

2C:17-3

LEGISLATIVE HISTORY CHECKLIST
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(Graffiti)

NJSA: 2C:17-3

LAWS OF: 1995 **CHAPTER:** 251

BILL NO: A765

SPONSOR(S): Catania and DeCroce

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY** Judiciary
SENATE: ---

AMENDED DURING PASSAGE: Yes Assembly committee substitute
A765/A1174 (1R) enacted

DATE OF PASSAGE: **ASSEMBLY:** December 5, 1994
SENATE: June 26, 1995

DATE OF APPROVAL: September 12, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: No

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clipping--attached:
"Graffiti law hits teens," 9-13-95, Asbury Park Press.

KBG:pp

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 765 and 1174

STATE OF NEW JERSEY

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ADOPTED SEPTEMBER 19, 1994

Sponsored by Assemblymen CATANIA, DeCROCE,
ALBOHN, ZECKER and Assemblywoman Quigley

1 AN ACT concerning acts of graffiti, amending N.J.S.2C:17-3,
2 P.L.1981, c.282, and P.L.1983, c.333 and supplementing chapter
3 4A of Title 2A of the New Jersey Statutes and chapter 33 of
4 Title 2C of the New Jersey Statutes.

5
6 BE IT ENACTED *by the Senate and General Assembly of the*
7 *State of New Jersey:*

8 1. N.J.S.2C:17-3 is amended to read as follows:

9 2C:17-3. Criminal Mischief. a. Offense defined. A person is
10 guilty of criminal mischief if he:

11 (1) Purposely or knowingly damages tangible property of
12 another or damages tangible property of another recklessly or
13 negligently in the employment of fire, explosives or other
14 dangerous means listed in [section 2C:17-2a] subsection a of
15 N.J.S.2C:17-2; or

16 (2) Purposely or recklessly tampers with tangible property of
17 another so as to endanger person or property.

18 b. Grading. Criminal mischief is a crime of the third degree if
19 the actor purposely causes pecuniary loss of \$2,000.00 or more, or
20 a substantial interruption or impairment of public
21 communication, transportation, (including, but not limited to, the
22 defacement, injury or removal of an official traffic sign or
23 signal), supply of water, gas or power, or other public service. It
24 is a crime of the fourth degree if the actor causes pecuniary loss
25 in excess of \$500.00 but less than \$2,000.00, or a disorderly
26 persons offense if he causes pecuniary loss of \$500.00 or less.

27 c. A person convicted of an offense of criminal mischief that
28 involves an act of graffiti may, in addition to any other penalty
29 imposed by the court, be required to pay to the owner of the
30 damaged property monetary restitution in the amount of the
31 pecuniary damage caused by the act of graffiti and to perform
32 community service, which shall include removing the graffiti
33 from the property, if appropriate. If community service is
34 ordered, it shall be for either not less than 20 days or not less
35 than the number of days necessary to remove the graffiti from
36 the property.

37 d. As used in this section:

38 (1) "Act of graffiti" means the drawing, painting or making of
39 any mark or inscription on public or private real or personal
40 property without the permission of the owner.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

Assembly floor amendments adopted September 26, 1994.

1 (2) "Spray paint" means any paint or pigmented substance that
2 is in an aerosol or similar spray container.

3 (cf: P.L.1991, c.336, s.1)

4 2. Section 1 of P.L.1981, c.282 (C.2C:33-10) is amended to
5 read as follows:

6 1. A person is guilty of crime of the third degree if he
7 purposely, knowingly or recklessly puts or attempts to put
8 another in fear of bodily violence by placing on [public or] private
9 property of another a symbol, an object, a characterization, an
10 appellation or graffiti that exposes another to threats of
11 violence[, contempt or hatred on the basis of race, color, creed or
12 religion, including, but not limited to a burning cross or Nazi
13 swastika]. A person shall not be guilty of an attempt unless his
14 actions cause a serious and imminent likelihood of causing fear of
15 unlawful bodily violence.

16 A person convicted of an offense under this section that
17 involves an act of graffiti may, in addition to any other penalty
18 imposed by the court, be required either to pay to the owner of
19 the damaged property monetary restitution in the amount of the
20 pecuniary damage caused by the act of graffiti or to perform
21 community service, which shall include removing the graffiti
22 from the property, if appropriate. If community service is
23 ordered, it shall be for either not less than 20 days nor less than
24 the number of days necessary to remove the graffiti from the
25 property.

26 (cf: P.L.1981, c.282, s.1)

27 3. Section 2 of P.L.1981, c.282 (C.2C:33-11) is amended to
28 read as follows:

29 2. A person is guilty of a crime of the fourth degree if he
30 purposely defaces or damages, without authorization of the owner
31 or tenant, any private premises or property primarily used for
32 religious, educational, residential, memorial, charitable, or
33 cemetery purposes, or for assembly by persons [of a particular
34 race, color, creed or religion] for purpose of exercising any right
35 guaranteed by law or by the Constitution of this State or of the
36 United States by placing thereon a symbol, an object, a
37 characterization, an appellation, or graffiti that exposes another
38 to threat of violence[, contempt or hatred on the basis of race,
39 color, creed, or religion, including, but not limited to, a burning
40 cross or Nazi swastika].

41 A person convicted of an offense under this section that
42 involves an act of graffiti may, in addition to any other penalty
43 imposed by the court, be required either to pay to the owner of
44 the damaged property monetary restitution in the amount of
45 pecuniary damage caused by the act of graffiti or to perform
46 community service, which shall include removing the graffiti
47 from the property, if appropriate. If community service is
48 ordered, it shall be for either not less than 20 days or not less
49 then the number of days necessary to remove the graffiti from
50 the property.

51 (cf: P.L.1981, c.282, s.2)

52 4. Section 6 of P.L.1983, c.333 (C.52:17B-156) is amended to
53 read as follows:

54 6. The commission shall be empowered to:

1 a. Solicit and receive gifts, bequests, donations and grant aid
2 from any source whatsoever. These funds shall be used for the
3 purpose of educating the general public in New Jersey regarding
4 the State's criminal statutes and the consequences of committing
5 acts in the State. Such contributions, gifts, bequests, donations,
6 or grant aid shall be used exclusively for public purposes;

7 b. Advertise the consequences of participating in criminal
8 activity in any media the commission deems appropriate,
9 including but not limited to television, radio, newspaper,
10 billboards, or printed material;

11 c. Educate the general public in New Jersey regarding the
12 State's criminal statutes and the consequences of committing
13 criminal acts in the State. The commission shall educate the
14 general public regarding the State's mandatory sentencing laws,
15 and particularly the mandatory sentencing law providing
16 mandatory and extended terms of imprisonment for persons
17 convicted of committing certain crimes while in possession of a
18 firearm. In addition, the commission shall educate the general
19 public on the laws imposing a driver's license suspension for
20 juveniles, and imposing restitution or community service upon
21 adults and juveniles, for acts of graffiti committed as part of the
22 offenses of criminal mischief (N.J.S.2C:17-3), attempting to put
23 another in fear of bodily violence (section 1 of P.L.1981, c.282
24 (C.2C:33-10)), or defacement of private property (section 2 of
25 P.L.1981, c.282; C.2C:33-11);

26 d. Enter into such contracts with a person upon such terms and
27 conditions as the commission shall determine to be reasonable,
28 employ such staff and do any and all things the commission deems
29 necessary, to carry out the purposes and to exercise the powers
30 given and granted in this act;

31 e. Establish a nonprofit, charitable, educational corporation
32 under the laws of the State of New Jersey which shall be
33 empowered to exercise the powers given and granted to the
34 commission in the preceding subsections of this section to carry
35 out the purposes of this act. Any such nonprofit corporation
36 established by the commission shall be organized and operated
37 exclusively for educational or other charitable purposes; no part
38 of the net earnings of which shall inure to the benefit of any
39 private shareholder or individual upon the liquidation or
40 dissolution of the corporation for any cause whatsoever, neither
41 the property of the corporation nor any right therein shall inure
42 to the benefit of any of the directors, officers, or any other
43 private individual but all property or rights therein, or the
44 proceeds thereof, shall be fully disposed of by the board of
45 directors to such one or more organizations which then qualify as
46 organizations described in section 501 (c) (3) of the Internal
47 Revenue Code of 1954 or the corresponding provisions of any
48 subsequent law or to a governmental unit as the board of
49 directors may select; no substantial part of the activities of
50 which shall be carrying on propaganda, or otherwise attempting
51 to influence legislation; and any such nonprofit corporation
52 established hereunder shall not participate in, or intervene in
53 (including the publishing or distributing of statements), any
54 political campaign on behalf of any candidate for public office.
55 (cf: P.L.1983, c.333, s.6)

1 5. (New section) In addition to any other penalty imposed by
2 the court, any juvenile adjudicated delinquent for an offense
3 which, if committed by an adult, would constitute criminal
4 mischief pursuant to N.J.S.2C:17-3, attempting to put another in
5 fear of bodily violence pursuant to section 1 of P.L.1981, c.282
6 (C.2C:33-10), or defacement of private property pursuant to
7 section 2 of P.L.1981, c.282 (C.2C:33-11), involving an act of
8 graffiti, may be required either to pay to the owner of the
9 damaged property monetary restitution in the amount of
10 pecuniary damage caused by the act of graffiti or to perform
11 community service, which shall include removing the graffiti
12 from the property, if appropriate. If community service is
13 ordered, it shall be for either not less than 20 days or not less
14 than the number of days necessary to remove the graffiti from
15 the property.

16 6. (New section) Instead of or in addition to any other
17 disposition ordered by the court under section 24 of P.L.1982,
18 c.77 (C.2A:4A-43) for an initial act of ¹[criminal mischief
19 pursuant to N.J.S.2C:17-3 involving an act of]¹ graffiti
20 committed by a person at least 13 and under 18 years of age, the
21 court ¹[shall] considering the factors provided in paragraph (17)
22 of subsection b. of section 24 of P.L.1983, c.77 (C.2A:4A-43)
23 may¹ suspend or postpone for one year that person's right to
24 operate a motor vehicle including a motorized bicycle. ¹[If at
25 the time of disposition the person has a valid driver's license, the
26 suspension shall begin immediately. If the person does not have a
27 valid driver's license at the time of disposition, the person's
28 eligibility to obtain a driver's license shall be postponed for one
29 year commencing on the day the person turns 17 years of age.] In
30 the case of a person who at the time of the imposition of
31 sentence is less than 17 years of age, the period of the suspension
32 of driving privileges authorized herein, including a suspension of
33 the privilege of operating a motorized bicycle, shall commence
34 on the day the sentence is imposed and shall run for a period of
35 one year after the day the person reaches the age of 17 years. If
36 the driving privilege of any person is under revocation,
37 suspension, or postponement for a violation of any provision of
38 this Title or Title 39 of the Revised Statutes at the time of any
39 conviction or adjudication of delinquency for a violation of any
40 offense defined in this section, the revocation, suspension, or
41 postponement period imposed herein shall commence as of the
42 date of termination of the existing revocation, suspension, or
43 postponement.¹

44 A second or subsequent offense ¹[shall] may¹ result in the
45 suspension ¹or postponement¹ of the person's right to operate a
46 motor vehicle for two years. If a second or subsequent offense
47 occurs during a period when the person has had this right
48 suspended ¹or postponed¹, the person's right to operate a motor
49 vehicle ¹[shall] may¹ be suspended ¹or postponed¹ for an
50 additional two years to run consecutively.

51 ¹The court before whom any person is convicted of or
52 adjudicated delinquent for a violation shall collect forthwith the
53 New Jersey driver's license or licenses of the person and forward
54 such license or licenses to the Director of the Division of Motor

1 Vehicles along with a report indicating the first and last day of
2 the suspension or postponement period imposed by the court
3 pursuant to this section. If the court is for any reason, unable to
4 collect the license or licenses of the person, the court shall cause
5 a report of the conviction or adjudication of delinquency to be
6 filed with the director. That report shall include the complete
7 name, address, date of birth, eye color, and sex of the person and
8 shall indicate the first and last day of the suspension or
9 postponement period imposed by the court pursuant to this
10 section. The court shall inform the person orally and in writing
11 that if the person is convicted of personally operating a motor
12 vehicle during the period of license suspension or postponement
13 imposed pursuant to this section the person shall, upon
14 conviction, be subject to the penalties set forth in R.S.39:3-40.
15 A person shall be required to acknowledge receipt of the written
16 notice in writing. Failure to receive a written notice or failure to
17 acknowledge in writing the receipt of a written notice shall not
18 be a defense to a subsequent charge of violation of R.S.39:3-40.
19 If the person is the holder of a driver's license from another
20 jurisdiction, the court shall not collect the license but shall notify
21 the director who shall notify the appropriate officials in the
22 licensing jurisdiction. The court shall, however, in accordance
23 with the provisions of this section, revoke the person's
24 non-resident driving privileges in this State.¹

25 7. (New section) As used in this chapter:
26 a. "Act of graffiti" means the drawing, painting or making any
27 mark or inscription on public or private real or personal property
28 without the permission of the owner.

29 b. "Spray paint" means any paint or pigmented substance that
30 is in an aerosol or similar spray container.

31 8. (New section) No person shall knowingly sell or offer for
32 sale to the general public any spray paint unless a sign is
33 exhibited, either where the product is displayed or where it is
34 paid for, warning that in New Jersey an act of graffiti committed
35 by a juvenile ¹[carries a mandatory] may carry a¹ penalty of a
36 one year driver's license suspension for a first offense and a two
37 year suspension for a second offense, and that an act of graffiti
38 committed by either an adult or a juvenile may carry a penalty of
39 restitution or 20 days community service.

40 A person who knowingly violates this subsection shall be fined
41 \$50 for the first offense and \$100 for a second or subsequent
42 offense.

43 9. This act shall take effect on the 91st day after enactment.

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48 Revises law concerning graffiti.

STATEMENT

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This bill permits a court to impose restitution or community service for an act of graffiti committed by either an adult or a juvenile, in addition to any other penalties imposed. An "act of graffiti" is defined by the bill as the drawing, painting or making of any mark or inscription with an indelible marker or spray paint on public or private real or personal property without the permission of the owner. The bill provides for a program of public education about the penalties for an act of graffiti and requires retailers of spray paint to post a sign warning the general public that an act of graffiti may carry the penalty of restitution or community service. A retailer must willfully and knowingly fail to post a sign before that retailer can be fined for the failure to post such a sign when making a sale.

The bill further provides that a vendor who sells or otherwise furnishes spray paint or a kit containing such paint to a person under age 18 would be fined \$100 for the first offense and \$150 for a second or subsequent offense. An unwitting seller of spray paint may mount a valid defense to a charge of sale to a person under 18 by establishing that:

(1) the purchaser falsely represented his or her age in writing or by producing a photographic a driver's license or alcoholic beverage photographic identification card, and

(2) the purchaser appeared to be 18 years of age or older; and

(3) the seller, in good faith, relied on the proof or written representation provided to determine that the purchaser was 18 years of age or older.

Revises law concerning graffiti.

ASSEMBLY, No. 1174

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STATE OF NEW JERSEY

INTRODUCED FEBRUARY 7, 1994

By Assemblymen ALBOHN and ZECKER

1 AN ACT concerning motor vehicle drivers' licenses and
2 supplementing chapter 4A of Title 2A of the New Jersey
3 statutes.

4
5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. a. As used in this section, "act of graffiti" means the
8 drawing, painting or making of any mark, slogan or inscription
9 that is not readily removable on public or private real or personal
10 property without the permission of the owner.

11 b. Instead of or in addition to any other disposition ordered by
12 the court under section 24 of P.L.1982, c.77 (C.2A:4A-43) for an
13 initial act of criminal mischief pursuant to N.J.S.2C:17-3
14 constituting an act of graffiti committed by a person at least 13
15 and under 18 years of age, the court shall suspend or postpone for
16 one year that person's right to operate a motor vehicle including
17 a motorized bicycle. If at the time of disposition the person has
18 a valid driver's license, the suspension shall begin immediately.
19 If the person does not have a valid driver's license at the time of
20 disposition, the person's eligibility to obtain a driver's license
21 shall be postponed for one year commencing on the day the
22 person turns 17 years of age. A second or subsequent offense
23 shall result in the suspension of the person's right to operate a
24 motor vehicle for two years. If a second or subsequent offense
25 occurs during a period when the person has had this right
26 suspended, the person's right to operate a motor vehicle shall be
27 suspended for an additional two years to run consecutively.

28 2. This act shall take effect on the first day of the second
29 month after enactment.

30

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STATEMENT

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33 This bill requires the Family Court to suspend or postpone for
34 one year the driving privileges of a person aged 13 through 17
35 inclusive who is adjudicated delinquent for an act of criminal
36 mischief constituting graffiti. An act of graffiti is defined by
37 this bill as the drawing, painting or making of any mark, slogan or
38 inscription that is not readily removable on public or private
39 property without permission.

40 A second or subsequent offense, or one which is committed
41 while the person's driving privileges are suspended, would result
42 in the loss of driving privileges for an additional two years. This
43 mandatory penalty would be used by the Family Court instead of
44 or in addition to any other penalty.

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46

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48 Requires Family Court to postpone or suspend right of certain
49 juveniles to drive motor vehicle for graffiti.

ASSEMBLY, No. 765
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblymen CATANIA and DeCROCE

1 AN ACT concerning acts of graffiti, amending N.J.S.2C:17-3,
2 P.L.1981, c.282, and P.L.1983, c.333, and supplementing
3 P.L.1982, c.77 (C.2A:4A-20 et seq.) and chapter 33 of Title 2C
4 of the New Jersey Statutes.

5

6 BE IT ENACTED *by the Senate and General Assembly of the*
7 *State of New Jersey:*

8 1. N.J.S.2C:17-3 is amended to read as follows:

9 2C:17-3. Criminal Mischief. a. Offense defined. A person is
10 guilty of criminal mischief if he:

11 (1) Purposely or knowingly damages tangible property of
12 another or damages tangible property of another recklessly or
13 negligently in the employment of fire, explosives or other
14 dangerous means listed in [section 2C:17-2a] subsection a of
15 N.J.S.2C:17-2; or

16 (2) Purposely or recklessly tampers with tangible property of
17 another so as to endanger person or property.

18 b. Grading. Criminal mischief is a crime of the third degree if
19 the actor purposely causes pecuniary loss of \$2,000.00 or more, or
20 a substantial interruption or impairment of public
21 communication, transportation, supply of water, gas or power, or
22 other public service. It is a crime of the fourth degree if the
23 actor causes pecuniary loss in excess of \$500.00 but less than
24 \$2,000.00, or a disorderly persons offense if he causes pecuniary
25 loss of \$500.00 or less.

26 c. A person convicted of an offense of criminal mischief that
27 involves an act of graffiti may, in addition to any other penalty
28 imposed by the court, be required either to pay to the owner of
29 the damaged property monetary restitution in the amount of the
30 pecuniary damage caused by the act of graffiti or to perform
31 community service, which shall include removing the graffiti
32 from the property, if appropriate. If community service is
33 ordered, it shall be for either not less than 20 days or not less
34 than the number of days necessary to remove the graffiti from
35 the property, whichever is greater.

36 d. As used in this section:

37 (1) "Act of graffiti" means the drawing, painting or making of
38 any mark or inscription with an indelible marker or spray paint on
39 public or private real or personal property without the permission
40 of the owner.

41 (2) "Indelible marker" means a felt tip marker, china marker
42 or similar device that contains ink that is not water soluble and

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 has a flat or angled writing surface one-half inch wide or greater.

2 (3) "Spray paint" means any paint or pigmented substance that
3 is in an aerosol or similar spray container.

4 (cf: P.L.1981, c.290, s.17)

5 2. Section 1 of P.L.1981, c.282 (C.2C:33-10) is amended to
6 read as follows:

7 1. A person is guilty of crime of the third degree if he
8 purposely, knowingly or recklessly puts or attempts to put
9 another in fear of bodily violence by placing on public or private
10 property a symbol, an object, a characterization, an appellation
11 or graffiti that exposes another to threats of violence, contempt
12 or hatred on the basis of race, color, creed or religion, including,
13 but not limited to a burning cross or Nazi swastika. A person
14 shall not be guilty of an attempt unless his actions cause a
15 serious and imminent likelihood of causing fear of unlawful bodily
16 violence.

17 A person convicted of an offense under this section that
18 involves an act of graffiti may, in addition to any other penalty
19 imposed by the court, be required either to pay to the owner of
20 the damaged property monetary restitution in the amount of the
21 pecuniary damage caused by the act of graffiti or to perform
22 community service, which shall include removing the graffiti
23 from the property, if appropriate. If community service is
24 ordered, it shall be for either not less than 20 days nor less than
25 the number of days necessary to remove the graffiti from the
26 property, whichever is greater.

27 (cf: P.L.1981, c.282, s.1)

28 3. Section 2 of P.L.1981, c.282 (C.2C:33-11) is amended to
29 read as follows:

30 2. A person is guilty of a crime of the fourth degree if he
31 purposely defaces or damages, without authorization of the owner
32 or tenant, any private premises or property primarily used for
33 religious, educational, residential, memorial, charitable, or
34 cemetery purposes, or for assembly by persons of a particular
35 race, color, creed or religion by placing thereon a symbol, an
36 object, a characterization, an appellation, or graffiti that exposes
37 another to threat of violence, contempt or hatred on the basis of
38 race, color, creed, or religion, including, but not limited to, a
39 burning cross or Nazi swastika.

40 A person convicted of an offense under this section that
41 involves an act of graffiti may, in addition to any other penalty
42 imposed by the court, be required either to pay to the owner of
43 the damaged property monetary restitution in the amount of
44 pecuniary damage caused by the act of graffiti or to perform
45 community service, which shall include removing the graffiti
46 from the property, if appropriate. If community service is
47 ordered, it shall be for either not less than 20 days or not less
48 then the number of days necessary to remove the graffiti from
49 the property, whichever is greater.

50 (cf: P.L.1981, c.282, s.2)

51 4. Section 6 of P.L.1983, c.333 (C.52:17B-156) is amended to
52 read as follows:

53 6. The commission shall be empowered to:

54 a. Solicit and receive gifts, bequests, donations and grant aid

1 from any source whatsoever. These funds shall be used for the
2 purpose of educating the general public in New Jersey regarding
3 the State's criminal statutes and the consequences of committing
4 acts in the State. Such contributions, gifts, bequests, donations,
5 or grant aid shall be used exclusively for public purposes;

6 b. Advertise the consequences of participating in criminal
7 activity in any media the commission deems appropriate,
8 including but not limited to television, radio, newspaper,
9 billboards, or printed material;

10 c. Educate the general public in New Jersey regarding the
11 State's criminal statutes and the consequences of committing
12 criminal acts in the State. The commission shall educate the
13 general public regarding the State's mandatory sentencing laws,
14 and particularly the mandatory sentencing law providing
15 mandatory and extended terms of imprisonment for persons
16 convicted of committing certain crimes while in possession of a
17 firearm. In addition, the commission shall educate the general
18 public on the laws imposing restitution or community service
19 upon adults and juveniles for acts of graffiti committed as part of
20 the offenses of criminal mischief (N.J.S.2C:17-3), attempting to
21 put another in fear of bodily violence (section 1 of P.L.1981,
22 c.282; C.2C:33-10), or defacement of private property (section 2
23 of P.L.1981, c.282; C.2C:33-11);

24 d. Enter into such contracts with a person upon such terms and
25 conditions as the commission shall determine to be reasonable,
26 employ such staff and do any and all things the commission deems
27 necessary, to carry out the purposes and to exercise the powers
28 given and granted in this act;

29 e. Establish a nonprofit, charitable, educational corporation
30 under the laws of the State of New Jersey which shall be
31 empowered to exercise the powers given and granted to the
32 commission in the preceding subsections of this section to carry
33 out the purposes of this act. Any such nonprofit corporation
34 established by the commission shall be organized and operated
35 exclusively for educational or other charitable purposes; no part
36 of the net earnings of which shall inure to the benefit of any
37 private shareholder or individual upon the liquidation or
38 dissolution of the corporation for any cause whatsoever, neither
39 the property of the corporation nor any right therein shall inure
40 to the benefit of any of the directors, officers, or any other
41 private individual but all property or rights therein, or the
42 proceeds thereof, shall be fully disposed of by the board of
43 directors to such one or more organizations which then qualify as
44 organizations described in section 501 (c) (3) of the Internal
45 Revenue Code of 1954 or the corresponding provisions of any
46 subsequent law or to a governmental unit as the board of
47 directors may select; no substantial part of the activities of
48 which shall be carrying on propaganda, or otherwise attempting
49 to influence legislation; and any such nonprofit corporation
50 established hereunder shall not participate in, or intervene in
51 (including the publishing or distributing of statements), any
52 political campaign on behalf of any candidate for public office.

53 (cf: P.L.1983, c.333, s.6)

54 5. (New section) In addition to any other penalty imposed by

1 the court, any juvenile adjudicated delinquent for an offense
2 involving an act of graffiti which, if committed by an adult,
3 would constitute criminal mischief pursuant to N.J.S.2C:17-3,
4 attempting to put another in fear of bodily violence pursuant to
5 section 1 of P.L.1981, c.282 (C.2C:33-10), or defacement of
6 private property pursuant to section 2 of P.L.1981, c.282
7 (C.2C:33-11) may be required either to pay to the owner of the
8 damaged property monetary restitution in the amount of
9 pecuniary damage caused by the act of graffiti or to perform
10 community service, which shall include removing the graffiti
11 from the property, if appropriate. If community service is
12 ordered, it shall be for either not less than 20 days or not less
13 than the number of days necessary to remove the graffiti from
14 the property, whichever is greater.

15 6. (New section) As used in this chapter:

16 a. "Act of graffiti" means the drawing, painting or making any
17 mark or inscription with an indelible marker or spray paint on
18 public or private real or personal property without the permission
19 of the owner.

20 b. "Indelible marker" means a felt tip marker, china marker or
21 similar device that contains ink that is not water soluble and has
22 a flat or angled writing surface one-half inch wide or greater.

23 c. "Spray paint" means any paint or pigmented substance that
24 is in an aerosol or similar spray container.

25 7. (New section) a. No person shall willfully and knowingly
26 sell or offer for sale to the general public any spray paint or
27 hobby kit or similar kits of any kind containing spray paint unless
28 a sign is exhibited either where the product is displayed or where
29 it is paid for warning that in New Jersey acts of graffiti may
30 carry a penalty for both adults and juveniles of restitution or 20
31 days community service.

32 A person who violates this subsection shall be fined \$50 for the
33 first offense and \$100 for a second or subsequent offense.

34 b. Any vendor who sells, offers for sale, gives, transfers, or
35 otherwise makes available to a person under the age of 18 any
36 spray paint or hobby kit or similar kit of any kind containing
37 spray paint shall be fined \$100 for the first offense and \$150 for a
38 second or subsequent offense; except that the establishment of
39 all of the following facts by a person making any such sale shall
40 constitute a defense to prosecution therefor: (a) that the
41 purchaser falsely represented in writing, or by producing a
42 driver's license bearing a photograph of the licensee, or by
43 producing a photographic identification card issued pursuant to
44 section 1 of P.L.1968, c.313 (C.33:1-81.2) or similar card issued
45 pursuant to the laws of another state or the federal government
46 that the purchaser was of legal age to make the purchase, (b) that
47 the appearance of the purchaser was such that an ordinary
48 prudent person would believe the purchaser to be of legal age to
49 make the purchase, and (c) that the sale was made in good faith
50 relying upon such written representation or proof of age provided
51 by the purchaser.

52 8. This act shall take effect on the 91st day after enactment.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 765 and 1174

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1994

The Assembly Judiciary, Law and Public Safety Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 765 and 1174.

This committee substitute would require the court to suspend or postpone for one year the driving privileges of a juvenile between the ages of 13 and 17, inclusive, who is adjudicated delinquent for an act of criminal mischief constituting graffiti. The substitute would also permit the court, in addition to any other penalties imposed, to impose restitution or community service for an act of graffiti committed by either an adult or a juvenile. An "act of graffiti" is defined by the substitute as the drawing, painting or making of any mark or inscription on public or private real or personal property without the permission of the owner.

The substitute requires retailers of spray paint to post a sign warning the general public that an act of graffiti committed by a juvenile carries a mandatory penalty of a one year driver's license suspension for a first offense and a two year suspension for a second offense, and that an act of graffiti committed by either an adult or a juvenile may carry the penalty of restitution or community service. A retailer must knowingly fail to post a sign before that retailer can be fined for the failure to post such a sign.

In addition, the substitute requires the New Jersey Commission to Deter Criminal Activity, established pursuant to P.L.1983, c.333, to establish an educational program for the general public concerning the penalties for an act of graffiti.

FISCAL NOTE TO
ASSEMBLY, No. 1174
STATE OF NEW JERSEY

DATED: July 21, 1994

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Assembly Bill No. 1174 of 1994 requires the Family Court to suspend or postpone for one year the driving privileges of a person aged 13 through 17 inclusive who is adjudicated delinquent for an act of criminal mischief constituting graffiti. An act of graffiti is defined by this bill as the drawing, painting or making of any mark, slogan or inscription that is not readily removable on public or private property without permission.

A second or subsequent offense, or one which is committed while the person's driving privileges are suspended, would result in the loss of driving privileges for an additional two years. This mandatory penalty would be used by the Family Court instead of or in addition to any other penalty.

The Administrative Office of the Courts (AOC) states that during 1992 there were 7,902 juvenile arrests for criminal mischief, but there is no way to estimate what proportion of that total may have been for acts that would constitute "acts of graffiti". The AOC further states that existing staff would be able to handle the responsibility of processing driving privilege suspensions.

The Division of Motor Vehicles states that it could include this violation on the DMV computer system and update the driver's manual at minimal cost.

The Office of Legislative Services concurs.

This fiscal note has been prepared pursuant to P.L.1980, c.67.