

Senator Wayne A. Harper proposes the following substitute bill:

GRAFFITI AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill addresses victims of graffiti.

Highlighted Provisions:

This bill:

- ▶ restricts when a victim of graffiti may be cited for failing to clean graffiti; 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

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 -- Victim liability.



26 (1) As used in this section:

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

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

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

34 (2) Graffiti is a:

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

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

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

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

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

41 (4) The court[~~, upon conviction or adjudication,~~] shall order an individual convicted
42 under Subsection (2) to pay restitution to the victim in [the amount of removal, repair, or
43 replacement costs] an amount equal to the costs incurred by the victim as a result of the graffiti.

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

48 (6) [~~A person~~] An individual who voluntarily, [~~and at his~~] at the individual's own
49 expense, and with the consent of the property owner, removes graffiti for which [~~he~~] the
50 individual is responsible may be credited for the removal costs against restitution ordered by a
51 court.

52 (7) Before an authorized government agency may issue a citation or assess a fine to a
53 victim for the victim's failure to remove graffiti from the victim's property, the agency shall:

54 (a) provide written notice to the victim alerting the victim of the graffiti;

55 (b) allow the victim one week after the day on which the agency provides written
56 notice of the graffiti to remove the graffiti; and

57 (c) provide the victim with a list of resources available to assist the victim with
58 removal of the graffiti.

59 (8) (a) After receiving notification of graffiti under Subsection (7)(a), a victim who is
60 unable to remove the graffiti due to physical or financial hardship may alert the agency that
61 provided notice under Subsection (7)(a) of the hardship.

62 (b) If an authorized government agency finds a victim has demonstrated that the victim
63 would experience significant hardship in removing the graffiti, the agency:

64 (i) may not issue a citation or assess a fee to the victim for failure to remove the
65 graffiti; and

66 (ii) shall provide, or hire an outside entity to provide, the assistance necessary to
67 remove the graffiti from the victim's property.

68 (c) An authorized government agency that provides, or hires an outside agency to
69 provide, assistance under Subsection (8)(b)(ii), may request reimbursement from a restitution
70 order, under Subsection (4), against an individual who used graffiti to damage the property that
71 the agency removed, or paid another to remove.