

ASSEMBLY BILL NO. 244—ASSEMBLYMEN STEWART,
ELLISON; AND SILBERKRAUS

MARCH 9, 2015

Referred to Committee on Judiciary

SUMMARY—Provides an enhanced penalty for committing three or more graffiti offenses. (BDR 15-736)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; providing an enhanced penalty for committing three or more offenses of placing graffiti on or otherwise defacing certain property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that a person who unlawfully places graffiti on or
2 otherwise defaces the public or private property of another without the permission
3 of the owner is guilty of a misdemeanor, gross misdemeanor or felony, depending
4 on the value of the loss of the property. Additionally, if a person commits more
5 than one offense pursuant to a scheme or continuing course of conduct, the value of
6 the loss of all the property must be aggregated for the purposes of determining a
7 penalty if the value of the loss is \$500 or more. (NRS 206.330) This bill provides
8 that if a person commits three or more offenses, regardless of the value of the loss,
9 the person is guilty of a category C felony.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 206.330 is hereby amended to read as follows:
2 206.330 1. Unless a greater criminal penalty is provided by a
3 specific statute, a person who places graffiti on or otherwise defaces
4 the public or private property, real or personal, of another, without
5 the permission of the owner:
6 (a) Where the value of the loss is less than \$250, is guilty of a
7 misdemeanor.



(b) Where the value of the loss is \$250 or more but less than \$5,000, is guilty of a gross misdemeanor.

(c) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

(d) Where the offense is committed on any protected site in this State, is guilty of a category D felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

(e) Where three or more offenses are committed, regardless of the value of the loss, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. If a person commits ~~more than one offense~~ *two offenses* pursuant to a scheme or continuing course of conduct, the value of all property damaged or destroyed by that person in the commission of those offenses must be aggregated for the purpose of determining the penalty prescribed in subsection 1, but only if the value of the loss when aggregated is \$500 or more.

3. A person who violates subsection 1 shall, in addition to any other fine or penalty imposed:

(a) For the first offense, pay a fine of not less than \$400 but not more than \$1,000 and perform 100 hours of community service.

(b) For the second offense, pay a fine of not less than \$750 but not more than \$1,000 and perform 200 hours of community service.

(c) For the third and each subsequent offense:

(1) Pay a fine of \$1,000; and

(2) Perform up to 300 hours of community service for up to 1 year, as determined by the court. The court may order the person to repair, replace, clean up or keep free of graffiti the property damaged or destroyed by the person or, if it is not practicable for the person to repair, replace, clean up or keep free of graffiti that specific property, the court may order the person to repair, replace, clean up or keep free of graffiti another specified property.

↪ The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.

4. The court may, in addition to any other fine or penalty imposed, order a person who violates subsection 1 to pay restitution.

5. The parent or legal guardian of a person under 18 years of age who violates this section is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable



1 to pay the fine and penalties resulting from a violation of this
2 section because of financial hardship, the court may require the
3 parent or legal guardian to perform community service.

4 6. If a person who is 18 years of age or older is found guilty of
5 violating this section, the court shall, in addition to any other penalty
6 imposed, issue an order suspending the driver's license of the person
7 for not less than 6 months but not more than 2 years. The court shall
8 require the person to surrender all driver's licenses then held by the
9 person. If the person does not possess a driver's license, the court
10 shall issue an order prohibiting the person from applying for a
11 driver's license for not less than 6 months but not more than 2 years.
12 The court shall, within 5 days after issuing the order, forward to the
13 Department of Motor Vehicles any licenses together with a copy of
14 the order.

15 7. The Department of Motor Vehicles:

16 (a) Shall not treat a violation of this section in the manner
17 statutorily required for a moving traffic violation.

18 (b) Shall report the suspension of a driver's license pursuant to
19 this section to an insurance company or its agent inquiring about the
20 person's driving record. An insurance company shall not use any
21 information obtained pursuant to this paragraph for purposes related
22 to establishing premium rates or determining whether to underwrite
23 the insurance.

24 8. A criminal penalty imposed pursuant to this section is in
25 addition to any civil penalty or other remedy available pursuant to
26 this section or another statute for the same conduct.

27 9. As used in this section:

28 (a) "Impairment" means the disruption of ordinary and
29 incidental services, the temporary loss of use or the removal of the
30 property from service for repair of damage.

31 (b) "Protected site" means:

32 (1) Any site, landmark, monument, building or structure of
33 historical significance pertaining to the history of the settlement of
34 Nevada;

35 (2) Any site, building, structure, object or district listed in the
36 register of historic resources of a community which is recognized as
37 a Certified Local Government pursuant to the Certified Local
38 Government Program jointly administered by the National Park
39 Service and the Office of Historic Preservation of the State
40 Department of Conservation and Natural Resources;

41 (3) Any site, building, structure, object or district listed in the
42 State Register of Historic Places pursuant to NRS 383.085 or the
43 National Register of Historic Places;

44 (4) Any site, building, structure, object or district that is more
45 than 50 years old and is located in a municipal or state park;



1 (5) Any Indian campgrounds, shelters, petroglyphs,
2 pictographs and burials; or

3 (6) Any archeological or paleontological site, ruin, deposit,
4 fossilized footprints and other impressions, petroglyphs and
5 pictographs, habitation caves, rock shelters, natural caves, burial
6 ground or sites of religious or cultural importance to an Indian tribe.

7 (c) “Value of the loss” means the cost of repairing, restoring or
8 replacing the property, including, without limitation, the cost of any
9 materials and labor necessary to repair, restore or replace the item.

