



Information sheet no.2

Graffiti Prevention Act 2007

Information for employees

The new graffiti laws & employees

The state government has introduced graffiti-specific legislation, the *Graffiti Prevention Act 2007*, to address the problem of graffiti in Victorian communities. The Act includes new graffiti marking offences, gives police new search powers and restricts the sale and advertising of spray paint cans.

The Act is being introduced in two stages:

- **17 April 2008** – all offences related to graffiti marking and the restriction on the advertising of graffiti implements commenced.
- **30 June 2008** – the restriction on the sale of spray paint cans will commence.

Information sheet 1 provides background information about the Victorian Government's graffiti management strategy as well as the *Graffiti Prevention Act 2007*.

Information sheet 2 provides information to ensure that you, as an employee, are aware of your obligations under the Act as well as the obligations of your employer.

Copies of the information sheets can be downloaded from the Department of Justice website (justice.vic.gov.au/graffiti) in English, Arabic, Cantonese, Mandarin and Vietnamese. English language copies should also be available from your employer.

Retailer-specific graffiti offences

Retailer-specific offences	Penalties [#]
Selling a spray paint can to a minor for any purpose other than their employment	A fine of up to 20 penalty units (\$2,268.40) or an on-the-spot infringement penalty of up to two penalty units (\$226.84)
An employer or principal not taking reasonable precautions to prevent an employee or agent from selling a spray paint can to a minor for any purpose other than their employment	A fine of up to 20 penalty units (\$2,268.40)
Advertising a prescribed graffiti implement for sale if the advertisement is likely, and is intended, to incite or promote unlawful graffiti	A fine of up to 50 penalty units (\$5,671.00)

[#] These penalties are 2008–09 figures and apply from 1 July 2008.

As an employee of a retailer that sells spray paint cans, you have obligations under the *Graffiti Prevention Act 2007* which you need to understand – you can receive an on-the-spot fine or be prosecuted if you break these laws.

Further information about the *Graffiti Prevention Act 2007* is available online at justice.vic.gov.au/graffiti.



Restriction on the sale of spray paint cans

From 30 June 2008, it will be an offence for anyone to sell a spray paint can to a minor (any person under 18 years of age) without written proof from their employer (a letter or statutory declaration) that the paint is required for employment purposes.

The penalty for this offence is an on-the-spot fine of \$226 or a fine of up to \$2,268. As the person selling the spray paint can, you would be liable for the fine, not your employer.

Your employer is expected to take “reasonable precautions” to prevent you from selling spray paint cans to minors without appropriate proof.

At a minimum, your employer should ensure that you know:

- what proof of age is required to verify that a person wishing to buy spray paint cans is at least 18 years of age (see *Proof of age* section below)
- what proof is needed before you can sell spray paint cans to anyone under 18 years of age (see *Proof of employment purposes* section) and
- who is authorised to witness a statutory declaration (see *Proof of employment purposes* section).

Proof of age

The identification that a person may use to prove they are at least 18 years of age could include:

- a proof-of-age card or an equivalent card that has been issued in Victoria or another Australian state/territory, or
- a driver's licence or an equivalent licence that has been issued in Victoria or another Australian state/territory, or
- an Australian or foreign passport, or
- a document that has a photograph of the person it was issued to, that enables that person's age to be determined and which has been issued by a person, or on behalf of a government department or agency, approved by the department/agency Minister.

Proof-of-age card forms are available online from Consumer Affairs Victoria (consumer.vic.gov.au).

Proof of employment purposes

Any minor wishing to buy spray paint cans must show you either a letter or a statutory declaration from their employer stating that they need the cans for their work.

A statutory declaration is a written statement that a person signs and declares to be true and correct before an authorised witness.

People authorised to witness a statutory declaration in Victoria include:

- a justice of the peace or a bail justice
- a public notary
- an Australian lawyer
- a clerk to an Australian lawyer
- a member of the police force
- the sheriff or deputy sheriff
- a member or a former member of either House of the Parliament of Victoria
- a councillor of a municipality
- a senior officer of a council as defined in the *Local Government Act 1989*
- a registered medical practitioner within the meaning of the *Medical Practice Act 1994*
- a registered dentist within the meaning of the *Dental Practice Act 1999*
- a veterinary practitioner
- a pharmacist
- a principal in the (State) teaching service
- the manager of a bank
- a member of the Institute of Chartered Accountants in Australia or CPA or the National Institute of Accountants
- the secretary of a building society
- a minister of religion authorised to celebrate marriages (not a civil celebrant).

Further information about statutory declarations and the people who can witness them is available on the Department of Justice website (justice.vic.gov.au) and search for “Statutory Declarations”.

Your employer does not need to make or keep copies of any evidence shown for proof of age or employers' letters or statutory declarations.

Enforcing the sales restriction

Councils are responsible for enforcing the restriction on the sale of spray paint cans, with council's authorised officers responsible for issuing fines and initiating prosecutions.

Suggested responses

When a customer says:	Suggested response:
I am 18, so sell me the spray paint. You can't refuse to sell to me; I'll have you up for discrimination.	In Victoria, the <i>Graffiti Prevention Act 2007</i> restricts the sale of spray paint cans to anyone under 18. You must produce photo ID to prove that you are over 18 or, if you're under 18, you must provide proof that you need the spray paint for employment purposes. You have to show me a letter or a statutory declaration from your employer that says you need the spray paint for work. We can't sell it to you without that proof. And if we did, we'd be committing an offence and could be fined over \$2,268.
I have money and want to buy it. Why won't you sell it to me?	In Victoria, the <i>Graffiti Prevention Act 2007</i> restricts the sale of spray paint cans to anyone under 18. We can't sell it to you without proof of age and proof that you need it for work purposes. And if we did, we'd be committing an offence and could be fined over \$2,268.
My mother/father has sent me in here to buy spray paint. I have a letter from my mother to say that it is ok for me to buy this spray paint.	We'd like to help you but Victorian law states that if you are under 18 you can only buy spray paint if you need it for work purposes. You will need to bring your parent or an adult in with you. In Victoria, the sale of spray paint cans to anyone under 18 is restricted, unless they need it for their work. Even then they have to show a letter or a statutory declaration from their employer.
You may as well sell it to me or I'll just go up the street and buy it.	The sale of spray paint cans to under 18s is restricted throughout Victoria. It will be illegal for the shop up the street to sell spray paint to you because you're under 18 and you don't have proof that you need the paint for work.
Please give me some just this once and I won't ask again.	In Victoria, the sale of spray paint cans to anyone under 18 is restricted. If you're under 18 and we sell it to you without proof that you need it for work, we could be fined over \$2,268.
You have refused to sell spray paint cans to my son/daughter.	The sale of spray paint cans to under 18s is restricted throughout Victoria to discourage illegal graffiti. Your son/daughter couldn't show proof of their age and didn't have a letter or statutory declaration from their employer to say they needed the spray paint for work. In those circumstances, it would be illegal for us to sell it to your son/daughter and we could be liable for a fine of over \$2,268.

Restriction on advertising spray paint cans

It is an offence under the Act for a person to advertise spray paint cans in a way that is likely, and that is intended, to incite or promote illegal graffiti.

Proof that an advertisement is published in a publication or on an internet site that contains images or documents that incite or promote illegal graffiti is admissible in evidence for the purpose of proving that a retailer has committed an offence under this part of the Act. Offenders are liable for a fine of up to \$5,671.

If spray paint cans are advertised for legitimate purposes (eg. craft work, auto body repairs), this is not an offence under the Act.

Further information about the Act and the government's graffiti management strategy can be found at justice.vic.gov.au/graffiti or email graffiti@justice.vic.gov.au.