

SENATE BILL NO. 56—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE CITY OF RENO)

PREFILED DECEMBER 20, 2014

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing graffiti. (BDR 15-479)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to graffiti; expanding the list of items that are considered graffiti implements which are unlawful to carry in certain places; clarifying that a governmental entity may bring a civil action for damages to public property; authorizing the governing body of a city to adopt ordinances to address covering and removing certain graffiti on residential and nonresidential property that is visible from a public right-of-way; revising provisions governing money in a city’s graffiti reward and abatement fund; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law makes it a crime to place graffiti on or otherwise deface the public
2 or private property, real or personal, of another, without the permission of the
3 owner. (NRS 206.330) **Sections 5 and 16** of this bill revise the definition of
4 “graffiti” to clarify that estrays and livestock are included within the scope of
5 property to which the offense of graffiti applies.

6 Existing law makes it a misdemeanor for a person to carry on his or her person,
7 in certain public places, a graffiti implement with the intent to vandalize, place
8 graffiti on or deface property. (NRS 206.335) **Section 7** of this bill revises the
9 definition of “graffiti implement” to include any item that may be used to etch,
10 mark or deface property.

11 Existing law requires a person who is ordered to pay restitution for placing
12 graffiti on public property to pay the restitution to the governmental entity that has
13 incurred expenses for abating the graffiti. (NRS 206.345) **Section 8** of this bill
14 authorizes the payment of restitution to a governmental entity for future expenses to
15 abate the graffiti. Existing law also authorizes the owner of public or private
16 property that has been damaged by graffiti to bring a civil action against the person



17 who placed the graffiti and recover damages in an amount up to three times the
18 amount of any loss in value to property and up to three times the cost of restoring
19 the property plus attorney’s fees and costs. (NRS 206.345) **Section 8** clarifies that a
20 governmental entity may also bring a civil action to recover such damages from a
21 person who placed graffiti on property if the governmental entity owns or is
22 otherwise responsible for the damaged property.

23 Existing law authorizes a board of county commissioners to provide by
24 ordinance for the covering or removal of certain graffiti on certain types of
25 property. (NRS 244.36935) **Section 14** of this bill authorizes the governing body of
26 a city to similarly provide by ordinance for the covering or removal of certain
27 graffiti on certain types of property.

28 Existing law authorizes a board of county commissioners to provide by
29 ordinance procedures pursuant to which the board may order an owner of
30 nonresidential property to cover or remove certain graffiti on the owner’s property.
31 (NRS 244.3694) **Section 15** of this bill similarly authorizes the governing body of a
32 city to provide by ordinance procedures pursuant to which the governing body may
33 order an owner of nonresidential property to cover or remove certain graffiti on the
34 owner’s property.

35 Existing law requires the governing body of each city to create a fund to pay,
36 upon approval by the governing body of the city, a reward to certain persons who
37 provide information which results in the identification, apprehension and
38 conviction of a person who violated a city ordinance prohibiting graffiti or other
39 defacement of property. (NRS 268.4085) **Section 18** of this bill expands the
40 authorized use of money in the fund: (1) to purchase supplies or pay for other
41 graffiti abatement costs incurred by the city; (2) to be paid for information which
42 results in the identification, apprehension or conviction of a person who is alleged
43 to have violated a city ordinance that prohibits graffiti or defacement of property;
44 and (3) to be paid upon approval of the city manager, the authorized designee of the
45 city manager or, if the city does not have a city manager, the governing body of the
46 city.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 206 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *As used in this chapter, unless the context otherwise*
4 *requires, the words and terms defined in NRS 206.005 and*
5 *sections 3 and 4 of this act have the meanings ascribed to them in*
6 *those sections.*

7 **Sec. 3.** *“Estray” means any livestock running at large upon*
8 *public or private lands in this State whose owner is unknown in*
9 *the section where the animal is found.*

10 **Sec. 4.** *“Livestock” has the meaning ascribed to it in*
11 *NRS 205.219.*

12 **Sec. 5.** NRS 206.005 is hereby amended to read as follows:
13 206.005 ~~[As used in this chapter, “graffiti”]~~ **“Graffiti”** means
14 any unauthorized inscription, word, figure or design that is marked,
15 etched, scratched, drawn, painted on or affixed to the public or
16 private property, real or personal, of another, *including, without*



1 *limitation, an estray or one or more head of livestock*, which
2 defaces the property.

3 **Sec. 6.** NRS 206.150 is hereby amended to read as follows:

4 206.150 1. Except as otherwise provided in subsections 2 and
5 3, any person who willfully and maliciously kills, maims or
6 disfigures any animal belonging to another, or exposes any poison
7 or noxious substance with intent that it should be taken by the
8 animal is guilty of a category D felony and shall be punished as
9 provided in NRS 193.130, and may be further punished by a fine of
10 not more than \$10,000.

11 2. Except as otherwise provided in NRS 205.220, a person who
12 willfully and maliciously kills an estray or one or more head of
13 livestock, without the authority to do so, is guilty of a category C
14 felony and shall be punished as provided in NRS 193.130.

15 3. The provisions of subsection 1 do not apply to any person
16 who kills a dog pursuant to NRS 575.020.

17 ~~[4.—As used in this section:~~

18 ~~—(a) “Estray” means any livestock running at large upon public or~~
19 ~~private lands in this state, whose owner is unknown in the section~~
20 ~~where the animal is found.~~

21 ~~—(b) “Livestock” has the meaning ascribed to it in NRS 205.219.]~~

22 **Sec. 7.** NRS 206.335 is hereby amended to read as follows:

23 206.335 1. Any person who carries on his or her person a
24 graffiti implement with the intent to vandalize, place graffiti on or
25 otherwise deface public or private property, real or personal, of
26 another:

27 (a) While on or under any overpass or bridge or in any flood
28 channel;

29 (b) At any public facility, community center, park, playground,
30 swimming pool, transportation facility, beach or recreational area
31 whereon a sign is posted in a location reasonably expected to be
32 viewed by the public which states that it is a misdemeanor to
33 possess a graffiti implement at that public location without valid
34 authorization; or

35 (c) In a public transportation vehicle wherein a sign is posted
36 that is easily viewed by passengers which states that it is a
37 misdemeanor to possess a graffiti implement in the vehicle without
38 valid authorization,

39 ↪ is guilty of a misdemeanor unless the person has first received
40 valid authorization from the governmental entity which has
41 jurisdiction over the public area or other person who is designated to
42 provide such authorization.

43 2. As used in this section:

44 (a) “Broad-tipped indelible marker” means any felt-tipped
45 marker or similar implement which contains a fluid that is not



1 soluble in water and which has a flat or angled writing surface of a
2 width of one-half inch or greater.

3 (b) "Graffiti implement" means any broad-tipped indelible
4 marker or aerosol paint container or other item that may be used to
5 ~~propel~~ :

6 (1) *Propel* or apply fluid that is not soluble in water ~~H~~ ; or

7 (2) *Etch, mark or deface property.*

8 (c) "Public transportation vehicle" means a bus, train or other
9 vehicle or instrumentality used to transport persons from a
10 transportation facility to another location.

11 (d) "Transportation facility" means an airport, marina, bus
12 terminal, train station, bus stop or other facility where a person may
13 go to obtain transportation.

14 **Sec. 8.** NRS 206.345 is hereby amended to read as follows:

15 206.345 1. A court may, in addition to any other fine or
16 penalty imposed, order a person who places graffiti on or otherwise
17 defaces public or private property in violation of NRS 206.125 or
18 206.330 to participate in counseling, and if the person is less than 18
19 years of age, order the parent or legal guardian of the person to
20 attend or participate in counseling pursuant to NRS 62E.290.

21 2. If a court orders a person who violates the provisions of
22 NRS 206.125 or 206.330 to pay restitution, the person shall pay the
23 restitution to:

24 (a) The owner of the property which was affected by the
25 violation; or

26 (b) If the violation involved the placing of graffiti on any public
27 property, the governmental entity that incurred *or will incur*
28 expenses for removing, covering or cleaning up the graffiti.

29 3. The owner of ~~public or private~~ *the* property that has been
30 damaged by graffiti *or a governmental entity that is otherwise*
31 *responsible for the property* may bring a civil action against the
32 person who placed the graffiti on such property. The court may
33 award to the *governmental entity or other* property owner damages
34 in an amount up to three times the amount of any loss in value to the
35 property and up to three times the cost of restoring the property plus
36 attorney's fees and costs, which may be recovered from the offender
37 or, if the offender is less than 18 years of age, from the parent or
38 legal guardian of the offender.

39 **Sec. 9.** Chapter 268 of NRS is hereby amended by adding
40 thereto the provisions set forth as sections 10 to 15, inclusive, of this
41 act.

42 **Sec. 10.** *As used in NRS 268.4075 to 268.4085, inclusive, and*
43 *sections 10 to 15, inclusive, of this act, unless the context*
44 *otherwise requires, the words and terms defined in NRS 268.4075*



1 *and sections 11, 12 and 13 of this act have the meanings ascribed*
2 *to them in those sections.*

3 **Sec. 11.** *“Estray” has the meaning ascribed to it in section 3*
4 *of this act.*

5 **Sec. 12.** *“Livestock” has the meaning ascribed to it in*
6 *NRS 205.219.*

7 **Sec. 13.** *“Residential property” means a parcel of land,*
8 *including all structures thereon, that is zoned for single-family*
9 *residential use.*

10 **Sec. 14.** *1. The governing body of a city may adopt by*
11 *ordinance procedures pursuant to which officers, employees or*
12 *other designees of the city may cover or remove graffiti that is:*

13 *(a) Placed on the exterior of a fence or wall located on the*
14 *perimeter of residential property; and*

15 *(b) Visible from a public right-of-way.*

16 *2. An ordinance adopted pursuant to subsection 1 must*
17 *provide that:*

18 *(a) Officers, employees or other designees of the city may not*
19 *cover or remove the graffiti unless:*

20 *(1) The owner of the residential property consents to the*
21 *covering or removal of the graffiti; or*

22 *(2) If the governing body of the city or its designee is*
23 *unable to contact the owner of the residential property to obtain*
24 *the owner’s consent, the governing body first provides the owner*
25 *of the property with written notice that is:*

26 *(I) Sent by certified mail, return receipt requested; and*

27 *(II) Posted on the residential property on which the*
28 *graffiti will be covered or from which the graffiti will be removed,*
29 *↪ at least 5 days before the officers, employees or other designees*
30 *of the city cover or remove the graffiti.*

31 *(b) The city shall pay the cost of covering or removing the*
32 *graffiti.*

33 **Sec. 15.** *1. The governing body of a city may adopt by*
34 *ordinance procedures pursuant to which the governing body or its*
35 *designee may order an owner of nonresidential property within the*
36 *city to cover or remove graffiti that is:*

37 *(a) Placed on that nonresidential property; and*

38 *(b) Visible from a public right-of-way,*

39 *↪ to protect the public health, safety and welfare of the residents*
40 *of the city and to prevent blight upon the community.*

41 *2. An ordinance adopted pursuant to subsection 1 must:*

42 *(a) Contain procedures pursuant to which the owner of the*
43 *property is:*



1 (1) Sent notice, by certified mail, return receipt requested,
2 of the existence on the owner's property of graffiti and the date by
3 which the owner must cover or remove the graffiti; and

4 (2) Afforded an opportunity for a hearing and an appeal
5 before the governing body of the city or its designee.

6 (b) Provide that the date specified in the notice by which the
7 owner must cover or remove the graffiti is tolled for the period
8 during which the owner requests a hearing and receives a
9 decision.

10 (c) Provide the manner in which the city will recover money
11 expended for labor and materials used to cover or remove the
12 graffiti if the owner fails to cover or remove the graffiti.

13 3. The governing body of the city or its designee may direct
14 the city to cover or remove the graffiti and may recover the
15 amount expended by the city for labor and materials used to cover
16 or remove the graffiti if:

17 (a) The owner has not requested a hearing within the time
18 prescribed in the ordinance adopted pursuant to subsection 1 and
19 has failed to cover or remove the graffiti within the period
20 specified in the notice;

21 (b) After a hearing in which the owner did not prevail, the
22 owner has not filed an appeal within the time prescribed in the
23 ordinance adopted pursuant to subsection 1 and has failed to
24 cover or remove the graffiti within the period specified in the
25 order; or

26 (c) The governing body has denied the appeal of the owner
27 and the owner has failed to cover or remove the graffiti within the
28 period specified in the order.

29 4. In addition to any other reasonable means of recovering
30 money expended by the city to cover or remove the graffiti, the
31 governing body of the city may:

32 (a) Provide that the cost of covering or removing the graffiti is
33 a lien upon the nonresidential property on which the graffiti was
34 covered or from which the graffiti was removed; or

35 (b) Make the cost of covering or removing the graffiti a special
36 assessment against the nonresidential property on which the
37 graffiti was covered or from which the graffiti was removed.

38 5. A lien authorized pursuant to paragraph (a) of subsection
39 4 must be perfected by:

40 (a) Mailing by certified mail a notice of the lien, separately
41 prepared for each lot affected, addressed to the last known owner
42 of the property at his or her last known address, as determined by
43 the real property assessment roll in the county in which the
44 nonresidential property is located; and



1 (b) *Filing with the county recorder of the county in which the*
2 *nonresidential property is located, a statement of the amount due*
3 *and unpaid and describing the property subject to the lien.*

4 6. *A special assessment authorized pursuant to paragraph (b)*
5 *of subsection 4 may be collected at the same time and in the same*
6 *manner as ordinary county taxes are collected, and is subject to*
7 *the same penalties and the same procedure and sale in case of*
8 *delinquency as provided for ordinary county taxes. All laws*
9 *applicable to the levy, collection and enforcement of county taxes*
10 *are applicable to such a special assessment.*

11 7. *As used in this section, “nonresidential property” means*
12 *all real property other than residential property. The term does not*
13 *include real property owned by a governmental entity.*

14 **Sec. 16.** NRS 268.4075 is hereby amended to read as follows:

15 268.4075 ~~[As used in this section, NRS 268.408 and 268.4085,~~
16 ~~“graffiti”]~~ *“Graffiti” means any unauthorized inscription, word,*
17 *figure or design that is marked, etched, scratched, drawn or painted*
18 *on the public or private property, real or personal, of another,*
19 *including, without limitation, an estray or one or more head of*
20 *livestock, which defaces such property.*

21 **Sec. 17.** NRS 268.408 is hereby amended to read as follows:

22 268.408 1. The governing body of a city shall remove or
23 cover all evidence that graffiti has been placed on any real or
24 personal property which it owns or otherwise controls within 15
25 days after it discovers the graffiti or as soon as practicable.

26 2. The governing body of a city may bring an action against a
27 person responsible for placing graffiti on the property of the city to
28 recover a civil penalty and damages ~~[for the cost of removing or~~
29 ~~covering the graffiti placed on such property.]~~ *pursuant to the*
30 *provisions of NRS 206.345.*

31 **Sec. 18.** NRS 268.4085 is hereby amended to read as follows:

32 268.4085 1. The governing body of each city shall create a
33 graffiti reward and abatement fund. The money in the fund must be
34 used *to purchase supplies or pay for other costs incurred by the*
35 *city which are directly related to graffiti abatement or* to pay a
36 reward to a person who, in response to the offer of a reward,
37 provides information which results in the identification,
38 apprehension ~~[and]~~ *or* conviction of a person who *is alleged to have*
39 *violated or who violates* a city ordinance that prohibits graffiti or
40 other defacement of property.

41 2. When a defendant pleads or is found guilty or guilty but
42 mentally ill of violating a city ordinance that prohibits graffiti or
43 other defacement of property, the court shall include an
44 administrative assessment of \$250 for each violation in addition to
45 any other fine or penalty. The money collected must be paid by the



1 clerk of the court to the city treasurer on or before the fifth day of
2 each month for credit to the graffiti reward and abatement fund.

3 3. If sufficient money is available in the graffiti reward and
4 abatement fund, a law enforcement agency for the city may offer a
5 reward, not to exceed \$1,000, for information leading to the
6 identification, apprehension ~~and~~ *or* conviction of a person who *is*
7 *alleged to have violated or who* violates a city ordinance that
8 prohibits graffiti or other defacement of property.

9 4. The *money to purchase supplies or pay for other costs*
10 *incurred by the city which are directly related to graffiti abatement*
11 *or to pay a* reward must be paid out of the graffiti reward and
12 abatement fund upon approval of the *city manager, the authorized*
13 *designee of the city manager or, if the city does not have a city*
14 *manager, the* governing body of the city.

