

House of Assembly—No 16

As laid on the table and read a first time, 31 May 2007

South Australia

**Graffiti Control (Sale of Graffiti Implements)
Amendment Bill 2007**

A BILL FOR

An Act to amend the *Graffiti Control Act 2001*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Graffiti Control (Sale of Graffiti Implements) Amendment Act 2007*.

5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 Part 2—Amendment of *Graffiti Control Act 2001*

4—Amendment of section 3—Interpretation

Section 3—after the definition of *sell* insert:

wide-tipped marker pen means a marker pen that is designed to produce a mark that—

- 15 (a) is not readily removable by wiping or by use of water or detergent;
and
- (b) is more than 5 millimetres wide,

but does not include a pen designed to be used as a highlighter.

5—Amendment of heading to Part 2

Heading to Part 2—after "spray paint" insert:
and wide-tipped marker pens

6—Amendment of section 4—Cans of spray paint and wide-tipped marker pens to be secured

- (1) Section 4(1)—after "paint" insert:
or wide-tipped marker pens
- (2) Section 4(1)—after "cans" second and third occurring insert:
or pens
- (3) Section 4(2)—after "paint" insert:
or wide-tipped marker pens

7—Insertion of section 4A

After section 4 insert:

4A—Cans of spray paint must have serial number

A person must not sell a can of spray paint unless the can is marked with—

- (a) a serial number; and
(b) any other particulars prescribed by regulation.

Maximum penalty: \$1 250.

Expiation fee: \$160.

8—Amendment of section 5—Sale of cans of spray paint and wide-tipped marker pens to minors

Section 5(1)—after "paint" insert:
or a wide-tipped marker pen

9—Amendment of section 6—Notices to be displayed

- (1) Section 6(1)—delete subsection (1) and substitute:
- (1) A notice containing the following words must be displayed in a prominent position in premises from which cans of spray paint are sold:

IT IS UNLAWFUL TO SELL A CAN OF SPRAY PAINT TO A PERSON UNDER 18. PURCHASERS OF CANS OF SPRAY PAINT MAY BE REQUIRED TO PRODUCE EVIDENCE OF AGE AND WILL BE REQUIRED TO PRODUCE EVIDENCE OF IDENTITY. DETAILS OF PURCHASERS WILL BE RECORDED.

- (1a) A notice containing the following words must be displayed in a prominent position in premises from which wide-tipped marker pens are sold:

IT IS UNLAWFUL TO SELL A WIDE-TIPPED MARKER PEN TO A PERSON UNDER 18. PURCHASERS OF WIDE-TIPPED MARKER PENS MAY BE REQUIRED TO PRODUCE EVIDENCE OF AGE AND WILL BE REQUIRED TO PRODUCE EVIDENCE OF IDENTITY. DETAILS OF PURCHASERS WILL BE RECORDED.

- (2) Section 6(2)—after "subsection (1)" insert:

or (1a)

- (3) Section 6(3)—after "paint" insert:

or wide-tipped marker pens

10—Insertion of section 6A

After section 6 insert:

6A—Registers required to be kept

- (1) A person must not sell or distribute for sale a can of spray paint or a wide-tipped marker pen unless—

- (a) the person to whom it is sold or distributed produces evidence of identity; and
- (b) the identity of the person to whom it is sold or distributed and any other prescribed particulars relating to that person or to the sale or distribution are recorded in a register maintained by the seller or distributor in accordance with the regulations.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) A person who maintains a register under this section must—

- (a) at the request of an authorised person, produce the register to the authorised person for inspection; and
- (b) keep the information contained in the register for a period of 2 years from the date on which the information is entered, or for such longer period as requested in writing by an authorised person.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- 5 (3) A person who maintains a register under this section must, within 21 days after the end of each period prescribed by regulation (the *return period*), furnish the Minister and the Commissioner of Police with a statement setting out the particulars recorded in the register during the return period.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- 10 (4) A person who has, or has had, access to a register maintained under this section must not divulge personal information recorded in the register except—

- 15 (a) as authorised by or under this Act; or
(b) with the consent of the person from whom the information was obtained or to whom the information relates; or
(c) in connection with the administration or enforcement of this Act; or
(d) for the purpose of any legal proceedings arising out of the administration or enforcement of this Act.

Maximum penalty: \$5 000.

- 20 (5) Subsection (3) does not prevent a person from divulging statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.

11—Amendment of section 7—Appointment and powers of authorised persons

- (1) Section 7(2)—after "paint" insert:

or wide-tipped marker pens

- 25 (2) Section 7(3)—delete subsection (3) and substitute:

- (3) An authorised person who enters premises under this section may investigate whether the provisions of this Part that the person is authorised to enforce are being or have been complied with and for that purpose may—

- 30 (a) seize and retain anything found on the premises that the authorised person reasonably believes may afford evidence relevant to the matters under investigation; or
35 (b) require any person who has possession of documents or records relevant to the matters under investigation to produce those documents or records for inspection, including written records that reproduce in a readily understandable form information kept by computer, microfilm or other process; or
40 (c) inspect any documents or records produced to the authorised person and retain them for such reasonable period as the authorised person thinks fit, and make copies of the documents or records; or

(d) require any person who is in a position to provide information relevant to the matters under investigation to answer any question put by the authorised person in relation to those matters; or

5 (e) take photographs, films or video or audio recordings.

(3) Section 7(6)—delete subsection (6) and substitute:

(6) A person who—

(a) hinders or obstructs an authorised person in the exercise of powers under this section; or

10 (b) uses abusive, threatening or insulting language to an authorised person; or

(c) refuses or fails to comply with a requirement of an authorised person under this Act; or

15 (d) when required by an authorised person to answer a question, refuses or fails to answer the question to the best of the person's knowledge, information and belief; or

(e) falsely represents, by words or conduct, that he or she is an authorised person,

is guilty of an offence.

20 Maximum penalty: \$5 000.