



Text File

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Bill No: 2003-1592, **Version:** 3

Committee: Committee on Public Safety
Services

Status: Passed Finally

Presented by Mr. Hertzberg

AS AMENDED

An Ordinance amending and supplementing the Pittsburgh Code, Title Six, Conduct, Article I, Regulated Rights and Actions, Chapter 616: Damaging, Defacing and Interfering with Property, Section 616.03 Sale of spray paint containers and indelible markers, to include the sale of etching acid, clarifying subsection (a) and (b), and adding subsection (c), (d) and (e).

Whereas, there is widespread use of spray paint, indelible markers and etching acid in the permanent defacement of public and private property; and

Whereas, the marring of public and private property has contributed to the blight and degradation of neighborhoods and public places; and

Whereas, the easy application and ready accessibility to spray paint, indelible markers and etching acid facilitates its misuse and hinders enforcement agencies from preventing persons from defacing public and private property or apprehending those committing the offensive conduct; and

Whereas, a substantial portion of the defacement of public and private property has been caused by minors using spray paint containers, indelible markers, etching tools and acid based substances; and

Whereas, graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity; and

Whereas, this perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the engagement of life; and

Whereas, the city finds and determines that graffiti is obnoxious, contributes to neighborhood deterioration; provides a communication system for gangs and other vandals; damages property and constitutes a public nuisance.

Be it resolved that the Council of the City of Pittsburgh as follows:

Section 1. Chapter 616.03 of the Pittsburgh Code is hereby amended and supplemented as follows:

616.03 SALE OF SPRAY PAINT CONTAINERS, [AND] INDELIBLE MARKERS AND ETCHING ACID.

(a) **Definitions.**

- (1) Indelible Marker. Any felt tip marker, china marker or similar device that is not water-soluble. [~~and which has a flat or angled writing surface one half inch or greater.~~]
- (2) Etching Acid. Any liquid, cream, paste or similar substance, including but not limited to hydrofluoric acid, that can be used to etch, carve, engrave, or otherwise impair the physical integrity of glass or metal.
- (3) ETCHING TOOL. Any tool capable of defacing property.
- (4) Person. Any individual or retail establishment.
- (5) Minor. Any person under the age of eighteen (18) years.

(b) **Prohibited conduct.**

- (1) No person shall knowingly sell, offer for sale, furnish, provide or otherwise transfer any spray paint container, [or] indelible marker, or etching acid to any person for the purpose of having such spray paint container [or], indelible marker, or etching acid to be used in violation of Sec. 616.01*.
- (2) No person shall knowingly sell, offer for sale, furnish, provide or otherwise transfer any spray paint container, indelible marker, etching acid or etching tools capable of defacing property to any minor, unless said minor is accompanied by parent or legal guardian at time of purchase or transfer.

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(3) No minor shall purchase any spray paint container, indelible marker, or etching acid, without the accompaniment of parent or legal guardian.

~~[(e) Any person violating any provision of this section shall be fined up \$500 or shall be imprisoned for not more than 30 days.]~~

(c) **Possession restricted.** It is unlawful for any minor to have in his possession any aerosol spray paint container, indelible marker, or etching materials and/or substances while on any public highway, street, alley or way, park, playground, swimming pool, or other public place, whether such person is or is not in any automobile, vehicle or other conveyance, unless under direct supervision of parent or legal guardian.

(d) **Fines.**

~~[(1) Person and/or retail establishment responsibility. Any person or retail establishment violating any provision of (this) Section 616.03 shall be given a warning on the first offense and On the second offense and any subsequent offenses, violators shall be fined up to \$500 **\$300** and in default of payment of the fine and costs, shall be subject to [imprisoned] imprisonment for [not more than] a period not exceeding 30 days on the second and any subsequent offenses.]~~

(1) Person. Any person violating any provision of Section 616.03 will be fined up to \$300 on first and subsequent offences. The person in default of payment of the fine and costs shall be subject to imprisonment for a period not exceeding 30 days.

(2) Retail establishment responsibility. Any retail establishment violating any provision of Section 616.03 shall be given a warning on the first offense. On the second and any subsequent offence, a retail establishment shall be fined up to \$300 and in default of payment of the fine and costs shall be subject to imprisonment for a period not exceeding 30 days.

(3) Parental Responsibility.

(a) Any parent or legal guardian having custody or control of a minor who defaces property by inscribing graffiti there on shall be jointly and severely liable with such minor for any resulting damages

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incurred by the property owner. Violations of any provisions of Section 616.01* shall be subject to a fine of up to \$500 \$300 and in default of payment shall be subject to imprisonment for a period not exceeding 30 days.

(b) Any parent or legal guardian having custody or control of a minor who is apprehended in violation of Section 616.03 subsection (c), shall be fined up to \$500 \$300 and in default of payment, shall be subject to imprisonment for a period not exceeding 30 days.

(4) Restitution. In addition to any punishment specified in Section 616.03, the City Solicitor shall seek restitution to the City for reimbursement of the costs incurred by the City in removing the graffiti. In the case of a minor, the City Solicitor shall seek restitution from the parents or legal guardian.

(e) **Public Notification.** The City Solicitor and the Director of Planning shall market and promote the Graffiti and Vandal Awards Trust Fund.

*(Section 616.01: No person shall destroy, damage or deface in any way, public or private real property.)