

BILL ANALYSIS

Senate Research Center

S.B. 758
By: Shapleigh
Criminal Justice
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As Filed

DIGEST

Currently, there are limited penalties for persons who paint graffiti. Limited graffiti cleanup funds and the unregulated access to aerosol paint continue to hamper statewide efforts to eradicate graffiti. This bill will increase criminal penalties for graffiti offenders, create a graffiti eradication fund, and require businesses to restrict access to aerosol paint.

PURPOSE

As proposed, S.B. 758 increases criminal penalties for graffiti offenders, creates a graffiti eradication fund, and requires businesses to restrict access to aerosol paint.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 28.03, Penal Code, by amending Subsection (a) and adding Subsections (g) and (h), to provide that a person commits an offense if, without the effective consent of the owner, the person intentionally or knowingly places graffiti on the tangible property of the owner. Provides that the punishment prescribed for an offense under Subsection (a)(3) is increased to the punishment for the next highest category of offense if the graffiti is placed on public property. Provides that this subsection does not apply if the punishment for the offense, without application of this subsection, is a first degree felony. Defines "graffiti" and "public property."

SECTION 2. Amends Chapter 102A, Code of Criminal Procedure, by adding Article 102.0171, as follows:

Art. 102.0171. COURT COSTS: GRAFFITI ERADICATION FUNDS. Sets forth procedures for assessment and administration of a graffiti eradication fee charged to a defendant convicted of an offense under Section 28.03(a)(3).

SECTION 3. Amends Section 54.042, Family Code, to require a juvenile court, in a disposition hearing under Section 54.04, to order the Department of Public Safety (DPS) to suspend a child's driver's license or permit, or if the child does not have a license or permit, to deny the issuance of a license or permit to the child if the court finds that the child has engaged in conduct that violates a law of this state enumerated in Section 521.342(a), Transportation Code, rather than Section 24(a-1), Article 6687b, V.T.C.S., or that violates Section 28.03(a)(3), Penal Code. Requires a juvenile court to notify DPS of the adjudication, if the court finds that the child has engaged in conduct that violates a law of this state enumerated in Section 521.372(a), Transportation Code, rather than 24B(b), Article 6687b, V.T.C.S. Requires the order under Subsection (a)(1)(B) to specify a certain period of suspension or denial. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Chapter 485B, Health and Safety Code, by adding Section 485.019, as follows:

Sec. 485.019. RESTRICTION OF ACCESS TO AEROSOL PAINT. Requires a business establishment that holds a permit under Section 485.012 and that displays aerosol paint to

meet certain requirements in the display of the paint. Provides that this section does not apply to a business establishment that has in place a computerized checkout system at the point of sale for merchandise that alerts the cashier that a person purchasing aerosol paint must be over 18 years of age. Sets forth penalties for violations of this section. Requires a penalty collected under this section to be sent to the comptroller for deposit in the state treasury to the credit of the general revenue fund.

SECTION 5. Amends Chapter 521O, Transportation Code, by adding Section 521.348, as follows:

Sec. 521.348. SUSPENSION FOR CERTAIN CRIMINAL MISCHIEF; LICENSE DENIAL. Provides that a person's driver's license is automatically suspended on conviction of an offense under Section 28.03(a)(3), Penal Code. Sets forth regulations for reinstatement or issuance of a driver's license to a person convicted of an offense under Section 28.03(a)(3), Penal Code. Provides that a person whose license is suspended under Subsection (a) remains eligible to receive an occupational license under Chapter 521L. Provides that, for the purposes of this section, a person is convicted of an offense regardless of whether sentence is imposed or the person is placed on community supervision for the offense under Article 42.12, Code of Criminal Procedure.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 1997.

SECTION 8. Emergency clause.