



Office of the City Clerk

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Legislation Text

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Chicago, July 25, 2018

To the President and Members of the City Council:

Your Committee on License and Consumer Protection, having under consideration an ordinance introduced by Aldermen Burke and O'Shea (which was referred on May 18, 2016), to amend the Municipal Code of Chicago regarding regulation of graffiti implements and materials, begs leave to recommend that Your Honorable Body Re-refer the ordinance which is transmitted herewith to the Committee on Finance.

This recommendation was concurred in by a viva voce vote of the members of the committee on July 18, 2018.

Respectfully submitted,

1MA MITTS 'CHAIRMAN, COMMITTEE ON
LICENSE AND CONSUMER PROTECTION
ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapters 4-4, 8-4, and 8-16 of the Municipal Code of Chicago are hereby amended by deleting the language stricken through and inserting the language underscored, as follows:

4-4-335 Graffiti implements ~~Spray paint cans and markers.~~

a) For purposes of this section, graffiti implement shall have the meaning ascribed to the term in Section 8-4-130 of the Code.

b) It shall be unlawful for any licensee under this Code to sell, offer for sale, or expose for sale, at retail, any graffiti implement to any person under the age of 18 without the written consent of the parent or legal guardian of the

person (1) ~~any paint in spray cans; or~~ (2) ~~etching materials; or~~ (3) ~~any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three eighths of an inch or greater.~~

c) Every licensee under this Code that sells, offers for sale, or exposes for sale, at retail, any graffiti implement shall (1) store graffiti implements in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the licensee during regular business hours, or in an area not accessible to the general public without employee assistance; and (2) display a printed card in clear public view at or near the display of any graffiti implements stating "Vandalism is against the law and is punishable by a fine of up to \$2.500 and incarceration for a term of up to 30 days."

8-4-130 Possession of graffiti implements ~~etching materials and spray can or markers.~~

(a) As used in this section:

"Aerosol paint container"¹ means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.

"Broad-tipped marker" means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4th) of an inch, containing ink or other pigmented liquid that is not water soluble.

"Etching equipment" means any tool, device, or substance that can be used to make permanent marks on any surface.

"Graffiti implement" means an aerosol paint container, a broad-tipped marker, or paint stick.

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"Paint stick" means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface and leaving a mark of at least one-eighth (1/8th) of an inch in width.

(ba) It shall be unlawful for any person to possess any graffiti implement ~~etching materials, a spray paint container, liquid paint or any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three eighths of an inch or greater,~~ on the property of another or in any public building or upon any public facility. It shall be a defense to an action for violation of this subsection that the owner, manager or other person having control of the property, building or facility consented to the presence of the graffiti implement ~~etching materials, paint or marker.~~

(cb) It shall be unlawful for any person to possess a graffiti implement ~~spray paint container, liquid paint or any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three eighths of an inch or greater, or any etching equipment or etching materials,~~ on the public way with intent to use the same to deface any building, structure or property.

(de) It shall be unlawful for any person to transport, carry, possess or have any graffiti implement ~~spray paint container, liquid paint or any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three eighths of an inch or greater, or any etching equipment or etching materials,~~ in or upon or about any motor vehicle with intent to use the same to deface any building, structure or property.

(d) ~~For purposes of this code, "etch" means to cut, bite, corrode or engrave on metal, glass, plastic, concrete or stone, and "etching equipment" means any tool, device, or equipment used to etch. "Etching materials" means any acid or like substance used to etch.~~

e) Any person who violates any provision of this section shall be subject to a fine of not less than \$500 and not more than \$1,500 for each offense.

f) A motor vehicle that is used in the violation of subsection (de) of this section shall be subject to seizure and impoundment under this subsection (f). The owner of record of such vehicle shall be liable to the city for an administrative penalty of \$1,000 in addition to fees for towing and storage of the vehicle. Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this subsection, the police officer shall provide for the towing of the vehicle to a facility controlled by the city or its agents. When the vehicle is towed, the police officer shall notify the person who is found to be in control of the vehicle at the time of the alleged violation if there is such a person, of the fact of the seizure and of the vehicle owner's right to request a preliminary hearing to be conducted under Section 2-14-132 of this Code. The provisions of Section 2-14-132 shall apply whenever a motor vehicle is seized and impounded pursuant to this section.

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8-16-095 Possession of graffiti implements ~~etching material and spray can or marker~~ by underage persons prohibited.

a) No person under the age of 18 shall possess within the city any graffiti implement ~~etching materials, paint in a spray can or any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three eighths of an inch or greater.~~ This prohibition shall not apply to:

- Qa) a child using graffiti implements ~~etching materials, paint or a marker~~ while under the immediate supervision of his or her parent or legal guardian;
- (2b) a student using graffiti implements ~~etching materials, paint or a marker~~ while under the immediate supervision of his or her teacher;
- (3e) an employee using graffiti implements ~~etching materials, paint or a marker~~ at the direction and under the supervision of his or her employer.

b) Any person who violates this section shall be subject to a fine not to exceed \$500.00 or an order to perform community service pursuant to Section 1-4-120 of this Code, or both. Any person who violates any

provision of this section three times in any twelve-month period shall be subject to up to three times the maximum monetary fine set forth in this subsection for any subsequent violation of this section within the twelve-month period, or as an alternative or in addition to such fine a requirement to perform community service.

8-16-096 Aiding or assisting underage person in obtaining graffiti implements ~~etching materials, paint spray cans or markers~~ prohibited.

a) No person shall aid, assist or abet a person under the age of 18 in obtaining possession of any graffiti implement ~~etching materials, paint in a spray can or any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three eighths of an inch or greater.~~ This prohibition shall not apply to:

- (1a) a parent or legal guardian assisting and supervising his or her own child or ward in the use of graffiti implements ~~etching materials, paint or a marker;~~
- (2b) a teacher assisting and supervising his or her students in the use of graffiti implements ~~etching materials, paint or a marker;~~
- (3e) an employer assisting and supervising his or her employee in the use of graffiti implements ~~etching materials, paint or a marker.~~

b) Any person who violates this section shall be subject to a fine of not less than \$500 and not more than \$1,500 for each offense.

SECTION 2. This ordinance shall be in full force upon passage and publication.

