

SENATE BILL NO. 257—SENATOR WIENER

MARCH 17, 2011

Referred to Committee on Judiciary

SUMMARY—Revises various provisions governing graffiti offenses. (BDR 15-616)

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; revising various provisions governing graffiti offenses; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law generally provides that a person who unlawfully places graffiti on
2 or otherwise defaces public or private property is guilty of a misdemeanor, gross
3 misdemeanor or felony, depending on the value of the loss of the property.
4 Additionally, if a person commits more than one offense pursuant to a scheme or
5 continuing course of conduct, the value of the loss of all the property must be
6 aggregated for the purposes of determining a penalty if the value of the loss is
7 \$5,000 or more. (NRS 206.330) **Section 1** of this bill revises this provision and
8 requires aggregation when the value of the loss is \$250 or more. **Section 1** also
9 provides that a person who commits an offense on any designated historic site in
10 this State is guilty of a category C felony.

11 Existing law also requires a person who unlawfully places graffiti on or
12 otherwise defaces public or private property to pay a monetary fine and perform
13 community service. (NRS 206.330) **Section 1** specifies that in addition to any other
14 fine or penalty imposed, a court may order such a person to pay restitution. **Section**
15 **2** of this bill also authorizes a court to order such a person to: (1) clean up, repair or
16 replace the damaged property or keep such property or another specified property
17 free of graffiti for up to 1 year; and (2) participate in counseling, and if the person
18 is less than 18 years of age, order the parent or legal guardian of the person to
19 attend or participate in counseling. **Section 2** further authorizes the owner of public
20 or private property that has been damaged by graffiti to bring a civil action against
21 the person who damaged the property. The property owner may be awarded
22 damages in an amount up to three times the cost of restoring the property, in
23 addition to attorney’s fees and costs.



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.
8 (b) Where the value of the loss is \$250 or more but less than
9 \$5,000, is guilty of a gross misdemeanor.
10 (c) Where the value of the loss is \$5,000 or more or where the
11 damage results in the impairment of public communication,
12 transportation or police and fire protection, is guilty of a category E
13 felony and shall be punished as provided in NRS 193.130. If the
14 court grants probation to such a person, the court shall require as a
15 condition of probation that the person serve at least 10 days in the
16 county jail.
17 (d) *Where the offense is committed on any designated historic*
18 *site in this State, is guilty of a category C felony and shall be*
19 *punished as provided in NRS 193.130. If the court grants*
20 *probation to such a person, the court shall require as a condition*
21 *of probation that the person serve at least 10 days in the county*
22 *jail.*
23 2. If a person commits more than one offense pursuant to a
24 scheme or continuing course of conduct, the value of all property
25 damaged or destroyed by that person in the commission of those
26 offenses must be aggregated for the purpose of determining the
27 penalty prescribed in subsection 1, but only if the value of the loss
28 when aggregated is ~~[\$5,000]~~ \$250 or more.
29 3. A person who violates subsection 1 shall, in addition to any
30 other fine or penalty imposed:
31 (a) For the first offense, pay a fine of not less than \$400 but not
32 more than \$1,000 and perform 100 hours of community service.
33 (b) For the second offense, pay a fine of not less than \$750 but
34 not more than \$1,000 and perform 200 hours of community service.
35 (c) For the third and each subsequent offense, pay a fine of
36 \$1,000 and perform 200 hours of community service.
37 ➤ The community service assigned pursuant to this subsection
38 must, if possible, be related to the abatement of graffiti.
39 4. *The court may, in addition to any other fine or penalty*
40 *imposed, order a person who violates subsection 1 to pay*
41 *restitution.*



1 5. The parent or legal guardian of a person under ~~the age of~~
2 18 years *of age* who violates this section is liable for all fines and
3 penalties imposed against the person. If the parent or legal guardian
4 is unable to pay the fine and penalties resulting from a violation of
5 this section because of financial hardship, the court may require the
6 parent or legal guardian to perform community service.

7 ~~5.1~~ 6. If a person who is 18 years of age or older is found
8 guilty of violating this section, the court shall, in addition to any
9 other penalty imposed, issue an order suspending the driver's
10 license of the person for not less than 6 months but not more than 2
11 years. The court shall require the person to surrender all driver's
12 licenses then held by the person. If the person does not possess a
13 driver's license, the court shall issue an order prohibiting the person
14 from applying for a driver's license for not less than 6 months but
15 not more than 2 years. The court shall, within 5 days after issuing
16 the order, forward to the Department of Motor Vehicles any licenses
17 together with a copy of the order.

18 ~~6.1~~ 7. The Department of Motor Vehicles:

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

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

27 ~~7.1~~ 8. A criminal penalty imposed pursuant to this section is
28 in addition to any civil penalty or other remedy available pursuant to
29 *this section or* another statute for the same conduct.

30 ~~8.1~~ 9. As used in this section:

31 (a) *"Historic site" means a site, landmark or monument of*
32 *historical significance pertaining to the history of the settlement of*
33 *Nevada, or Indian campgrounds, shelters, petroglyphs,*
34 *pictographs and burials.*

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

38 ~~(b)~~ (c) "Value of the loss" means the cost of repairing,
39 restoring or replacing the property, including, without limitation, the
40 cost of any materials and labor necessary to repair, restore or replace
41 the item.

42 **Sec. 2.** NRS 206.345 is hereby amended to read as follows:

43 206.345 *1. A court may, in addition to any other fine or*
44 *penalty imposed, order a person who places graffiti on or*



1 *otherwise defaces public or private property in violation of NRS*
2 *206.125 or 206.330 to do any or all of the following:*

3 *(a) Clean up, repair or replace the damaged property or keep*
4 *the damaged property or another specified property in the*
5 *community free of graffiti for up to 1 year.*

6 *(b) Participate in counseling, and if the person is less than 18*
7 *years of age, order the parent or legal guardian of the person to*
8 *attend or participate in counseling pursuant to NRS 62E.290.*

9 2. If a court orders a person who violates the provisions of
10 NRS 206.125 or 206.330 to pay restitution, the person shall pay the
11 restitution to:

12 ~~(1)~~ (a) The owner of the property which was affected by the
13 violation; or

14 ~~(2)~~ (b) If the violation involved the placing of graffiti on any
15 public property, the governmental entity that incurred expenses for
16 removing, covering or cleaning up the graffiti.

17 3. *The owner of public or private property that has been*
18 *damaged by graffiti may bring a civil action against the person*
19 *who placed the graffiti on such property. The court may award to*
20 *the property owner damages in an amount up to three times the*
21 *cost of restoring the property plus attorney's fees and costs, which*
22 *may be recovered from the offender or, if the offender is less than*
23 *18 years of age, from the parent or legal guardian of the offender.*

24 **Sec. 3.** NRS 381.225 is hereby amended to read as follows:

25 381.225 1. It is unlawful for any person to commit vandalism
26 upon any historic or prehistoric sites, natural monuments,
27 speleological sites and objects of antiquity, or to write or paint or
28 carve initials or words, or in any other way deface, any of those
29 objects, Indian paintings or historic buildings.

30 2. Unless a greater penalty is provided in NRS 206.125 ~~(1)~~ *or*
31 *206.330*, a person violating the provisions of subsection 1 is guilty
32 of a public offense proportionate to the value of the property
33 damaged or destroyed as set forth in NRS 193.155.

