

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-1022.01 Richard Sweetman

SENATE BILL 11-256

SENATE SPONSORSHIP

Guzman and King S.,

HOUSE SPONSORSHIP

Ferrandino and Kerr J.,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING GRAFFITI.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill allows an offender to be charged with defacing property based upon the aggregate cost of the damage that he or she causes over multiple criminal episodes.

The department of transportation is authorized to enter into a memorandum of understanding with a city, county, city and county, or other municipality to allow the city, county, city and county, or other municipality to remove graffiti from a departmental facility at the expense

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unamended
April 29, 2011

of the city, county, city and county, or other municipality.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 18-4-509 (2) (a), Colorado Revised Statutes, is
3 amended to read:

4 **18-4-509. Defacing property - definitions.** (2) (a) (I) Defacing
5 property is a class 2 misdemeanor; except that:

6 (A) A second or subsequent conviction for the offense of defacing
7 property is a class 1 misdemeanor and the court shall impose a mandatory
8 minimum fine of seven hundred fifty dollars upon conviction; AND

9 (B) IF A PERSON VIOLATES PARAGRAPH (b) OF SUBSECTION (1) OF
10 THIS SECTION TWICE OR MORE WITHIN A PERIOD OF SIX MONTHS, THE
11 DAMAGES CAUSED BY TWO OR MORE OF THE VIOLATIONS MAY BE
12 AGGREGATED AND CHARGED IN A SINGLE COUNT, IN WHICH EVENT THE
13 VIOLATIONS SO AGGREGATED AND CHARGED SHALL CONSTITUTE A SINGLE
14 OFFENSE, AND, IF THE AGGREGATE DAMAGES ARE FIVE HUNDRED DOLLARS
15 OR MORE, IT IS A CLASS 1 MISDEMEANOR AND THE COURT SHALL IMPOSE
16 A MANDATORY MINIMUM FINE OF SEVEN HUNDRED FIFTY DOLLARS UPON
17 CONVICTION.

18 (II) IN SENTENCING A PERSON WHO VIOLATES THIS SECTION, THE
19 COURT HAS DISCRETION TO IMPOSE ALTERNATIVES IN SENTENCING AS
20 DESCRIBED IN PART 1 OF ARTICLE 1.3 OF THIS TITLE, INCLUDING BUT NOT
21 LIMITED TO RESTORATIVE JUSTICE PRACTICES, AS DEFINED IN SECTION
22 18-1-901 (3) (o.5), C.R.S.

23 (III) THE COURT MAY SUSPEND ALL OR PART OF THE MANDATORY
24 MINIMUM FINE ASSOCIATED WITH A CONVICTION UNDER THIS SECTION
25 UPON THE OFFENDER'S SUCCESSFUL COMPLETION OF ANY SENTENCE

1 ALTERNATIVE IMPOSED BY THE COURT PURSUANT TO SUBPARAGRAPH (II)
2 OF THIS PARAGRAPH (a).

3 (IV) Fifty percent of the fines collected pursuant to this paragraph
4 (a) shall be credited to the highway users tax fund, created in section
5 43-4-201, C.R.S., and allocated and expended as specified in section
6 43-4-205 (5.5) (a), C.R.S., and fifty percent of the fines collected
7 pursuant to this paragraph (a) shall be credited to the juvenile diversion
8 cash fund created in section 19-2-303.5, C.R.S.; except that the fines
9 collected pursuant to paragraph (c) of subsection (1) of this section shall
10 be credited to the Colorado travel and tourism promotion fund created in
11 section 24-49.7-106, C.R.S.

12 **SECTION 2.** 18-4-509 (2) (a), Colorado Revised Statutes, is
13 amended to read:

14 **18-4-509. Defacing property - definitions.** (2) (a) (I) Defacing
15 property is a class 2 misdemeanor; except that:

16 (A) A second or subsequent conviction for the offense of defacing
17 property is a class 1 misdemeanor and the court shall impose a mandatory
18 minimum fine of seven hundred fifty dollars upon conviction; AND

19 (B) IF A PERSON VIOLATES PARAGRAPH (b) OF SUBSECTION (1) OF
20 THIS SECTION TWICE OR MORE WITHIN A PERIOD OF SIX MONTHS, THE
21 DAMAGES CAUSED BY TWO OR MORE OF THE VIOLATIONS MAY BE
22 AGGREGATED AND CHARGED IN A SINGLE COUNT, IN WHICH EVENT THE
23 VIOLATIONS SO AGGREGATED AND CHARGED SHALL CONSTITUTE A SINGLE
24 OFFENSE, AND, IF THE AGGREGATE DAMAGES ARE FIVE HUNDRED DOLLARS
25 OR MORE, IT IS A CLASS 1 MISDEMEANOR AND THE COURT SHALL IMPOSE
26 A MANDATORY MINIMUM FINE OF SEVEN HUNDRED FIFTY DOLLARS UPON
27 CONVICTION.

1 (II) Fifty percent of the fines collected pursuant to this paragraph
2 (a) shall be credited to the highway users tax fund, created in section
3 43-4-201, C.R.S., and allocated and expended as specified in section
4 43-4-205 (5.5) (a), C.R.S., and fifty percent of the fines collected
5 pursuant to this paragraph (a) shall be credited to the juvenile diversion
6 cash fund created in section 19-2-303.5, C.R.S.; except that the fines
7 collected pursuant to paragraph (c) of subsection (1) of this section shall
8 be credited to the Colorado travel and tourism promotion fund created in
9 section 24-49.7-106, C.R.S.

10 **SECTION 3.** Part 1 of article 1 of title 43, Colorado Revised
11 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
12 read:

13 **43-1-121. Removal of graffiti from departmental facilities -**
14 **memorandums of understanding.** (1) THE DEPARTMENT MAY, AT ITS
15 DISCRETION, ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH ANY
16 CITY, COUNTY, CITY AND COUNTY, OR OTHER MUNICIPALITY OF THE STATE
17 TO ALLOW THE CITY, COUNTY, CITY AND COUNTY, OR OTHER
18 MUNICIPALITY TO REMOVE GRAFFITI AS NEEDED FROM DEPARTMENTAL
19 PROPERTY LOCATED WITHIN THE CITY, COUNTY, CITY AND COUNTY, OR
20 OTHER MUNICIPALITY.

21 (2) A MEMORANDUM OF UNDERSTANDING ENTERED INTO BY THE
22 DEPARTMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL STATE
23 THAT IF THE CITY, COUNTY, CITY AND COUNTY, OR OTHER MUNICIPALITY
24 CHOOSES TO REMOVE GRAFFITI FROM A DEPARTMENTAL FACILITY, THE
25 CITY, COUNTY, CITY AND COUNTY, OR OTHER MUNICIPALITY SHALL DO SO
26 AT ITS OWN EXPENSE.

27 **SECTION 4. Act subject to petition - effective date.** (1) This

1 act shall take effect at 12:01 a.m. on the day following the expiration of
2 the ninety-day period after final adjournment of the general assembly
3 (August 10, 2011, if adjournment sine die is on May 11, 2011); except
4 that:

5 (a) Section 1 of this act shall take effect only if House Bill
6 11-1032 is enacted and becomes law;

7 (b) Section 2 of this act shall take effect only if House Bill
8 11-1032 is not enacted and does not become law; and

9 (c) If a referendum petition is filed pursuant to section 1 (3) of
10 article V of the state constitution against this act or an item, section, or
11 part of this act within such period, then the act, item, section, or part shall
12 not take effect unless approved by the people at the general election to be
13 held in November 2012 and shall take effect on the date of the official
14 declaration of the vote thereon by the governor.