

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

MARCH 9, 2015

Referred to Committee on Judiciary

SUMMARY—Provides an enhanced penalty for committing certain repeat graffiti offenses. (BDR 15-736)

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

~

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 certain repeat 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. (NRS 206.330) This bill provides that if a
5 person has previously been convicted two or more times of placing graffiti on or
6 otherwise defacing public or private property or has previously been convicted of a
7 felony for such conduct, and the person commits another such violation, regardless
8 of the value of the loss, the person is guilty of a category D 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.

2. Unless a greater penalty is provided by a specific statute, a person who has previously been convicted of a violation of subsection 1:

(a) Two or more times; or

(b) That was punished as a felony,

↪ and who violates subsection 1, regardless of the value of the loss, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~12-1~~ **3.** If a person commits more than one offense 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.

~~13-1~~ **4.** 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.



~~14~~ 5. The court may, in addition to any other fine or penalty imposed, order a person who violates subsection 1 to pay restitution.

~~15~~ 6. 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 to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service.

~~16~~ 7. If a person who is 18 years of age or older is found guilty of violating this section, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months but not more than 2 years. The court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court shall issue an order prohibiting the person from applying for a driver's license for not less than 6 months but not more than 2 years. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses together with a copy of the order.

~~17~~ 8. The Department of Motor Vehicles:

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

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

~~18~~ 9. A criminal penalty imposed pursuant to this section is in addition to any civil penalty or other remedy available pursuant to this section or another statute for the same conduct.

~~19~~ 10. As used in this section:

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

(b) "Protected site" means:

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

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



* A B 2 4 4 R 2 *

- 1 (3) Any site, building, structure, object or district listed in the
- 2 State Register of Historic Places pursuant to NRS 383.085 or the
- 3 National Register of Historic Places;
- 4 (4) Any site, building, structure, object or district that is more
- 5 than 50 years old and is located in a municipal or state park;
- 6 (5) Any Indian campgrounds, shelters, petroglyphs,
- 7 pictographs and burials; or
- 8 (6) Any archeological or paleontological site, ruin, deposit,
- 9 fossilized footprints and other impressions, petroglyphs and
- 10 pictographs, habitation caves, rock shelters, natural caves, burial
- 11 ground or sites of religious or cultural importance to an Indian tribe.
- 12 (c) “Value of the loss” means the cost of repairing, restoring or
- 13 replacing the property, including, without limitation, the cost of any
- 14 materials and labor necessary to repair, restore or replace the item.

