

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 11-1022.01 Richard Sweetman

SENATE BILL 11-256

SENATE SPONSORSHIP

Guzman and King S.,

HOUSE SPONSORSHIP

Ferrandino and Kerr J.,

Senate Committees
Judiciary

House Committees
Local Government

A BILL FOR AN ACT

101 **CONCERNING GRAFFITI.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill allows an offender to be charged with defacing property based upon the aggregate cost of the damage that he or she causes over multiple criminal episodes.

The department of transportation is authorized to enter into a memorandum of understanding with a city, county, city and county, or other municipality to allow the city, county, city and county, or other municipality to remove graffiti from a departmental facility at the expense

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unam ended
May 6, 2011

HOUSE
Am ended 2nd Reading
May 5, 2011

SENATE
3rd Reading Unam ended
May 2, 2011

SENATE
2nd Reading Unam ended
April 29, 2011

of the city, county, city and county, or other municipality.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 18-4-509 (2) (a), Colorado Revised Statutes, is
3 amended to read:

4 **18-4-509. Defacing property - definitions.** (2) (a) (I) Defacing
5 property is a class 2 misdemeanor; except that:

6 (A) A second or subsequent conviction for the offense of defacing
7 property is a class 1 misdemeanor and the court shall impose a mandatory
8 minimum fine of seven hundred fifty dollars upon conviction; AND

9 (B) IF A PERSON VIOLATES PARAGRAPH (b) OF SUBSECTION (1) OF
10 THIS SECTION TWICE OR MORE WITHIN A PERIOD OF SIX MONTHS, THE
11 DAMAGES CAUSED BY TWO OR MORE OF THE VIOLATIONS MAY BE
12 AGGREGATED AND CHARGED IN A SINGLE COUNT, IN WHICH EVENT THE
13 VIOLATIONS SO AGGREGATED AND CHARGED SHALL CONSTITUTE A SINGLE
14 OFFENSE, AND, IF THE AGGREGATE DAMAGES ARE FIVE HUNDRED DOLLARS
15 OR MORE, IT IS A CLASS 1 MISDEMEANOR AND THE COURT SHALL IMPOSE
16 A MANDATORY MINIMUM FINE OF SEVEN HUNDRED FIFTY DOLLARS UPON
17 CONVICTION.

18 (II) IN SENTENCING A PERSON WHO VIOLATES THIS SECTION, THE
19 COURT HAS DISCRETION TO IMPOSE ALTERNATIVES IN SENTENCING AS
20 DESCRIBED IN PART 1 OF ARTICLE 1.3 OF THIS TITLE, INCLUDING BUT NOT
21 LIMITED TO RESTORATIVE JUSTICE PRACTICES, AS DEFINED IN SECTION
22 18-1-901 (3) (o.5), OR IN THE CASE OF A JUVENILE OFFENDER, TO IMPOSE
23 RESTORATIVE JUSTICE, AS DEFINED IN SECTION 19-1-103 (94.1), C.R.S.

24 (III) THE COURT MAY SUSPEND ALL OR PART OF THE MANDATORY
25 MINIMUM FINE ASSOCIATED WITH A CONVICTION UNDER THIS SECTION

1 UPON THE OFFENDER'S SUCCESSFUL COMPLETION OF ANY SENTENCE
2 ALTERNATIVE IMPOSED BY THE COURT PURSUANT TO SUBPARAGRAPH (II)
3 OF THIS PARAGRAPH (a).

4 (IV) Fifty percent of the fines collected pursuant to this paragraph
5 (a) shall be credited to the highway users tax fund, created in section
6 43-4-201, C.R.S., and allocated and expended as specified in section
7 43-4-205 (5.5) (a), C.R.S., and fifty percent of the fines collected
8 pursuant to this paragraph (a) shall be credited to the juvenile diversion
9 cash fund created in section 19-2-303.5, C.R.S.; except that the fines
10 collected pursuant to paragraph (c) of subsection (1) of this section shall
11 be credited to the Colorado travel and tourism promotion fund created in
12 section 24-49.7-106, C.R.S.

13 **SECTION 2.** 18-4-509 (2) (a), Colorado Revised Statutes, is
14 amended to read:

15 **18-4-509. Defacing property - definitions.** (2) (a) (I) Defacing
16 property is a class 2 misdemeanor; except that:

17 (A) A second or subsequent conviction for the offense of defacing
18 property is a class 1 misdemeanor and the court shall impose a mandatory
19 minimum fine of seven hundred fifty dollars upon conviction; AND

20 (B) IF A PERSON VIOLATES PARAGRAPH (b) OF SUBSECTION (1) OF
21 THIS SECTION TWICE OR MORE WITHIN A PERIOD OF SIX MONTHS, THE
22 DAMAGES CAUSED BY TWO OR MORE OF THE VIOLATIONS MAY BE
23 AGGREGATED AND CHARGED IN A SINGLE COUNT, IN WHICH EVENT THE
24 VIOLATIONS SO AGGREGATED AND CHARGED SHALL CONSTITUTE A SINGLE
25 OFFENSE, AND, IF THE AGGREGATE DAMAGES ARE FIVE HUNDRED DOLLARS
26 OR MORE, IT IS A CLASS 1 MISDEMEANOR AND THE COURT SHALL IMPOSE
27 A MANDATORY MINIMUM FINE OF SEVEN HUNDRED FIFTY DOLLARS UPON

1 CONVICTION.

2 (II) IN SENTENCING A JUVENILE WHO VIOLATES THIS SECTION, THE
3 COURT HAS DISCRETION TO IMPOSE RESTORATIVE JUSTICE, AS DEFINED IN
4 SECTION 19-1-103 (94.1), C.R.S.

5 (III) THE COURT MAY SUSPEND ALL OR PART OF THE MANDATORY
6 MINIMUM FINE ASSOCIATED WITH A CONVICTION UNDER THIS SECTION
7 UPON THE OFFENDER'S SUCCESSFUL COMPLETION OF ANY RESTORATIVE
8 JUSTICE REQUIREMENTS IMPOSED BY THE COURT PURSUANT TO
9 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a).

10 (IV) Fifty percent of the fines collected pursuant to this paragraph
11 (a) shall be credited to the highway users tax fund, created in section
12 43-4-201, C.R.S., and allocated and expended as specified in section
13 43-4-205 (5.5) (a), C.R.S., and fifty percent of the fines collected
14 pursuant to this paragraph (a) shall be credited to the juvenile diversion
15 cash fund created in section 19-2-303.5, C.R.S.; except that the fines
16 collected pursuant to paragraph (c) of subsection (1) of this section shall
17 be credited to the Colorado travel and tourism promotion fund created in
18 section 24-49.7-106, C.R.S.

19 **SECTION 3.** 18-4-509 (1) (c) (II), Colorado Revised Statutes, is
20 amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH to
21 read:

22 **18-4-509. Defacing property - definitions.** (1) (c) (II) For
23 purposes of this section:

24 (B.5) "JUVENILE" SHALL HAVE THE SAME MEANING AS SET FORTH
25 IN SECTION 19-1-103 (68), C.R.S.

26 **SECTION 4.** Part 1 of article 1 of title 43, Colorado Revised
27 Statutes, is amended BY THE ADDITION OF A NEW SECTION to

1 read:

2 **43-1-121. Removal of graffiti from departmental facilities -**
3 **memorandums of understanding.** (1) THE DEPARTMENT MAY, AT ITS
4 DISCRETION, ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH ANY
5 CITY, COUNTY, CITY AND COUNTY, OR OTHER MUNICIPALITY OF THE STATE
6 TO ALLOW THE CITY, COUNTY, CITY AND COUNTY, OR OTHER
7 MUNICIPALITY TO REMOVE GRAFFITI AS NEEDED FROM DEPARTMENTAL
8 PROPERTY LOCATED WITHIN THE CITY, COUNTY, CITY AND COUNTY, OR
9 OTHER MUNICIPALITY.

10 (2) A MEMORANDUM OF UNDERSTANDING ENTERED INTO BY THE
11 DEPARTMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL STATE
12 THAT IF THE CITY, COUNTY, CITY AND COUNTY, OR OTHER MUNICIPALITY
13 CHOOSES TO REMOVE GRAFFITI FROM A DEPARTMENTAL FACILITY, THE
14 CITY, COUNTY, CITY AND COUNTY, OR OTHER MUNICIPALITY SHALL DO SO
15 AT ITS OWN EXPENSE.

16 **SECTION 5. Act subject to petition - effective date.** (1) This
17 act shall take effect at 12:01 a.m. on the day following the expiration of
18 the ninety-day period after final adjournment of the general assembly
19 (August 10, 2011, if adjournment sine die is on May 11, 2011); except
20 that:

21 (a) Section 1 of this act shall take effect only if House Bill
22 11-1032 is enacted and becomes law;

23 (b) Section 2 of this act shall take effect only if House Bill
24 11-1032 is not enacted and does not become law; and

25 (c) If a referendum petition is filed pursuant to section 1 (3) of
26 article V of the state constitution against this act or an item, section, or
27 part of this act within such period, then the act, item, section, or part shall

1 not take effect unless approved by the people at the general election to be
2 held in November 2012 and shall take effect on the date of the official
3 declaration of the vote thereon by the governor.