

**SUBJECT:** Penalties for use of etching or engraving devices for graffiti

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 6 ayes — Hinojosa, Dunnam, Garcia, Keel, Nixon, Wise  
0 nays  
3 absent — Green, Smith, Talton

**WITNESSES:** For — John Gruchacz, representing Chief Al Philippus, San Antonio Police Department; Sergio G. Soto, City of San Antonio  
Against — None

**BACKGROUND:** It is a criminal offense intentionally or knowingly to use aerosol paint or indelible markers to make markings on the tangible property of another without the owner's consent. The punishment for the offense ranges from a Class B misdemeanor to a first-degree felony, depending on the value of loss to the property and the type of property.

**DIGEST:** HB 751 would make it an offense to use an etching or engraving device to make markings on the property of another without consent. An etching or engraving device would be defined as a device that makes a delineation or impression on property, regardless of the manufacturer's intended use of the device. HB 751 would take effect September 1, 1999, and would apply to offenses committed on or after that date.

**SUPPORTERS SAY:** HB 751 is necessary to include in the anti-graffiti statutes the latest tool used by graffiti writers — etching or engraving devices. These devices, often diamond-tip tools or lava rocks, increasingly are being used to make etchings on glass or wood building surfaces. These etchings are just as destructive, even more destructive, than aerosol paint or indelible markers that are included under current law. If graffiti is etched into a piece of glass, often the whole piece of glass must be replaced at considerable cost. HB 751 would give law enforcement officers a necessary tool to combat this new, especially destructive form of graffiti.

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Although the Penal Code was revised in 1993 to cover broad categories of offenses, in 1997 the Legislature decided to create a special offense category for graffiti. HB 751 would not upset the balance of offenses and penalties in the code but simply add to the current statute to ensure that all graffiti — even if etched instead of painted — would be subject to state law.

OPPONENTS  
SAY:

Use of an etching or engraving device on the property of another is adequately covered by the broad language in the current criminal mischief statute that already makes unauthorized markings on another's property a crime. The 1993 Penal Code revisions were carefully crafted to establish broad coverage and eliminate special provisions. The Legislature should not continue to add special provisions to cover every specific type of crime but should rely on the broad language of current law.