

GRAFFITI AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to a graffiti conviction and addresses victims of graffiti.

Highlighted Provisions:

This bill:

- ▶ changes the offense classification of a graffiti conviction;
- ▶ creates an offense enhancement for subsequent graffiti offenses;
- ▶ restricts when a victim of graffiti may be cited for failing to clean graffiti; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-107, as last amended by Laws of Utah 2013, Chapter 278

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-6-107** is amended to read:

76-6-107. Graffiti defined -- Penalties -- Removal costs -- Reimbursement liability -- Victim liability.



28 (1) As used in this section:

29 (a) "Etching" means defacing, damaging, or destroying hard surfaces by means of a
30 chemical action which uses any caustic cream, gel, liquid, or solution.

31 (b) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching,
32 affixing, etching, or inscribing on the property of another regardless of the content or the nature
33 of the material used in the commission of the act.

34 (c) "Victim" means the person ~~[or entity]~~ whose property ~~[was]~~ is defaced by ~~[the]~~
35 graffiti and who bears the expense for [its] removal of the graffiti.

36 ~~[(2) Graffiti is a:]~~

37 ~~[(a) second degree felony if the damage caused is in excess of \$5,000;]~~

38 ~~[(b) third degree felony if the damage caused is in excess of \$1,000;]~~

39 ~~[(c) class A misdemeanor if the damage caused is equal to or in excess of \$300; and]~~

40 ~~[(d) class B misdemeanor if the damage caused is less than \$300.]~~

41 ~~[(3) Damages under Subsection (2) include removal costs, repair costs, or replacement~~
42 ~~costs, whichever is less.]~~

43 (2) An individual who creates, or assists in creating, graffiti is guilty of a class B
44 misdemeanor.

45 (3) An individual who has previously been convicted under Subsection (2), and
46 commits a subsequent offense under Subsection (2), is guilty of a class A misdemeanor.

47 (4) The court~~[, upon conviction or adjudication,]~~ shall order an individual convicted
48 under Subsection (2) to pay restitution to the victim in [the amount of removal, repair, or
49 replacement costs] an amount equal to the costs incurred by the victim as a result of the graffiti.

50 (5) An additional amount of \$1,000 in restitution shall be added to removal costs if the
51 graffiti is positioned on an overpass or an underpass, requires that traffic be interfered with in
52 order to remove it, or the entity responsible for the area in which the clean-up is to take place
53 must provide assistance in order for the removal to take place safely.

54 (6) ~~[A person]~~ An individual who voluntarily, ~~[and at his]~~ at the individual's own
55 expense, and with the consent of the property owner, removes graffiti for which ~~[he]~~ the
56 individual is responsible may be credited for the removal costs against restitution ordered by a
57 court.

58 (7) Before an authorized government agency may issue a citation or assess a fine to a

59 victim for the victim's failure to remove graffiti from the victim's property, the agency shall:

60 (a) provide written notice to the victim alerting the victim of the graffiti;

61 (b) allow the victim one week after the day on which the agency provides written
62 notice of the graffiti to remove the graffiti; and

63 (c) provide the victim with a list of resources available to assist the victim with
64 removal of the graffiti.

65 (8) (a) After receiving notification of graffiti under Subsection (7)(a), a victim who is
66 unable to remove the graffiti due to physical or financial hardship may alert the agency that
67 provided notice under Subsection (7)(a) of the hardship.

68 (b) If an authorized government agency finds a victim has demonstrated that the victim
69 would experience significant hardship in removing the graffiti, the agency:

70 (i) may not issue a citation or assess a fee to the victim for failure to remove the
71 graffiti; and

72 (ii) shall provide, or hire an outside entity to provide, the assistance necessary to
73 remove the graffiti from the victim's property.

74 (c) An authorized government agency that provides, or hires an outside agency to
75 provide, assistance under Subsection (8)(b)(ii), may request reimbursement from a restitution
76 order, under Subsection (4), against an individual who used graffiti to damage the property that
77 the agency removed, or paid another to remove.