribing on property owned by the state regardless of the content or the nature of the material
61 used in the commission of the act.

62 (c) "Public lands" means state or federally owned property that is held substantially in
63 its natural state, including canyons, parks owned or managed by the state, national parks, land
64 managed by the Bureau of Land Management, and other lands owned or maintained by a
65 government entity for outdoor recreational use.

66 (2) An individual is guilty of public lands vandalism if the individual creates, or assists
67 in creating, graffiti on any public lands or state-owned object permanently located on public
68 lands.

69 (3) An individual convicted under Subsection (2) is guilty of a class B misdemeanor.

70 (4) If an individual is convicted of public lands vandalism, the court shall sentence the
71 individual to a term of community service as follows:

72 (a) for a first conviction, the court shall sentence the individual to 100 hours of
73 community service, to be completed within 90 days after the day on which the court issues the
74 order;

75 (b) for a second conviction, the court shall sentence the individual to 200 hours of
76 community service, to be completed within 180 days after the day on which the court issues the
77 order; or

78 (c) for a third or subsequent conviction, the court shall sentence the individual to 300
79 hours of community service, to be completed within 270 days after the day on which the court
80 issues the order.

81 (5) If an individual is enrolled in school or maintains full or part-time employment, the
82 ordered community service may not be scheduled at a time the individual is scheduled to be in
83 school or performing the individual's employment duties.

84 (6) A sentence of community service described in Subjection (4) shall, to the greatest
85 extent possible, be for the benefit of public lands.

86 (7) If an individual is convicted of public lands vandalism, the court may impose a fine
87 up to the full amount of the estimated cost to restore the damaged land, caused by the
88 individual, to the land's original state.

89 (8) An individual who voluntarily, at the individual's own expense, and with the
90 consent of the property owner, removes graffiti for which the individual is responsible shall be
91 credited for costs ordered by the court under Subsection (7).