

Introduced by Mr M J Richardson, MP

First print



New South Wales

Graffiti Control (Spray Paint Can Display) Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to prevent retailers of spray paint cans from displaying full spray paint cans to the public in the course of their business if those cans are not properly secured against shoplifting.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act 3 months after it receives assent unless commenced sooner by proclamation.

Clause 3 defines terms such as *publicly display*, *sell*, *spray paint* and *spray paint can*.

Clause 4 makes it an offence for any person who, in the course of any business in which spray paint is sold (which, as defined, includes offer or expose for sale), publicly displays a spray paint can containing spray paint unless the can is displayed:

- (a) in a locked cage or cabinet, or
- (b) within or behind an attended counter, or
- (c) in any other manner prescribed by the regulations.

The maximum penalty for an offence under the proposed section is 3 penalty units (currently \$330).

Clause 5 provides for authorised officers to issue penalty notices to persons who appear to have committed offences under the proposed Act. A penalty notice given to any such person provides the person with the option of paying the fine specified in the notice without having the matter determined by a court.

Clause 6 provides that proceedings for an offence under the proposed Act are to be dealt with summarily by a Magistrate sitting alone.

Clause 7 confers a regulation-making power on the Governor.



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Contents

| | Page |
|------------------------------------------------------------------------------|------|
| 1 Name of Act | 2 |
| 2 Commencement | 2 |
| 3 Definitions | 2 |
| 4 Offence: unsecured display by sellers of spray cans containing spray paint | 2 |
| 5 Penalty notices | 3 |
| 6 Proceedings for offences | 3 |
| 7 Regulations | 4 |



New South Wales

Graffiti Control (Spray Paint Can Display) Bill 2001

No. , 2001

A Bill for

An Act to prevent the unsecured display for sale of spray paint cans.

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| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>Graffiti Control (Spray Paint Can Display) Act 2001</i> . | 3 |
| 2 Commencement | 4 |
| This Act commences on the day occurring 3 months after the date of assent unless commenced sooner by proclamation. | 5 6 |
| 3 Definitions | 7 |
| In this Act: | 8 |
| <i>authorised officer</i> means a police officer or a person belonging to a class of persons prescribed by the regulations. | 9 10 |
| <i>publicly display</i> means to place or leave in the view of members of the public so as to be readily accessible to them. | 11 12 |
| <i>sell</i> includes offer for sale or expose for sale. | 13 |
| <i>spray paint</i> includes any liquid or other substance that is designed to stain, mark or corrode and is designed to be applied from a spray can. | 14 15 |
| <i>spray paint can</i> includes anything that is made or adapted for use for emitting spray paint and that operates by means of air, gas or vapour pressure. | 16 17 18 |
| 4 Offence: unsecured display by sellers of spray cans containing spray paint | 19 20 |
| (1) A person must not, in the course of any business in which spray paint is sold, publicly display any spray paint can containing spray paint unless the can is properly secured in accordance with subsection (2). | 21 22 23 |
| Maximum penalty: 3 penalty units. | 24 |
| (2) A spray paint can is properly secured if it is displayed: | 25 |
| (a) in a locked cage or other locked display cabinet, or | 26 |
| (b) within or behind any counter that is attended by the owner of the business or by any member of the staff of the business, or | 27 28 |
| (c) in any other manner prescribed by the regulations. | 29 |

| | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| (3) Nothing in this section: | 1 |
| (a) prevents any person from selling a spray can containing spray paint to another person, or | 2 3 |
| (b) prevents the display for promotional purposes of an empty spray can. | 4 5 |
| 5 Penalty notices | 6 |
| (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act. | 7 8 9 |
| (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the penalty prescribed by the regulations for the offence if dealt with under this section. | 10 11 12 13 14 |
| (3) A penalty notice may be served personally or by post. | 15 |
| (4) If the amount of the penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence. | 16 17 18 |
| (5) Payment under this section is not an admission of liability for the purposes of, and does not affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence. | 19 20 21 |
| (6) The amount of penalty prescribed under this section for an offence may not exceed the maximum amount of penalty which could be imposed for the offence by a court. | 22 23 24 |
| (7) This section does not limit the operation of any other provision of, or provision made under, this or any other Act relating to proceedings which may be taken in respect of offences. | 25 26 27 |
| 6 Proceedings for offences | 28 |
| Proceedings for an offence under this Act are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone. | 29 30 31 |

7 Regulations

The Governor may make regulations, not inconsistent with this Act,
for or with respect to any matter that by this Act is required or
permitted to be prescribed or that is necessary or convenient to be
prescribed for carrying out or giving effect to this Act.

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