



Legislation Text

File #: Int 0576-2007, **Version:** A

Int. No. 576-A

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A Local Law to amend the administrative code of the city of New York, in relation to the possession and sale of graffiti instruments.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The Council hereby declares that graffiti is a public nuisance that degrades the quality of life in neighborhoods and communities across the City. Graffiti creates an atmosphere of neglect, inviting criminal activity and contributing to a feeling of disorderliness and fear.

The Council finds that 18-, 19-, and 20-year olds are disproportionately responsible for graffiti crime. Accordingly, prohibiting the sale to, and restricting the possession of, graffiti tools to persons under the age of 21 will greatly assist the City's anti-graffiti efforts. Requiring that graffiti materials be contained in a manufacturer-sealed package or completely enclosed in a locked container, which shall include bags, backpacks, briefcases and other containers that can be closed and secured with a key or a combination lock, allows persons between the ages of 18-20 to transport such materials to or from places where they may legally be used such as their school or at work, while making it difficult for these items to be used on the property of another.

§2. Section 10-117 of the administrative code of the city of New York is amended by adding new sections a-1 and a-2 to read as follows:

a-1. For purposes of this section, "property of another" shall mean all property, including real property,

that is not owned, rented, or leased by a person; provided that such term shall not include a location that serves as such person's residence.

a-2. For purposes of this section, "educational facility" shall mean any building affiliated with an institution that maintains a list of enrolled students and is used for educational purposes for more than twelve (12) hours per week for more than six (6) students.

§3. Subdivision b of section 10-117 of the administrative code of the city of New York, as amended by local law number 124 for the year 2005, is amended to read as follows:

b. No person shall possess an aerosol spray paint can, broad tipped indelible marker or etching acid [in any public place, any public building or any public facility] with the intent to violate the provisions of subdivision a of this section. [No person shall possess an aerosol spray paint can, broad tipped indelible marker or etching acid in or upon any motor vehicle with the intent to violate the provisions of subdivision a of this section. For purposes of this subdivision only, "public place" means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any highway, street, road, parking lot, plaza, sidewalk, playground, park, beach, or transportation facility.]

§4. Subdivision c of section 10-117 of the administrative code of the city of New York, as amended by local law number 124 for the year 2005, is REPEALED, and a new subdivision c is added to read as follows:

c. No person shall sell or offer to sell an aerosol spray paint can, broad tipped indelible marker or etching acid to any person under twenty-one years of age.

§5. Subdivisions c-1 and c-2 of section 10-117 of the administrative code of the city of New York, as amended by local law number 124 for the year 2005, are amended to read as follows:

c-1. No person under twenty-one years of age shall possess an aerosol spray paint can, broad tipped indelible marker or etching acid in or on the property of another [or in any public building or upon any public facility]. This subdivision shall not be deemed to prohibit the possession of an aerosol spray paint can, broad tipped indelible marker or etching acid where such item is contained in a manufacturer-sealed package or

completely enclosed in a locked container, which shall include bags, backpacks, briefcases and other containers that can be closed and secured with a key or combination lock.

c-2. [When a] This section shall not apply to any person [is found to] possessing an aerosol spray paint can, broad tipped indelible marker or etching acid while in or on the property of another [or in any public building or upon any public facility] in violation of subdivision c-1 of this section, [it is an affirmative defense that] where:

(1) the owner, operator or other person having control of the property, building or facility consented in writing to the [presence] use or possession of the aerosol spray paint can, broad tipped indelible marker or etching acid; or

(2) such person uses or possesses the aerosol spray paint can, broad tipped indelible marker or etching acid under the supervision of the owner or person in control of such property; or

([2]3) such person is [traveling to or from] at his or her place of employment [,where it] and the aerosol spray paint can, broad tipped indelible marker or etching acid was, [or] will be or is being used during the course of such employment and used only with written permission from, or under the supervision of his or her employer or such employer's agent; or

(4) such person is at an educational facility and uses or will use the aerosol spray paint can, broad tipped indelible marker or etching acid at the educational facility, where he or she is enrolled, and is participating in a class at the educational facility that requires the use or possession of such items; or

(5) such person is on the property of another and uses or will use the aerosol spray paint can, broad tipped indelible marker or etching acid in or on the property of another if such use or possession is necessary to participate in a government-sponsored function or in other circumstances where a government agency gives its consent to such use or possession.

§6. This local law shall take effect 60 days after its enactment.