

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-1022.01 Richard Sweetman

**SENATE BILL 11-256**

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**SENATE SPONSORSHIP**

**Guzman and King S.,**

**HOUSE SPONSORSHIP**

**Ferrandino and Kerr J.,**

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**Senate Committees**  
Judiciary

**House Committees**  
Local Government

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**A BILL FOR AN ACT**

101 **CONCERNING GRAFFITI.**

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**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.*

SENATE  
3rd Reading Unamended  
May 2, 2011

SENATE  
2nd Reading Unamended  
April 29, 2011

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

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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.