

Second Reading

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [3.45 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Government is pleased to introduce the Summary Offences Amendment (Spray Paint Cans) Bill 2007.

Graffiti-tagged public transport and public facilities are not just costly nuisances; they can also lead to further crime problems, discomfort for users and serious safety concerns.

That's why this Government takes a comprehensive and tough approach to fighting graffiti vandalism.

During the election campaign, the Premier promised to continue the fight against graffiti by committing his re-elected Government to:

Strengthen anti-graffiti laws to require a young person found in possession of spray paint in public to establish they have it for a legitimate purpose; and

Give police the power to confiscate spray cans from people under 18 if they do not have a lawful excuse for having it.

This bill gives effect to these commitments.

The lemma Government has a long record of implementing strong and effective anti-graffiti measures.

In 2006, the Premier announced a comprehensive strategy to drive down the incidence of graffiti, which included:

the establishment of the Anti-Graffiti Action Team (AGAT) to drive new measures to reduce graffiti throughout the state;

increasing the use of Community Service Orders to make offenders repair the damage caused by graffiti vandalism;

identifying graffiti 'hot spots' and stepping up enforcement and surveillance, especially through CCTV;

assisting councils and government utilities with the development of Graffiti Management Plans targeting high graffiti environments; and

allowing local councils to accredit community groups and volunteers to remove graffiti.

Furthermore, in June 2006 the Government passed the Summary Offences (Display of Spray Paint Cans) Act 2006, which requires retailers of spray paint cans to keep their stocks in locked display cabinets. This scheme came into force on 1 November 2006.

These initiatives came on top of the tough penalties that already existed for graffiti-related offences. These offences continue to apply both to adults and young people and include:

Damaging and defacing property with paint under section 10A of the Summary Offences Act, which carries a maximum penalty of 20 penalty units or 6 months imprisonment;

Possession of spray paint with intent to use it to damage or deface premises or other property under section 10B of the Summary Offences Act, which carries a maximum penalty of 10 penalty units or 3 months imprisonment;

Sale of spray paint cans to juveniles under section 10C of the Summary Offences Act, which carries a maximum penalty of 10 penalty units; and

Malicious damage to property under section 195 of the Crimes Act, which carries a maximum penalty of 5 years imprisonment.

There are also a number of sentencing options that can be used by the courts to deter graffiti vandalism, including:

Community service orders, which since 1999, have seen young offenders complete 60,000 hours of graffiti

removal work;

Reparation orders requiring the offender to pay compensation toward repair of the damage; and

Place restrictions and non-association orders.

This bill will complement these existing provisions by giving police the power to confiscate spray paint cans from juveniles where they don't have a lawful excuse for having it.

This will ensure that police have the ability to confiscate a juvenile graffiti vandal's tools of trade, and thereby prevent graffiti offences from occurring in the first place.

I turn now to the details of the bill.

Schedule 1 of the bill creates a new police power to confiscate spray paint cans from people under the age of 18 years.

The officer may seize the spray paint can where they have a reasonable suspicion that:

- (1) the person is in a public place;
- (2) the person is under the age of 18; and
- (3) the person is unable to satisfy the officer that they are in possession of the spray paint can for a lawful purpose.

As I stated earlier, the aim of the provision is to prevent a crime by confiscating the relevant object.

Schedule 2 makes amendments to the Summary Offences Regulation 2005 to create a scheme to regulate the management of seized spray paint cans.

The amended regulation provides that spray paint cans that have been used or that are of negligible value can be disposed of immediately.

If it is not disposed of immediately, the spray paint can must be retained for a period of seven days to allow the person to make an application for its return.

This will allow applications to be made for the return of the confiscated spray paint can if, for example, the person is able to produce evidence that they are in fact over the age of 18 years.

Another example would be if the person was able to produce evidence that they originally had the spray paint can for a lawful purpose, such as if they were an apprentice painter or panel beater.

The amended regulation also provides for an application to a court if the person desires an independent adjudicator on the matter.

I commend the bill to the House.